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# Trafficking in Persons in South East Europe - a Threat to Human Security

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# Introduction

*Nilufer Narli*

During the past decade, human trafficking and smuggling grew to a diverse multibillion dollar business across South East Europe and the entire globe. The concern about human smuggling and trafficking extends far beyond matters of security and law enforcement. The cost in human suffering and exploitation that often accompanies smuggling and trafficking cause human rights violations and deplete human capital in origin countries.

The Regional Stability in South East Europe Study Group of the PfP Consortium of Defence Academies and Security Studies Institutes decided to assess the situation in the South East European region in its 11th Workshop on “Combating Trafficking in Persons in SEE – a Threat to Human Security”, jointly organized by the International Organization on Migration (IOM), and the Center for Strategic Research at the Turkish Ministry of Foreign Affairs of Turkey from 25-27 August 2005 in Istanbul.

The main objective of the workshop was to discuss human security approach to trafficking in general, and in the particular context of trafficking in persons to and from SEE. Herein, it focused on: the policy, practice and human security threats posed by trafficking in persons; the human rights of trafficking victims, especially in destination countries that may include the right to temporary residence permits, assistance, etc; law enforcement aspects, such as investigative techniques, witness protection mechanisms and cross-border collaboration; and the link between trafficking and various forms of organized crimes.

The book explores the regional dimensions of human trafficking and smuggling in several forms in the South East Europe. It examines the deep social, economic, and cultural roots of human trafficking and smuggling and their broad political consequences.

In the book, a number of articles analyse the diversity of human smuggling of migrants, the international business of trafficking women, asylum-seekers, and those who are tricked into slavery. Some of them look more closely at the legal construction of victimized women trafficked into slavery and new laws in several states, the creation and expansion of new enforcement and management agencies in the region to combat human smuggling.

The case studies presented in the book show that human smuggling differs from trafficking only by degree. Smuggling organizations make their profits by illegally moving humans to countries of their choice. Traffickers, however, increase their profits by forcing their victims into forced labor or commercial sexual exploitation arrangements at their destinations. Trafficking also often involves exploitation of agricultural employees and shop workers, as well as individuals working as domestic servants. The perpetrators of trafficking are not restrained by conscience. Their methods are devious, exploitative, and ruthless. Their victims include the young and the vulnerable. The depravity of their actions tests - and often far exceeds - the boundaries of decency. Traffickers prey on the economically disadvantaged and on those who lack social safety nets.

Traffickers lure victims from their homes with false promises of economic opportunities and better lives. Naturally, less-developed countries with high rates of poverty, violence, and corruption constitute their best recruiting bases. South East Europe, East Asia, and Latin America are the largest source of trafficking victims.

International and regional cooperation is very important to combat human trafficking and smuggling. At the national level, taking legal measures and action to prevent human trafficking and raising awareness of the human trafficking phenomenon, particularly that of women trafficking are very important.

Turkey, one of the major transit countries in the region, adopted new laws and policies to prevent human smuggling and trafficking. It also outlawed organ trafficking when the Parliament adopted a major reform

package to harmonize Turkish laws with those of the EU in August 2002.

Turkey signed the UN Convention on transnational organized crime and its two Protocols regulating migrant smuggling and human trafficking (Palermo Documents) in 2000 and ratified them in Turkish Parliament (TGNA) in 2003. The Turkish General National Assembly amended Turkish Penal Code and human trafficking is defined as a crime in 2002, which sentences the perpetrators 5 to 10 years. A new Turkish Penal Code was passed in 2005 and it sentences human trafficking from 8 to 12 years.

# Human Trafficking and Smuggling: the Process, the Actors and the Victim Profile

*Nilufer Narli*

## Introduction

As this millennium moves forward, we face an important challenge of illegal human mobility, including irregular migration, illegal migration of labour, illegal migrant smuggling, human smuggling and trafficking and trafficking of women. These actions cause human-right abuses and pose threats to human security. The smuggling and trafficking of human beings has increased throughout the world, owing to this globalisation process and other factors. The problem is exacerbated in size and seriousness by the growing involvement of organised crime groups. The smuggling of migrants by these organised crime groups disrupts established immigration policies of destination countries and often involves human rights abuses. The exploitative nature of the treatment of the victims of trafficking often amounts to new forms of slavery.

One crucial factor fostering the illegal trafficking of humans is organised crime. Organized crime cells facilitate the trafficking of humans and by providing illegal employment. Human smuggling, trafficking and illegal migrant work force are inter-related. Smuggled and trafficked people work illegally in the destination and sometimes in the transit country depending on how much time they spent in the transit country.

Illegal human mobility, in the forms described above, threatens security in the region and in the European Union. Smuggling networks coexist with criminal organisations, exerting a crime multiplier for them and for militias, guerrillas and terrorists.<sup>1</sup> They survive better in cities where

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<sup>1</sup> For the connection between terrorist organisations and human smuggling networks see, James H. Anderson, *International Terrorism and Crime: Trends and Linkages* Anderson wrote: All terrorist groups traffic in violence. Though some engage in ordinary criminal behavior as well, it is not their driving motivation, but a means to an

informal globalisation creates fertile ground for illegal transactions and undocumented labour. Illegal migration and labour create a threat to social stability in the Southeast Europe region and to international security.

Who are the actors and the victims in human smuggling and trafficking? What are the strategies and tactics of the human smuggling and trafficking networks? The paper looks at irregular migration to Turkey and through Turkey where Istanbul is a key zone. In more specific terms, it focuses on refugees, human smuggling and trafficking and illegal migration of labour. In doing so, the paper takes account of the global distribution of the demand for labour, and the impact of informal globalisation in shaping the undocumented and illegal labour market. It examines the processes and actors at work.

## **Conceptual Considerations**

A definition of human smuggling, including its social organisation, political and economic significance, is still very much a work in progress. People smuggling is procuring the illegal entry of a person into a state, of which the person is not a national or permanent resident, in order to obtain a financial or other material benefit.<sup>2</sup> It is important to differentiate human smuggling from human trafficking. Human smuggling is the recruiting, transporting, transferring, harbouring or receiving people for the purpose of exploitation; by using threatening force, coercion, abduction, fraud, deception, or abuse of power against them; or by giving or receiving a payment or a benefit to those who

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end. Brazilian terrorist Carlos Marighella, author of the *Minimanual of Urban Guerrilla Warfare*, encouraged bank robberies as a means to fund terrorist activity. Groups as diverse as the IRA in Northern Ireland, the Kurdish Workers' Party in the Middle East, and Liberation Tigers of Tamil Eelam of Sri Lanka, have raised money for terrorist ends with diverse criminal activities. At <http://www.jmu.edu/orgs/wrni/it3.html>. For the information on the PKK and human smuggling see Metin Dalman and İsmail Tabak, 1995. *Avrupa'da İnsan Ticareti ve PKK* [Human Smuggling in Europe and the PKK], İstanbul: DTPA Türk-Alman Basın Ajansı.

<sup>2</sup> Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, U.N. Convention Against Transnational Organized Crime).



control them.<sup>3</sup> Human trafficking is the cross-border sale of a person, against his or her will, for the purpose of sexual or other exploitation. It leaves the victims in a condition of slavery as they are forced into prostitution or other activities while being deprived of the freedom to change. The profile of the victims shows that they are disadvantaged and vulnerable in terms of age groups and socio-economic status. For example, the age group of illegal sex-workers ranges from 13 to the mid-40s.

Human smuggling, trafficking and illegal migrant work force are inter-related because smuggled and trafficked people work illegally in the destination and sometimes in the transit country, depending on how much time they spent in the transit country. A more specific analysis of irregular migration requires an extensive study on human smuggling and various movements of illegal human mobility in the region. Recognising this, the paper aims to present a mix of descriptive empirical evidence from the field work in Istanbul and a conceptual analysis providing a perspective of human smuggling to and via Turkey. It covers irregular migration to Turkey from the Balkans, the Caucasus, Russia, Ukraine and Central Asia, Eastern Mediterranean, the Middle East, Black Africa and South Asia. It first attempts to understand this phenomenon in the larger context of the processes of globalisation. The globalisation of economic activities and technological advances have increased the mobility of people in various forms ranging from the migration of documented labour to the illegal flow of labour including illegal migrant smuggling and expanded transitional crime.

The excessive supply of labour in the economically disadvantaged countries, where the size of the unemployed young population has expanded, is an important factor in the increased number of illegal migrant workers attempting to enter Western European countries and the USA. In the 1960s and 1970s the surplus labour supply in the Middle Eastern, Asian and Mediterranean countries was largely absorbed by Western Europe through documented migration of labour. Nevertheless,

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<sup>3</sup> Article 3 of the Protocol to Prevent Suppress and Punish Trafficking in Persons, U.N. Convention Against Transnational Organized Crime.

there was a sizeable proportion of illegal entry. Its volume expanded throughout the 1990s; and it has been decreasing in the early 21<sup>st</sup> century. Its geography has also changed as the result of the collapse of the Soviet Union and the spread of the capitalist economic systems throughout the so-called Second and Third Worlds. The need for employment and economic discomfort appear to be the main reasons of illegal migration movement. Migrants, however, are often driven to professional smugglers by blocked social mobility, pre-existing corruption, uneven development (not necessarily poverty), persecution, racism and sexism. Studies show that many illegal migrants who choose a clandestine route to work abroad feel compelled to leave their home communities because of unemployment, the risk of hunger (cited by more than 50 per cent of the African migrants in Turkey<sup>4</sup>), economic crisis, political conflict, ethnic persecution, and the "fear of rape at home in the case of many ethnic minority women".<sup>5</sup>

Therefore, political, sociological, and psychological factors are likely to be as important as economic factors that affect the causes of illegal migration movements and human smuggling. The liberalisation of international markets and investment in developing countries has not decreased migration, as predicted by neo-classical theory.<sup>6</sup> Increased investment and increased trade in developing countries (e.g. the large-scale direct US investment in Mexico and China, see below) are associated with an expansion in the illegal migration of labour from these countries to the advanced countries in the form of human smuggling. Although increase in investment may increase the number of available jobs and decrease the wage differentials among the developed and the developing countries, surplus disposable income often becomes "migration capital" used to pay for international travel and to pay for

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<sup>4</sup> International Organization for Migration (IOM). 1995. *Transit Migration in Turkey*. Study Completed in December 1995. Migration Information Programme. P. 17.

<sup>5</sup> See David Kyle and Rey Koslowski (eds). 2001. *Global Human Smuggling: Comparative Perspective*. Baltimore: The John Hopkins University Press, "Introduction", pp. 1-25. P. 9.

<sup>6</sup> For the discussion on foreign investment in developing countries and migration see, Richard Layard, Oliver Blanchard, Rudiger Dornbusch and Paul Krugman. 1992. *East-West Migration: The Alternative*. Cambridge: MIT Press, chap. 1.

smugglers.<sup>7</sup> A study on China<sup>8</sup> shows that a large proportion of the Chinese who are smuggled to the United States are from Fujian Province, a coastal province with one of China's fastest-growing regional economies. Smuggled Chinese are often from the middle class families that can afford cash down payments (approximately US \$1500 required by smugglers before embarkation).<sup>9</sup> The IOM's study<sup>10</sup> also reveals that Kurds from Northern Iraq paid smugglers a generous amount of money, US \$2000 to US \$8000, for passage to Italy by boat between July 1997 and January 1998.

In analysing the victim profile of the smuggled people and illegal workers, one of the sociological factors that needs to be taken into consideration is the observation that people from different layers of society move to different countries. Secondly, in the case of illegal employment, age, gender and socio-economic status affect the type of the employment and the sector.

## **The Field Work**

Field work was conducted by Professor Narli and a team of researchers during a period of 18 months. The first period consisted of six months in 1994, followed by 12 months during the years of 2002-2003. Field work data was collected from various districts of Istanbul (Tarlabasi, Koca Mustafa Pasa, Vefa, Suleymaniye, Zeytinburnu, Aksaray and

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<sup>7</sup> See David Kyle. 1996. "The Transnational Peasant: The Social Construction of Transnational Migration from the Ecuadorian Andes." Ph.D. diss., John Hopkins University; and David Spener. 2001. "Smuggling Migrants through South Texas: Challenges Posed by Operation Rio Grande " in *Global Human Smuggling: Comparative Perspective*, David Kyle and Rey Koslowski (eds). Baltimore: The John Hopkins University Press. pp. 129-165.

<sup>8</sup> Zai Liang and Wenzhen Ye. 2001. "From Fujian to New York: Understanding the New Chinese Immigration" in *Global Human Smuggling: Comparative Perspective*, David Kyle and Rey Koslowski (eds). Baltimore: The John Hopkins University Press. pp. 187-215.

<sup>9</sup> For the amount of money given to smugglers see, Peter Hessler. 2002. "It's the Rich Chinese Who Flee to US", *Seattle Post Intelligence*, February 10, 2000.

<sup>10</sup> The IOM. 1998. *Trafficking in Migrants*, *Quarterly Bulletin*, no. 17 (January).

Laleli.) These districts are known to house smugglers who lodge illegal immigrants and where illegal foreign workers live.

Narli and her team visited the places mentioned above at different intervals. They observed and interviewed those who rent rooms to illegal migrant workers and smuggled migrants transiting Turkey, people running shops and laundries in the region, illegal foreign workers who were smuggled and those who entered with legal documents in 1994 and 2002-2003. Most importantly, Narli also interviewed a person who was involved in smuggling humans and a lawyer who defended human smugglers in a court of law.

Data on the women trafficking and migration of illegal sex workers was obtained from press reports, interviews with the Turkish male customers and from the observations done in various sections of Istanbul in the years of 2002 and 2004.

Additional research data was collected from various sources: security departments in Istanbul and Ankara; local and international daily and weekly publications and reports from major TV channels.

## **Human Smuggling and Human Trafficking**

People smuggling has become the preferred trade of a growing number of criminal networks world-wide. Trans-national human smuggling, hardly a global issue in the 1980s, is a continuously growing phenomenon and is now a multibillion-dollar trade world-wide. Hard facts about human smuggling and trafficking are difficult to obtain because of the illicit nature of the trade. The International Organisation of Migration makes some estimates. The number of people trafficked or smuggled across borders on an annual basis is four million people. The annual revenue generated by smuggling is US\$5-7 billion. The IOM estimated total global revenues in 1997 to be up to US \$ 7 billion.<sup>11</sup> It is

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<sup>11</sup> The IOM. 1997. "Trafficking in Migrants: IOM Policy and Activities" At [http://www.iom.ch/IOM/Trafficking/IOM\\_Policy.html](http://www.iom.ch/IOM/Trafficking/IOM_Policy.html). Also see BBC News. 2001. *The Road to Refuge*. "The Journey: A Smuggler's Story" in *BBC News*, 2001 at

a crime that is organised<sup>12</sup> and linked to other criminal activities.<sup>13</sup> It is an issue of global nature, not only as a "transnational crime,"<sup>14</sup> but also as an enormous violation of human rights,<sup>15</sup> and a contemporary form of slavery. After their arrival in the country of destination, the illegal status of the migrants puts them into the mercy of their smugglers, often forcing them for years to work in the illegal labour market to pay off the debts incurred as a result of their transportation.

This highly profitable trade poses a relatively low risk compared with trades in drugs or arms. Unlike drug trafficking, the principal investors do not have to accompany the commodity (the smuggled people) physically across the border. The low risk and high profit do not explain why the volume of human smuggling has increased since the early 1990s. The causes, social organisation, and proposed solutions are much

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[http://news.bbc.uk/1/hi/english/statistic/in-depth/world/2001/road\\_to\\_refuge/journey/default.stm](http://news.bbc.uk/1/hi/english/statistic/in-depth/world/2001/road_to_refuge/journey/default.stm).

<sup>12</sup> See James Finckenauer and Elin Waring. 1996. "Russian Émigré Crime in the United States: Organised Crime or Crime That is Organised?" *Transnational Organised Crime* 2 (2/3):139-55.

<sup>13</sup> The connection between human smuggling and other types of organised crime was mentioned in a draft statement issued by participants at an international conference on illegal immigration. It warned that people smuggling is increasingly linked to other criminal activities. "Many smuggling activities are being organized by criminal networks which are also involved in trafficking of narcotics, document fraud, money laundering, arms smuggling and other transnational crimes," a draft statement said. The statement was drawn up by Australia and Indonesia, who are co-hosting the conference being held in Bali, Indonesia. See "Ministers from Asian and Pacific Nations Confer on Ways to End People Smuggling" By Slobodan Lekic, *The Associated Press*, February 27, 2002.

<sup>14</sup> Transnational Organized Crime is crime committed by an organized criminal group, which is planned or committed in more than one state, or has substantial effects on more than one state, or is committed by a group which commits crimes in more than one state. An organized criminal group is a structured group existing for a period of time and acting in concert, with the aim of committing one or more crimes for financial or other material benefit. (UN Convention Against Transnational Organised Crime, 2000).

<sup>15</sup> For the cases of human rights' violation of the illegal transit migrants and the smuggled migrants detained in Turkey, see Bülent Peker (ed). 2001. *Sığınma Hakkı ve Mülteciler: İltica ve Mültecilik Atelyesi. Ankara 24-26 March 2001*. Ankara: İnsan Hakları Derneği, Chapters 5, 6 and 8.

more historically and politically complex than they may at first seem. As human smuggling has a global nature, it requires us to consider the wider social and economic context, in which it is flourishing, rather than to simply demonise the smugglers and to ask the transit countries to tighten border control.

Economic development, rapidly advancing information, communication and transportation technologies raise the expectations of new middle classes whose members have recently gained social mobility. This is more likely to motivate people to look for higher living standards and "better future" for their children in the advanced countries. The smuggled people from Iraq detained in Turkey on August 9, 2002 said: "We left our country because we desire a bright future for our children and it is important to guarantee it." <sup>16</sup> Political instability and a constant worry about one's own and family's future also drive people to migrate through legal or clandestine routes to search for security.

### **Turkey as a Transit and Destination Country in Human Smuggling**

Turkey has become an international centre and a staging area for human smuggling because of its porous eastern borders and its geographical position on the edge of Western Europe. It has not only become a transit country, but also a destination country for a number of Iraqi, Iranian and Afghani migrants, who have entered with legal documents or have been smuggled. Secondly, Turkey is a destination country for the trafficking of women and children. For many illegal sex workers from Ukraine, Moldova, Romania, Russia, Azerbaijan and Georgia, Turkey is the destination country. Some of them are brought by organised crime groups and forced to work in prostitution; but many of them had the knowledge of being illegal sex worker in Turkey.

A large number of illegal migrants have transited through Turkey. The IOM report issued in 1995 showed that 40 percent of the transient migrants interviewed entered Turkey without valid document such as

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<sup>16</sup> It was reported by *SKYTURK* TV on August 9, 2002.

passport or a refugee document<sup>17</sup>; and more than two-thirds of those, who entered Turkey without valid documents were, Iraqis.<sup>18</sup> Organized crime cells have smuggled a large number of Iraqis with ethnic identities, e.g., Kurd, Chaldean/Assyrian and Turkomans, Iranians, Afghanis, Pakistanis and Bengalis to Europe via Turkey. They are usually caught mid way before reaching the destination.

Turkey received a warning from the European Union leaders who placed illegal immigration on top of the agenda for the EU Council summit in Seville, Spain on June 24, 2002. One of the reasons for this is the recent upsurge in right-wing electoral support across Europe. The inability of the EU leaders to manage the complex mix of migrants and asylum seekers converging on their borders is causing them major political headaches and making daily headlines across Europe. Voters are expressing the people's frustration over what they perceive to be weak and ineffective government policies. They want action and governments appear to be listening. The public anger is complicated by the anxiety that the population increase in the EU countries is mainly generated by two non-European population sources: the higher rate of birth among the Middle Eastern and Asian migrants who have either become citizens of the EU countries or who are staying in the country with a residence and work permit, and, secondly, the ever increasing number of illegal migrant workers.<sup>19</sup>

Before the Seville Summit, Turkey, a South East European country connecting Europe to Asia, received warnings from the EU countries to tighten its border control and to prevent human trafficking and the flow of illegal migrant workers via Turkey to Europe. For example, in early 2002 Italian Prime Minister and Foreign Minister, Silvio Berlusconi

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<sup>17</sup> International Organization for Migration (IOM). 1995. *Transit Migration in Turkey*. Study Completed in December 1995. Migration Information Programme. p.20.

<sup>18</sup> International Organization for Migration (IOM). 1995. p.20.

<sup>19</sup> According to EUROSTATD data, the EU population is 379,4 million. In 2000, the number of people increased had been 1,070,000 and, in 2001, the same figure was 1.050,00. In 2002, it was 1,460,000, which meant 3.9 percent increase. According to the same source, 70 percent of the population increase was generated by the migration, both legal and illegal and the relatively higher birth rate of the "foreigners" residing in the EU countries.

called upon Turkey to intensify its measures to prevent illegal human smuggling. Meeting with the Turkish Ambassador to Italy, Necati Utkan (on February 1, 2002), Berlusconi conveyed Italy's "serious uneasiness" over the Turkish ship *Engin* that came to Italy's Gallipoli port three days earlier carrying illegal immigrants.<sup>20</sup> This was not the first time that Ankara received a warning from Italy. In the year 2000, the Italian authorities accused Turkey of doing too little to prevent illegal migrants reaching Europe.<sup>21</sup>

What are the routes and networks of human smuggling? What are the causes of human smuggling? Is there anti human smuggling legislation? How is the situation and daily life of smuggled migrants in Turkey? How do Turkish people react to a "shadow" society of smuggled migrants? Does ethnicity and religion make a difference in responding to them? This papers will answer these question below and identify the types of human smuggling ranging from profit-oriented operations to politically-humanistic ally motivated smuggling.

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<sup>20</sup> "Italian Premier Tells Turkish Envoy of Concern Over Immigrant Ship", *BBC Monitoring International Reports*, February 2, 2002, from text of report in English by Turkish news agency Anatolia.

<sup>21</sup> See Christ Morris. 2000. "Turkey Detains illegal Migrants", *BBC News*, August 6, 2000; at <http://news.bbc.uk/1/hi/world/from/europe/868687.stm>. Morris also reporting of the police operations to detain smugglers following the week that the Italian authorities accused Turkey of failing to take measures to prevent illegal migration via Turkey to Europe. Morris wrote: "A ship carrying more than 4000 Kurds arrived in southern Italy just over a week ago (July 30, 2000), prompting the Italian Government protest to Ankara." (parenthesis is added). As a response, the police tightened the border control. In early August, the Turkish police in the city of Erzurum detained 109 Afghans and Iraqis who were hoping to be smuggled into Europe. They were discovered on August 5 in the back of a lorry, and the driver was also taken into custody. The-would-be migrants had paid him US\$ 2,000 each to deliver them to Istanbul. For the information on the migrant detained on July 30, 2000 in Italy, also see the BBC story: "Italians Halt Migrant Boat" in *BBC News*, July 31, 2000; at <http://news.bbc.uk/1/hi/world/europe/858946.stm>. This story reports: Italian coastguards detained 418 people on July 30 for illegally entering the country on a ship. The ship, named Kalsit, carrying mostly men from Northern Iraq, Afghanistan, Sri Lanka, Nigeria and Sierra Leone, "was believed to have begun its journey at a Turkish port four days ago, stopping at a Greek port to pick up food, officials said".



## Routes, Destination, Networks and Methods of Human Smuggling

A large number of migrants reach Western Europe first through Turkey and the Balkans. Human smuggling and trafficking are executed via a number of land, water and air routes described below. Destination countries of the human smugglers who transit through Turkey are Germany, England and other European Union countries. The following origin countries supply the human stock for the smugglers: Middle East Countries including Iraq, and Iran (and many Palestinians from Palestine); Black African countries including Ethiopia, Ghana, Gambia, Nigeria and Senegal; and Asian countries including Bangladesh, Pakistan and Afghanistan. They first transit Turkey from where they move to transit Southeast European and Eastern European countries to reach the final destination in Western Europe.

*The major land routes of human smuggling via Turkey are as follows:*

1. Iran, Iraq or Syria-Turkey-Bulgaria-Romania-Hungary-Austria-Czech Republic or Slovakia-Germany;
2. Iran, Iraq or Syria-Turkey-Bulgaria or Greece-Macedonia-Albania-Italy-Western European countries; and
3. Iran, Iraq or Syria-Turkey-South East European countries-Western European countries.<sup>22</sup>

According to the report (titled "Human Smuggling") released by the Security Department Directorate's Smuggling and Organised Crime Unit in 2000, there are 13 points of entry or official and illegal crossings along the country's border with Iran, Iraq, Syria, Georgia and Armenia. And there are 10 points of exit on the Aegean and Mediterranean Sea coasts.

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<sup>22</sup> See Tolga Şardan, "Satılık Hayat Var" ("Life for Sale"), *Milliyet*, July 17, 2000.

## **Points of unauthorised entry to Turkey:**

### *Armenian-Georgian Border*

Iğdır/Diluca, Kars/Digor-Tuzluca, Ardahan/Posof, Artvin/Sarp

### *Iranian Border*

Küçük Ağır Dağı/Doğubeyazıt, Van<sup>23</sup>/Özalp-Başkale<sup>24</sup>,  
Hakkari/Yüksekova

### *Iraqi Border*

Hakkari/Şemdilli-Cukurca, Şırnak/Uludere

### *Syrian Border*

Şanlıurfa/Suruç-Mert Village-Akçakale Village Hatay/Yayladağı-Güveççi Köyü, Altunözü-Turfanda-Avuttepe villages, Hatay/Karbeyaz Village, Hatay/Reyhanlı, Hatay/Samandağı, Hatay/İskenderun-Arsuz section, Adana/Karataş section-the zone where Seyhan and Ceyhan rivers merge with the Mediterranean Sea, Gaziantep/İslahiye-Karababa area.

## **Zones from which to exit Turkey, located in the Aegean and Mediterranean Sea regions:**

Antalya/Kaş-Meis Island; Muğla/Datça-Simi Island; Bodrum-Kos Island; Aydın/Didim-Kuşadası coast, Sisam Island; Edirne/Pazarkule-

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<sup>23</sup> In Van, there were around 40,000 transit migrants, 16,000 were identified asylum seekers and the rest were not considered in this category. This was observed by Umit Bayazoglu in 2000. Asylum seekers had to line up everyday and sign in the police station. Sometimes they have to arrive at six AM in the morning and wait to sign until 12 PM.

<sup>24</sup> Baskale is district on the Iran-Turkey border. Many refugees from Iran, Iraq and Pakistan arrive in Baskale. They are transferred to Van by cars and horses alternatively in through a circuitous route to avoid the check points. From Baskale to Van each person pays 500 \$US.

Karaağaç; Trakya/Meriç-Sufli; Trakya/Kumdere-Paşaköy-Karpuzlu-İpsala Enez sector; Istanbul Airport.<sup>25</sup>

The Balkan routes, which are connected to Turkey, are well utilized in reaching Western Europe. Along with the land routes, air routes are also utilized in the Balkans. The most commonly used air route from Black Africa and North Africa to Southeast Europe via Turkey is: Dakar - Tunis-Istanbul- Sarajevo. An interview with an African informant living in Istanbul revealed that young men from Ghana, Gambia, Senegal and Nigeria travel to Dakar from where they reach Tunis and then Istanbul. They stay in Istanbul a few days and proceed to Bosnia-Herzegovina. Sarajevo airport is a key point in transiting to Western Europe, as Amra Kebo reports: "Minutes after a flight from Tehran or Istanbul touches down, an exotic mix of Turkish, Arabic and Farsi reverberates around Sarajevo airport's arrival terminal. Once some of these arrivals pass customs control, they will simply disappear, hooking up with criminals who will attempt to smuggle them into Western Europe."<sup>26</sup> The force is pitifully inadequate given that there are 426 different official and illegal crossings along the country's 1616 km border.

There are four basic Balkan routes according to the UN and the IOM. Three involve smuggling the immigrants across the Croatian border - at Bihac, Srebrenik and Brcko. The fourth ferries them from the Adriatic coast to Italy. The head of the UN mission in Bosnia, Jacques Klein said that immigrants paid smugglers between 2,000 and 10,000 German marks in 200-2001, depending on their country of origin.<sup>27</sup> In Klein's opinion, as a part of the deal, there is an unwritten rule that, if captured, the traffickers will help immigrants twice more. Those who fail on the third attempt are left to try and make it across the frontier by themselves. The smuggling operation is fraught with danger. The immigrants are

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<sup>25</sup> For the data on unauthorized entry to Turkey, See Tolga Şardan, "Satılık Hayat Var" (Life for Sale), *Milliyet*, July 17, 2000. Some illegal migrants depart Turkey from Istanbul airport by fraud documents.

<sup>26</sup> See article "Illegal immigrants flock to Bosnia in the hope of being smuggled into Western Europe". By Amra Kebo in Sarajevo (BCR No. 213, 29-Jan-2001).

<sup>27</sup> See article "Illegal immigrants flock to Bosnia in the hope of being smuggled into Western Europe". By Amra Kebo in Sarajevo (BCR No. 213, 29-Jan-2001).

often dropped by the smugglers and many are supposed to drown while they are trying to cross the Sava River into Croatia. The UN figures show that over the last year (2000-2001), 35,793 Iranians, Tunisians, Iraqis, Turks and Chinese entered Bosnia through Sarajevo airport alone - well over half of that are thought to have subsequently tried to sneak across the Croatian border. The lack of visa requirements means that most immigrants in possession of a valid passport can enter the country without having any problem. In an attempt to address the migrant problem, the authorities introduced visa restrictions for Iranians, the largest number of immigrants entering the country. As a result, their number dropped dramatically. But just as this hole was plugged, another has opened up. The UN says there has been a growth of migrants from China and Tunisia.<sup>28</sup>

The increased security measures, taken by the police and gendarmerie in Turkey in the years of 2000-2002, have affected the smugglers' choice of routes. According to Ankara Security Chief Feyzullah Arslan (speaking in June 2002), there has been decrease in the usage of Turkish routes in the four regions identified above. Now the most frequently used routes by the human smugglers are the South Route: Iraq-Syria-Lebanon, and the North Route: Iran-Caucasus-Ukraine.<sup>29</sup>

In response to legislative and law enforcement activities, the survival of smuggling networks greatly depends on the constant change of routes and methods. Flexibility is one of main characteristics of transportation and choice of routes. While, the routes used by people may sometimes be simple and direct, at other times they may be circuitous. The times between departure and arrival may vary from a few days to several months or even years. For example, the smuggled Iraqis were observed (by the persons interviewed in Istanbul) spending several weeks in the Vefa (Istanbul) area where they stayed in "rooms rent to singles" (*bekar odası*) before they left for Greece by ship. These rooms are utilized as transitional shelters for the smuggled people and the smugglers wait to form a complete crossing group. One of the informants told us (in July

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<sup>28</sup> See article "Illegal immigrants flock to Bosnia in the hope of being smuggled into Western Europe". By Amra Kebo in Sarajevo (BCR No. 213, 29-Jan-2001).

<sup>29</sup> *Hurriyet* 28 June, 2002

2002): "several groups of Iraqis used to arrive at different time intervals and to stay in the rooms for a short period of time. Then, they disappeared overnight. I observed many of them being loaded into minibuses before they disappeared. Since the last six months, I have not been seeing illegal Iraqis and Iranians. As far as I have heard, the Police collected and expelled them."

How do they arrive in Turkey and depart from the country? Various methods are utilized by the smuggling networks. The Turkish authorities identified five methods:<sup>30</sup>

- Land-to harbor crossing: Illegal migrants are first loaded into buses or minibuses and driven to cities or districts with harbors where they are put on small boats carrying them to ships bound for Greece or Italy. The next stage is their transfer to small boats again and their transportation to the coast in the destination country.
- River crossing: Crossing Meriç by small boats<sup>31</sup>;
- Crossing the borders in hiding in lorries and trucks as well as in cars<sup>32</sup>;

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<sup>30</sup> For the information on the methods, see *Cumhuriyet*, July 1, 2002 article titled "Goc, Umut Yolu" ("Immigration, Way of Hope").

<sup>31</sup> Smuggled people often cross Meric with the assistance of the villagers in Western Thrace. Then they are transferred to a spot where they meet someone who takes them to Athens in car or in minibus. This information was obtained from an interview with Nihat, who was engaged in human smuggling and imprisoned in Greece in 2002. He was interviewed in September 2003 to collect information on networks, actors and routes of human smuggling.

<sup>32</sup> The information on smuggling people in private car was provided by Nihat. The interviewed data shows that crossing borders in private cars is well utilised by Turkish people who live in Germany, France and Belgium. It is well-known fact that a Turkish worker smuggle one of his relatives from Turkey to Europe in his car when he returns from Turkey to their home country in Europe. Nihat told the stories the Turkish prisoners in Greece who were charged smuggling people. Nihat was interviewed in September 2003 three times.

- Crossing the borders with forged documents<sup>33</sup>;
- Crossing the borders on foot or riding donkeys and horses.

Human smuggling in the region is executed by the organized crime networks operating in Turkey and in the Balkan countries, and secondly by the terrorist groups who need money to finance their activities.

The human smuggling networks are not hierarchically organised and centralized. They are loose and flexible networks in the form of spider-web. They can accommodate individuals and groups who would get involved in human smuggling only once in their life time or those who are planning to stay in the "business" for a long period of time. They can recruit individuals without any criminal record as well as those linked to terrorist organizations

Organized crime and drug trafficking co-exist and exert a crime multiplier for militias, guerrillas and terrorists. There is a relationship between the organized crime and the illegal migration of labor since the organized crime organizes human trafficking and illegal employment in Turkey and the Balkans.

### **Human Smuggling Statistics in Turkish Sources**

Who are the smuggled people and smugglers? What is the number of the smuggled people and smugglers?

The Ankara Chief of Security provides hard data on human smuggling at press conferences on regular intervals. The Human Rights Association and Foundation, which obtains information from the police and gendarmerie, also publishes reports offering hard data on the number of

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<sup>33</sup> Fraudulent documents are obtained from various sources. One of them is from Turkish people living abroad who might sell to human smugglers their passports containing a residence permit in a European Union country. They change the photos in the passports and give them to Iraqis, Iranians and Turkish people who plan to enter the European Union countries. Preparation of such documents at central bus stations in Turkey has also been observed.

illegal migrants and those charged with human smuggling and their nationalities.

According to the Ankara Security Chief Feyzullah Arslan, in the years of 1995-2002, 346,940 illegal migrants were detained. The figure reached 418, 977 in May 2003.<sup>34</sup> In addition to this, in May 2003, 2,663 people who were suspected of entering Turkey with false documents were identified and expelled.

The same figure was 11,044 in 2002; 15,208 in 2001; 24,504 in 2000; 6,069 in 1999.<sup>35</sup> In the years of 1999 and 2002, 45,779 illegal migrants' transits were precluded and 2,520 smugglers were arrested.<sup>36</sup>

Table 1 (below) shows the figures on the number of illegal migrants captured each year. The origin countries are Afghanistan, Pakistan, Iran, Iraq and Bangladesh.

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<sup>34</sup> *Milli Gazete*, June 14, 2003). "İnsan Kaçakçılığına Geçit Yok).

<sup>35</sup> *Milli Gazete*, June 14, 2003 "İnsan Kaçakçılığına Geçit Yok.

<sup>36</sup> *Hurriyet* 28 June, 2002.

1995	11,362,
1996	18,804,
1997	28,439,
1998	29,426,
1999	47,529
2000	94,514.
2001	92,362
2002	82, 825 <sup>37</sup>
2003	56,219 <sup>38</sup>
2004	61,228 <sup>39</sup>

Source:  
Report 2002 by the  
General Directorate on  
Security, Unit of  
Foreigners, Refugees  
Department (Emniyet  
Genel Müdürlüğü,  
Yabancılar Şubesi İltica  
Dairesi Başkanlığı).

Total:            522, 708

Table 1: Number of illegal migrants captured by years

The irregular migrants detained came from the following countries: in 2000, out of a total number of 94,514 "illegal migrants" who entered Turkey without valid documents through "illegal means and ways", 17,280 were from Iraq; 8,746 from Afghanistan; 8,290 from Moldavia; 6,825 from Iran; 5,027 from Pakistan; 4,554 Russia; 4,527 from Ukraine; 4,500 from Romania; and 3,300 from Georgia. There was not any information on the number of those who were permitted to make

<sup>37</sup> For example, security forces in south-western Turkey detained about 400 would-be illegal immigrants based on a word to the paramilitary police in the province of Mugla. Asian and African illegal migrants hoping to reach Europe are apprehended daily in Turkey. "Turkey Stops Some 400 Would-Be Immigrants", *Agence France Presse*, quoting the *Anatolia News Agency*, February 3, 2002. In August (2002) the Coast Guards in the province of Izmir's Cesme district detained 1300 would-be illegal immigrants and nine human smugglers (two of whom are Turkish citizens) in the ship carrying Moroccan flag. The captain was Ukrainian, who indicated taking the illegal immigrants to Italy. See "1300 Kişiyi Kacıracaktı" (They were near to Smuggle 1,300 persons"), in *Milliyet*, August 15, 2002, p.13.

<sup>38</sup> The figure for 2003 was obtained from Emniyet Genel Mudurlugu Report 2005. *The Ministry of Interior Report (2005)*, See *Grafik 1: 1995-2003 Number of illegal migrants captured by years* at [www.icisleri.gov.tr/strateji/arastirma/gocmen.htm](http://www.icisleri.gov.tr/strateji/arastirma/gocmen.htm) - 13k.

<sup>39</sup> This figure was obtained from a representative of Emniyet Genel Mudurlugu in 2005 in Istanbul.



legitimate claims to apply for political asylum, but it was certain that all of them were expelled.<sup>40</sup>

The number of human smugglers arrested through the operations of the police and the gendarmerie has systematically increased since 1998 as a result of measures taken by the Ministry of Interior in response to the warnings received from the EU countries to prevent illegal migration to Europe via Turkey. In 1998, only 98 organizers of trafficking in migrants were detained; in 2000 the number of detained human smugglers was 850; and in 2001, it was 1,115.<sup>41</sup> In 2002, 1,157 and in the year of 2003, 937 human smugglers were detained.<sup>42</sup> Similarly, the number of the ship passages, allegedly by the European Union countries, carrying smuggled migrants has decreased. Accordingly, in 2000 a total number of 19 ships were reported to be going to Italy and Greece by passing Turkish water territories; the same figure was nine in 2001, and it was only two in 2002.<sup>43</sup> Moreover, the number of ships carrying smuggled migrants stopped by the Turkish authorities since 2000 has increased: while 17 ships were halted in 2000, in 2001 that number was 19; in the year 2002 by April merely nine ships were prevented to transit Turkish waters.<sup>44</sup>

The field work data also showed that the number of smuggled migrants has decreased and dropped dramatically since the beginning of 2002. All the interviewed people renting rooms to the smuggled Iraqis and Iranians

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<sup>40</sup> TÜRKİYE İNSAN HAKLARI VAKFI. Report Published in 2001.

<sup>41</sup> The Ministry of Interior Report (2002) shows that Turkey is a transit and destination country, and an origin country supplying migrants. It provides information on both the number of illegal migrants and smugglers detained. See Adnan Gerger NTV/Ankara. At <http://www.ntvmsnbc.com/news/161081.asp#BODY>. Also see Emniyet Genel Müdürlüğü, Yabancılar Şubesi İltica Dairesi Başkanlığı Report 2002, p.6.

<sup>42</sup> The figures for 2002 and 2003 were obtained from Emniyet Genel Mudurlugu Report 2005. The Ministry of Interior Report (2005) See *Grafik 5: 1998-2003 Number of the Human Trafficking organizers captured by years* at [www.icisleri.gov.tr/strateji/arastirma/gocmen.htm](http://www.icisleri.gov.tr/strateji/arastirma/gocmen.htm) - 13k.

<sup>43</sup> Emniyet Genel Müdürlüğü, Yabancılar Şubesi İltica Dairesi Başkanlığı Report 2002. P.6

<sup>44</sup> Emniyet Genel Müdürlüğü, Yabancılar Şubesi İltica Dairesi Başkanlığı Report 2002. P.6.

in 2002 and those running laundry shops in the Vefa area mentioned a decrease in the number of smuggled Iranians and Iraqis residing in the area during different time arrival intervals. They underlined the increased police control and operations in the area. They observed the police collecting the illegal Iranian and Iraqi migrants, and believed that these illegal migrants were deported. One of the room-renters (interviewed in July, 2002) said: "the illegal migrants who were smuggled and loaded in the area diminished six months ago" (referring to January 2002).

The nationalities of the smuggled people are diverse. According to the information of the police, out of the total number of 850 smugglers arrested in 2000, the nationalities were as follows: 701 Turks, 48 Iraqis, 19 Iranians, 14 Afghans, 11 Bengalis, 10 Greeks, 9 Moroccans, and 8 Pakistanis; and 30 of them were classified as from "other nationalities".<sup>45</sup>

According to the Ministry of Interior, irregular migrants create huge burden on the state. In the years of 1999-2002, the total cost for their lodging and deportation was 1,014 Trillion TL. A significant proportion of this money, 600 billion TL was spent for deporting the illegal sex workers.<sup>46</sup>

## **Trafficking of Women**

Migration linked to trafficking of women and prostitution is one of the darkest features of the lack of equality between women and men. This form of migration has developed into a gigantic, highly organized criminal trade linked to the exploitation of women. The main reasons for female emigration are poverty, discrimination against women, unemployment, under-education, lack of resources, and political and economic instability. Some women left their country in hope of better work and a better life abroad.. Another reason is that the situation of

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<sup>45</sup> TÜRKİYE İNSAN HAKLARI VAKFI. Report Published in 2001.

<sup>46</sup> See Adnan Gerger NTV/Ankara at <http://www.ntvmsnbc.com/news/161081.asp#BODY>.

prostitutes in other countries is sometimes even worse in the countries of origin than in the destination countries due to their illegal status.<sup>47</sup>

In numerous OSCE States, prices paid for women in this state of bondage range from hundreds to thousands of dollars. In many cases, legal systems and local authorities offer no protection or redress to these victims. Although no statistics are available, research by the IHF shows that many thousands of women live under such circumstances.  
48

"Trafficking in women is a new terminology for an old practice that most often represents a form of slavery," said Renate Weber, head of the IHF women's rights project. "Intergovernmental institutions, and most of their member states, are embarrassed and concerned that it is one of the world's most profitable businesses decades after respect for human dignity was declared one of the main objectives of the United Nations."<sup>49</sup>

The principal recruiting methods include promises of marriage, well-paid jobs and better living conditions. However, many women become victims through physical and psychological violence or pressure by criminal groups that keep the victims in bondage abroad, removing their passports and other documents. In some cases, corrupt policemen and other authorities facilitate this process.

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<sup>47</sup> D.M. Hughes, *The "Natasha" Trade: Transnational Sex Trafficking*, 246 National Institute of Justice Journal 9-15, (January 2001), at [http://www.uri.edu/artsci/wms/hughes/natasha\\_nij.pdf](http://www.uri.edu/artsci/wms/hughes/natasha_nij.pdf).

<sup>48</sup> See The IHF Report of 2000, titled "A Form of Slavery: Trafficking in Women in OSCE Member States," prepared for the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Beings. On 19 June 2000, the IHF published this 84-page report that deals, among other things, with national legislation and government policies – or, as is often the case, the lack of them – against trafficking in women; factors that contribute to and determine the reality of trafficking; and available support services. It covers 29 post-communist countries and is based on a survey carried out within the framework of the IHF "Project to Investigate the Status of Women's Human Rights" carried out in cooperation with Helsinki Committees and other local non-governmental organizations (NGOs).

<sup>49</sup> The IHF Report of 2000, titled "A Form of Slavery: Trafficking in Women in OSCE Member States," prepared for the OSCE Supplementary Human Dimension Meeting on Trafficking in Human Beings

In Turkey there are numerous women from Russia, Ukraine, Belarus, Moldova, Bulgaria and Romania and Central Asian republics<sup>50</sup> who are the illegal sex workers. Frequently, they come and work here out of their own choice. However, many of these women have been trafficked into Turkey.

Turkey is a destination country for many women trafficking groups. According to the UN reports, 47 percent of the trafficked women work in Istanbul, 16 are in Antalya and Ankara.<sup>51</sup> As mentioned above many of the trafficked women work from Russia, Moldova, Azerbaijan, Romania, Belarus, and Ukraine and Georgia work in prostitution out of their will to earn money. The Ministry of Interior Report on human trafficking shows that out of a total number of 4,495 deported persons from Russia, Moldova, Azerbaijan, Romania and Ukraine and Georgia 1,066 were in prostitution in the years of 2001-2003.<sup>52</sup> None of them was forced to do this. In the year of 2002, 22 cases of women trafficking from the countries referred to above were reported through the IOM. The investigation by the Ministry showed that only seven of them were trafficked and forced to work in prostitution.<sup>53</sup>

In order to prevent women trafficking, Turkey has taken strong measures and provides direct assistance, including establishing SOS telephone line (ALO 157) and shelters to help the trafficked women. ALO 157 has started in May 2005 and it has saved more than hundred women from Russia, Romania, Moldova, Ukraine, Georgia, Turkmenistan, Belarus, Kyrgyzstan, and Kazakhstan by July 2005. (See below Tables, 3a-3c).

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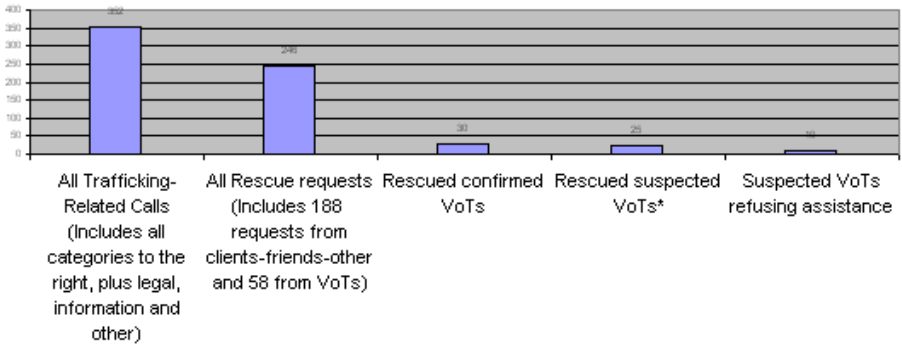
<sup>50</sup> There are victims from Uzbekistan, Kyrgyzstan and Central Asian countries. In 2005, the Turkish police arrested women traffickers in Faith of Istanbul, who were accused of forcing four Kyrgyz women to work in prostitution. See *Sabah* daily, March 16, 2005, at [www.sabah.com.tr/2005/03/16/gnd116.html](http://www.sabah.com.tr/2005/03/16/gnd116.html).

<sup>51</sup> See *Milliyet*, July 29, 2005, article titled 'Kadin Ticaretinde Ibre Turkiye;ye Dondu'.

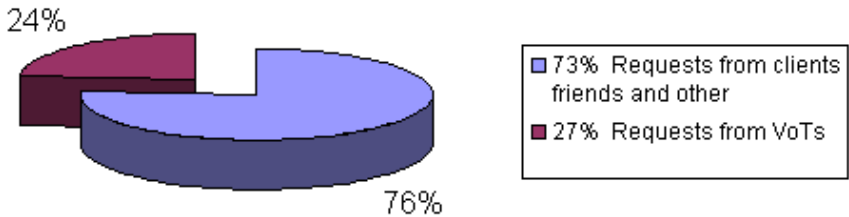
<sup>52</sup> For this figure see, *Emniyet Genel Mudurlugu Report 2005. The Ministry of Interior Report (2005)*, Table 3: Kaynak Ülkelerle ilgili Durum ('The data on the origin countries') at [www.icisleri.gov.tr/strateji/arastirma/gocmen.htm](http://www.icisleri.gov.tr/strateji/arastirma/gocmen.htm) - 13k.

<sup>53</sup> See *Emniyet Genel Mudurlugu Report 2005. The Ministry of Interior Report (2005)* at [www.icisleri.gov.tr/strateji/arastirma/gocmen.htm](http://www.icisleri.gov.tr/strateji/arastirma/gocmen.htm) - 13k.

**HELP LINE CALLS**  
**Since: 23 May, 2005**  
**Updated: 31 August, 2005**

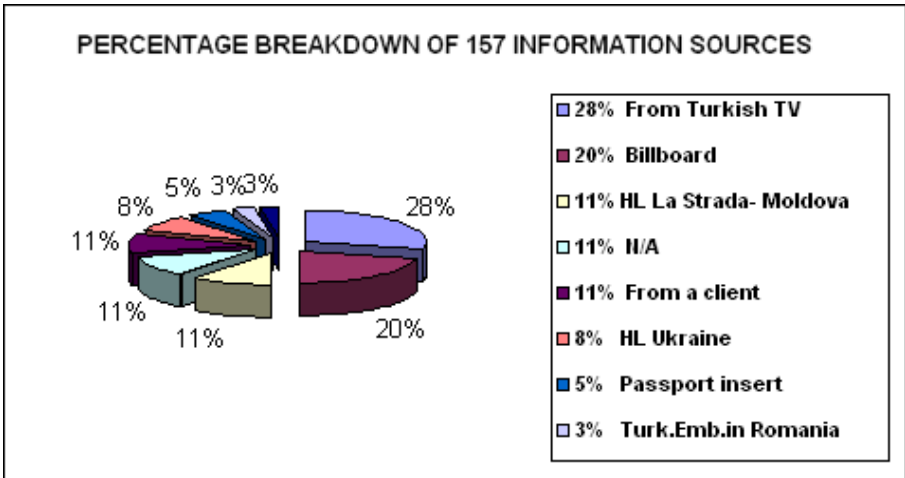
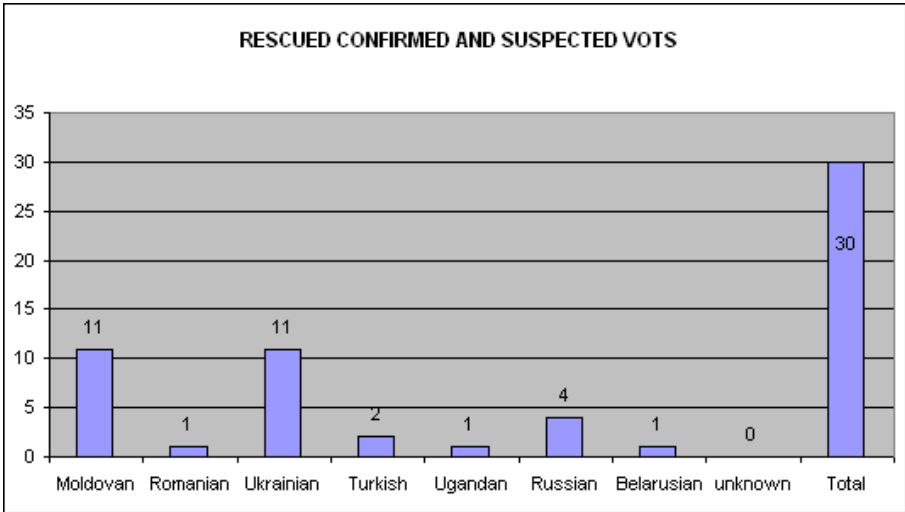


**ALL RESCUE REQUESTS**



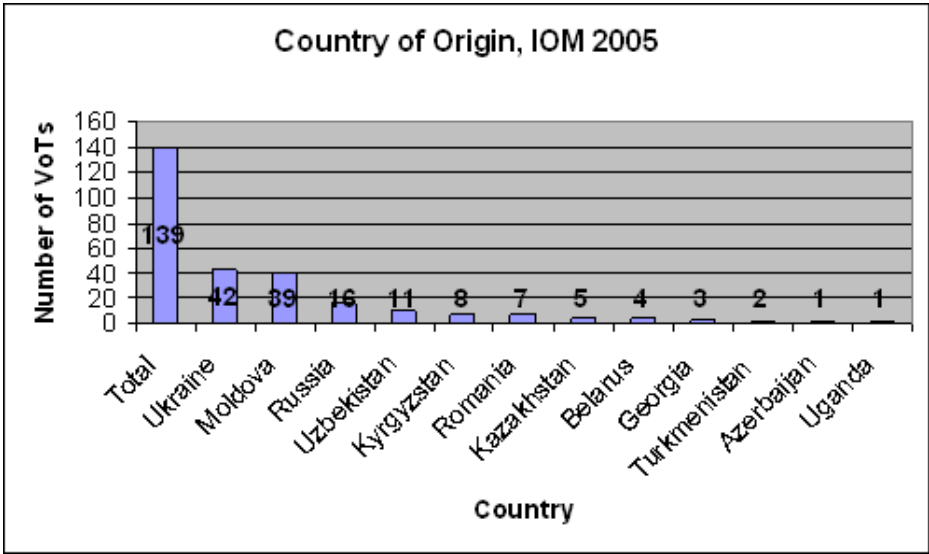
Tables 3a-3c: 157 Helpline Statistics<sup>54</sup>

<sup>54</sup> These tables are available at <http://www.countertrafficking.org>.

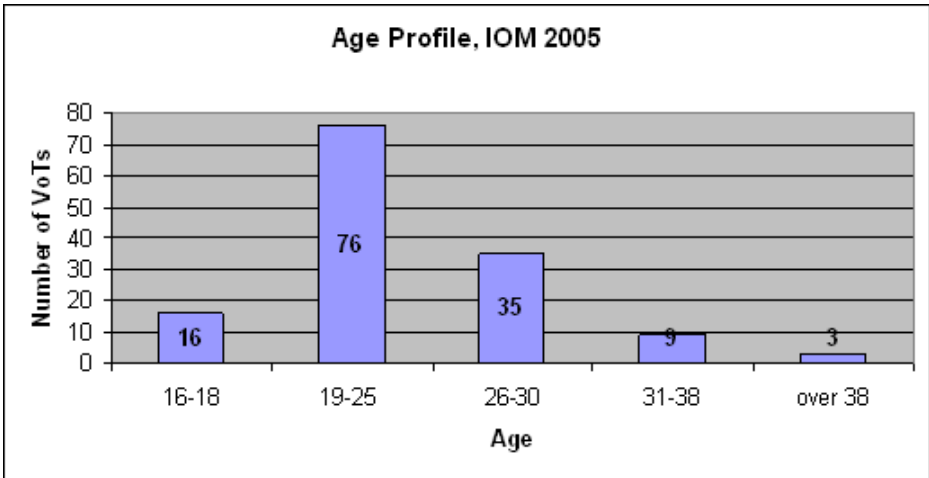


Tables 4a-4d: Victims of trafficking identified and assisted as of September 2005.<sup>55</sup>

<sup>55</sup> These tables are available at <http://www.countertrafficking.org>.

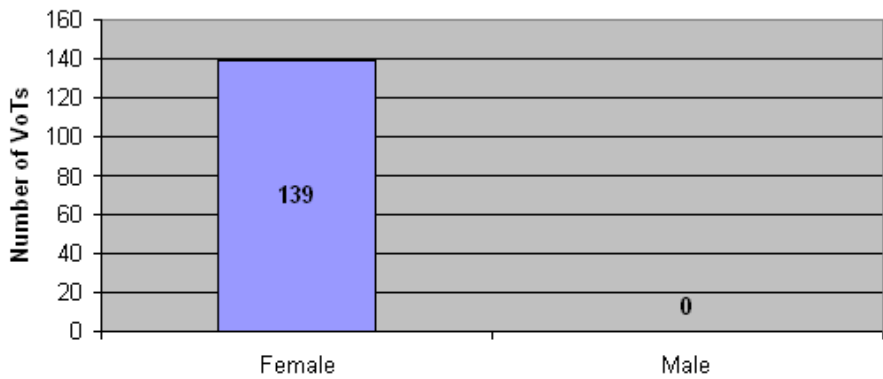


Breakdown of VoTs' Countries of Origin that IOM assisted by 31 August 2005.

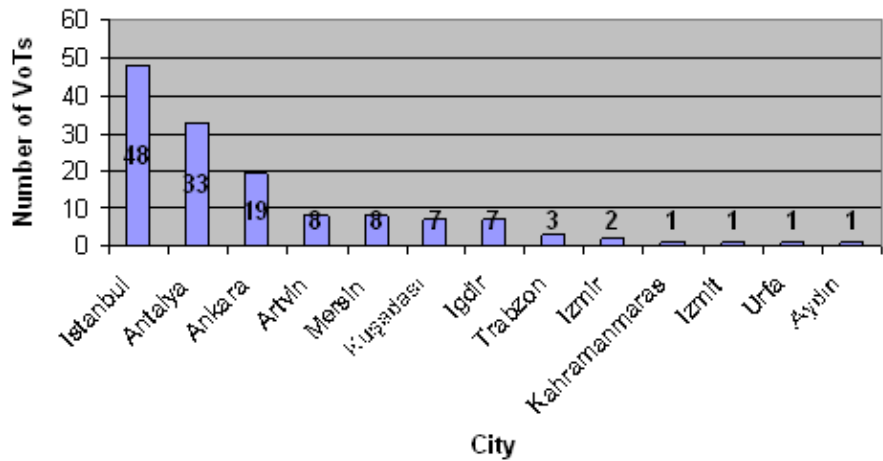


The age profile of 139 cases that IOM assisted in 2005.

**Gender Profile, IOM 2005**

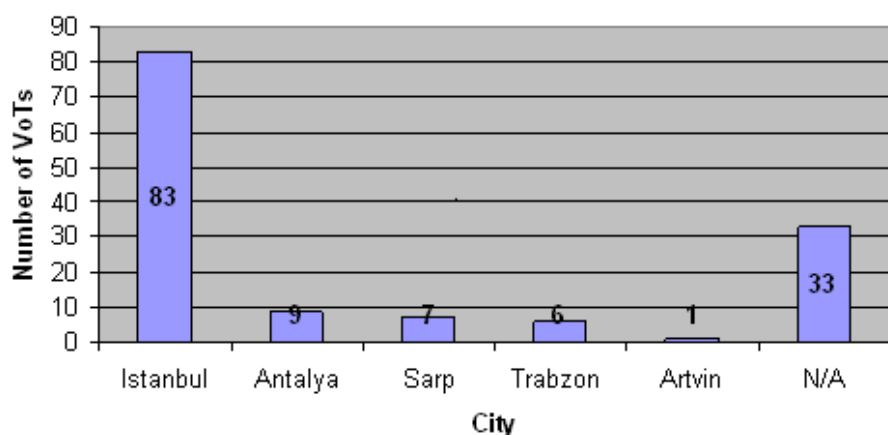


**Cities that VoTs are Identified, IOM 2005**

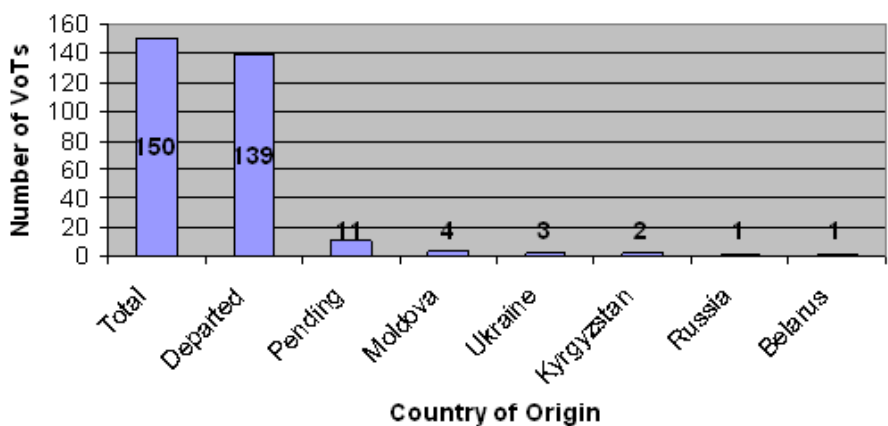




### VoTs' Port of Entry, IOM 2005



### Cases Pending as of 31 August 2005



## **Victim Profile**<sup>56</sup>

A total of 108 victims have been accommodated at the Human Resource Development Foundation run shelter in İstanbul in 10 months (2005). Their profile is as follows:

38% from Ukraine; 29% from Moldova; and 9 % from Russia and the remaining is from other countries in the region.

The age distribution of the victims:

- 55% btw the ages 18-24
- 27% btw the ages 25-29
- 14% above 29 and
- 4% below 18

## **Anti-Human Trafficking Legislation**

Human trafficking is addressed as a component of organized crime activities. Little attention is given to the victims exposed (if they are foreigners) to expedite deportation procedures, and there is no specific legal provision or measure addressing their human rights. There were no specific pieces of legislation concerning human trafficking and there was no definition of trafficking in human beings in the Penal Code or any other legal acts until 2002. In 2002, the Turkish Parliament passed a new law outlawing organ and people smuggling when the Parliament adopted a major reform package to harmonize Turkish laws with those of the EU. The new law passed on August 3, 2002 does not depart fundamentally from this approach, although it does reflect an increased awareness of the human trafficking phenomenon, particularly that of women trafficking. The new laws and changes in legislation are summarised below.

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<sup>56</sup> The source of the information is Human Resource Development Foundation that has a program to protect and rehabilitate trafficked victims in İstanbul.

- UN Convention on transnational organized crime and its two Protocols regulating migrant smuggling and human trafficking (Palermo Documents) signed in 2000 and ratified in TGNA (Turkish Parliament) in 2003.
- New Turkish Penal Code adopted in 2005, which sentences human trafficking 8 to 12 years.
- Readmission agreements with the EU and other source and destination countries including Syria, Romania, Kyrgyzstan and Greece.
- Citizenship Act in 2003 to avoid false marriages amended.
- Law on Work permits of the Aliens in 2003 in order to avoid illegal employment and regulation of the labour market with work permits adopted.
- Turkish Penal Code and human trafficking is defined as a crime in 2002 amended which brought the punishment of imprisonment to the perpetrators 5 to 10 years.

# **Combating Human Trafficking in the Context of European Security – Interdisciplinary and Cross-sectoral Anti-trafficking Policies in South East Europe**

*Nadya Dimitrova*

Trafficking in human beings is an increasing concern in a Europe aspiring to be an area of freedom, security and justice.

The voyage towards West, crossing the boundaries of the European Union, the possibility of settling in the country which is the final destination, have become for such reasons precious goods, a commodity to be paid at a high price to those who can provide it, even if it is necessary to undergo forms of subjection or abuses similar and very close to slavery.

To the increased demand for irregular entry, thus, the organized criminality has appeared as the unique “enterprise” capable of guaranteeing a range of services aiming at shifting – and subsequent settlement – of thousands of people from their original country to their new destinations.

Trafficking of human beings has allowed (often originated/linked to SEE) criminal organizations, to carry out illegal activities even on the European Union territory and to establish business and cooperation relations which contribute to their illegal enrichment together with the local criminal and affiliated to the Mafia organizations.

These organizations have gradually mainly specialized – at least in this historical phase – on women sexual exploitation, in the majority adults and, to a smaller extent (but not for this less serious and alarming), towards more complex forms of forced work exploitation (especially minors and men, but also women). Together with these serious exploitation practices, other forms can be identified: forced begging

mainly concerning minors, domestic slavery and marriages imposed or forced for money or for servile and abusive relations.

Hence today the term trafficking implies different forms of exploitation and different types of victims, as there is no one “typical” trafficking case.

Trafficking is often referred to as a form of gender-based violence, as it is a common observation that unemployment, underdevelopment and poverty have more effect on women than on men, conditions that provoke the risk of falling victim to false promises of a better future, to exploitation and to the acceptance of inhuman working conditions. Most legal migration schemes appear also less favorable for women. Trafficking moreover is also mostly reported regarding sexual exploitation, which, according to today’s knowledge affects women almost exclusively, in Europe.

Responses to trafficking require a gender-sensitive approach.

Likewise vulnerable are children, who are often totally unprotected at the mercy of unconscionable criminals. It is necessary not to forget that men and boys are victims as well, though left out in most data collections - also men can fall prey to the traffickers.

### **The role of restrictive migration and labor regulations**

The European Commission has recommended that there should be a realistic approach to facilitate legal and fair migration possibilities for third country-nationals, considering economic and demographic necessities within the European Union.

Many governments, however, continue to respond with a restrictive approach to migration and immigration a policy, which has not decreased migration veritably, but rather has left migrants more vulnerable to trafficking and labor exploitation. Trafficking for forced labor purposes may be very much ascribed to the disparity between labor supply and the availability of legal work in the country of destination.

Also between the lately acceded and the long-established EU countries exist restrictions with regard to the labor markets, resulting in trafficking flows from less to more affluent countries even within the European Union.

Many governments have sought political advantage by promoting more restrictive immigration policies, disregarding that such policies reduce the opportunities for regular migration, thereby providing greater opportunities for traffickers in SEE to operate.

Instead, a common and better coordinated approach and a unified migration policy should be established within the EU based on well-balanced restriction in immigration and asylum policies. Greater opportunity should be given to the new Member States, acceding and candidate states who should be equally interested in a proper migration management within a future enlarged Union. Western Balkan countries should also be involved in the migration management discussions.

With the increasing informalisation of the global economy there is greater flexibility of labor markets – both the movement and deskilling of labor. Yet governments in developed countries are often reluctant to publicly recognize their dependency on both skilled and unskilled migrant labor.

### **Organized crime involvement in the region**

The spectrum of offenders being involved in the different stages of the crime, recruitment, transport and/or exploitation, range from colluding individuals like acquaintances or relatives, to highly complex, international, organized criminal networks. The different groups can be categorized as follows:

### *Informal networks (amateurs/low level)*

Informal networks usually exist in the form of small groups of individuals within limited family networks and ethnic communities that extend over borders. Often migrants use contacts with family and community members back home to recruit the persons. Such networks are used frequently in the border regions between the country of origin and the country of destination, and/or within ethnic communities.

### *Large-scale organized criminal networks*

Large-scale organized criminal networks control every phase of the trafficking process. The traffic functions like a business with different “departments” managing the different stages of the business, from recruitment, the procurement of documents and the transport to the execution of management of the workplaces and the exploitation of the trafficked persons. Traffickers take their job very seriously and professionally and often use extreme violence to maintain order. The victims procured are regarded as merchandise or commodities to be traded, much as in a traditional slave trade.

Such organized crime networks originate mainly in Ukraine, Belarus, Russia and Bulgaria but extend throughout Eastern and Central Europe. Often these networks run brothels and prostitution rings through agents in Western Europe and may use other countries only as a point of transit to obtain false documents or as a "training ground" before moving westward.

### *Criminal distribution networks*

Networks of criminal groups recruit and transport victims from one country and sell them another country. One may call these "wholesalers" or “distributors” who sell to local "retailers". Victims of sexual exploitation may be sold several times to different brothels or to gangs in different cities or countries, or they may remain within one ring and be circulated to new markets.

With the recent flood of migration, the political and economic insecurity in many parts of the world and the booming informal markets and sex industry in the West, already established criminal networks have grown aware of the extraordinary profits to be made from trafficking for labor and sexual exploitation. Often, these networks are the same as those developed for smuggling of people, drugs and stolen goods. Highly organized networks are also able to carry out high-level corruption and money laundering.

However, though expert sources suggest that organized crime widely controls the criminal trafficking market, still much about the traffickers remains unknown. The presumption that the “typical” trafficker is male is out-dated, as also women are involved as offenders in trafficking cases. Often female perpetrators have been victims of trafficking themselves.

Irregular private employment and marriage bureaus are also involved in illegal arrangements in the trafficking process.

Offenders’ nationalities vary, offenders can be nationals of the country of origin or the country of destination or other countries, antagonized nationalities can even act in collusion, also ethnicity can become irrelevant when it comes to colluding for trafficking.

Trafficking in human beings is not an isolated crime. The following listed crimes are often related to human trafficking: forced abortion, forced pregnancy, slavery, forced marriage, torture, sexual assault rape, bodily injury, murder, kidnapping, unlawful confinement, labor exploitation, forgery of documents, corruption, debt bondage, involuntary servitude./Source: UN Office on Drugs and Crime/.

But trafficking, if committed by highly organized criminal organizations, may also be part of other organized crime schemes and as such be a threat not only to European but also to global security. The proceeds made through human trafficking may also feed terrorist activities.



## **How does human trafficking work?**

### *The phases of the trafficking process*

Trafficking in human beings is a complex process, starting with the improper and /or abusive recruitment of persons from different vulnerable groups, going on with the transportation of these people to various destinations, resulting in the ruthless exploitation of these people, under severe violations of human rights and the exertion of control. The methods of traffickers and stages of trafficking are outlined below. However, trafficking techniques frequently change, as traffickers tend to quickly adapt to the latest means of communication and to obstacles, obstructing the traffickers' movements.

### *Recruitment – improper means used*

The first phase of the trafficking process is commonly referred to as the 'recruitment stage' during which traffickers target and acquire individuals in order to ensnare them into the trafficking scheme. The term recruitment in the context of trafficking in human beings refers to the hiring of people, using improper means such as force, deception, abduction, etc. The respective methods of recruitment of persons used by traffickers are varied and depend on the modus operandi and level of organization of traffickers.

Common methods include:

- Recruitment via informal networks of families, friends, or acquaintances;
- Advertisements offering work or study abroad;
- Agencies offering work, study, marriage or travel abroad;
- False or arranged marriages;
- Purchasing of children from parents;
- Advertisement over the Internet
- Individual recruiters searching bars, cafes, clubs and discos for targeted persons.

In many cases the victim knows the recruiter who in some cases may be a relative.

Traffickers seek to exploit the 'push and pull' factors and focus on individuals who are searching for new opportunities abroad and who often have difficult economic and social situations at home.

Especially women are offered well-paid jobs abroad in restaurants, in the agriculture, in the textile industry, in the child or adult care sector, etc. Also international marriage agencies can be involved in the trafficking businesses.

Often, it is only when these women arrive in the country of destination that they realize the deceptive nature of the original agreement with the trafficker and find themselves in exploitative, inhuman situations. In some cases, relatives, "boyfriends" or state institutions such as orphanages may sell women and girls directly to recruiters without their consent. In other cases, women and teenage girls are forcibly abducted from their home surroundings and trafficked internally or externally. In some cases victims may have an idea of the clandestine nature of their employment abroad, but are not aware of the working conditions. There exists a continuum of recruitment means ranging from mere force to less severe means of deception.

The four basic means of recruitment are:

- Complete coercion through abduction or kidnapping;
- Selling a person, typically a child, to the traffickers by someone having control of him or her, typically the parents or an orphanage;
- Deception by promises of legitimate employment/entry;
- Deception through half-truths;
- Deception about the exploitative, controlled and coercive working conditions.

The recruitment methods also depend very much on the type of targeted victim: In the case of child trafficking it is not necessarily organized crime that is involved in the recruitment. Very often even parents

themselves hand over their children to exploiters, but often enough in the good faith that they will improve their children's life.

It is an often-watched phenomenon that even "former" victims act as recruiters and at times turn into traffickers. This is surely also due to a lack of social reintegration perspectives for trafficked individuals and the persisting push and pulls factors.

### *Transportation*

The recruitment process is followed by the transportation and transfer phase which can also involve the harboring and receipt of the victims at a number of stages in the process, including initial receipt and transfer within their country. The victim may suffer grave human rights and physical abuses and other crimes during the journey.

Many victims have never left their country of origin before and therefore are completely dependent on the traffickers. Some might leave their home country without an international passport, being told there is no real need for one or that they will receive one later. If they do hold a passport, it is often taken from them and held by the traffickers as a way of securing the compliance of the victim.

Victims that are in an irregular situation are especially vulnerable to the whims of their agents, who are aware that their illegal status renders them less likely to gain police or state protection, should the process be interrupted or should they voluntarily seek protection. In most cases, recruits agree to depend on traffickers for procurement of documents and for transportation. This gives the trafficker a high degree of control during the transit phase.

It should be remembered that the majority of victims of trafficking voluntarily leave their homes in search of a better life. However, the voluntary movement is, as shown above, not opposed to the occurrence of human trafficking, depending on the means used for the recruitment and the traffickers' intention.

The transportation of human beings across borders is not an essential aspect of international trafficking.

Many victims are trafficked across borders by truck, private car or coach that can offer greater flexibility than air or train. Victims are also transported from the origin country to the destination country by long-distance, high-volume carriers such as airlines, shipping-lines and long-distance coach companies.

It is worth noting that during the transport phase trafficked victims often will not be aware that traffickers have ensnared them. This is an important point, especially in connection with recognizing the limitations of law enforcement's ability to recognize and intervene in trafficking cases during this phase, including at borders.

The entry into the final destination can basically occur as follows:

- Covert – smuggled entry in vehicles, containers, trains, ferries or on foot etc;
- Overt - by presentation of stolen or forged documents;
- Overt - by the presentation of bona fide documents that provide visa entitlements to enter the country such as employment, tourist or student visas.

### *Exploitation*

Trafficking in human beings is not confined to sexual exploitation of the victims, though this is most commonly discussed topic and also predominantly displayed in Western media. Adults and children are trafficked for a variety of exploitative purposes, with just recently the issue of forced labour exploitation has come to the forefront. Sexual exploitation receives more attention also due to the fact that prostitution in itself is regarded as something more “exceptional” or scandalous.

Forced labor on the other hand is often regarded simply as illegal employment. In times of high unemployment, exploited trafficked laborers are likely to be seen as perpetrators on the local labor market rather than victims of traffickers.

According to the UN Trafficking Protocol, exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

As trafficking does not necessarily require the crossing of international borders, all forms of exploitation can also take place within the home country of the victim.

### **Forced labor or services**

Bound labor – to use a term suggested by Kevin Bales – can be said to be the condition in which immigrant workers can find themselves in the European countries when their survival is subject to their total submission and under the total control of their employers. Hence the essential characteristic of this condition is the lack of liberty, i.e. the absence of any form of negotiation and collective agreement on working conditions with the exception of the means for basic survival and retaining the physical condition which will allow for continued exploitation if “slavery” ceases to be profitable there is no purpose in practicing it.

As a rule, this kind of labor relations – which involves practices of violence and radical exploitation – encounter social and legal repercussions in Europe when detected. It is therefore camouflaged as practices that are close to acceptance, e.g. moonlighting, under-paid labor, extended working hours and over exploited work that characterize the status de facto of significant parts of the migrant population. This first migration phase is often characterized as a period of legal vulnerability (lack of residence permit), of socio-existential weakness (lack of relations), of political absence (no participation in institutional decision-making mechanisms) and economic crisis (unemployment).

These different dimension of vulnerability push the immigrants into a particularly significant area of social and economic marginalization, as the tendency to carry out any kind of work that can guarantee however basic survival becomes an absolute must; a condition difficult to escape,

especially for those groups and individuals whose encounter with the recipient society produces bewilderment and a strong feeling of uprooting.

It is now undeniable that in the margins of the European societies moonlighting – in its most negative meaning – is almost essential for the survival of the productive enterprises (not only the small ones) that otherwise would not stand a chance to remain in business. The production sectors where it is possible to find these forms of quasi slavery labor are those where the underground labor is in force, i.e. labor which does abide by national legislations.

From this perspective the quasi slavery labor represents the most extreme form of moonlighting, i.e. the one where the free will to make choices is lacking – both for entering and leaving the relation – is the main feature.

The next level is the area of the non-guaranteed labor (however negotiable and to a certain extent socially tolerated) to be followed by the area of vulnerability and temporary work at low level (qualified or highly qualified temporary work must be excluded as these cases are often characterized by tax evasion and forms of illegal accounting and certification acts). The extreme form is represented by the totally submerged labor, the work done in conditions far from the standards foreseen by legislation and unions, and violent forms of repression.

Black labor manifests itself in a wide variety of forms, which are characterized by the capacity of entrepreneurs to compulsorily impose their work. This kind of relation remains, however, linked to two strongly contradictory aspects: on one side the possibility of intensive exploitation resulting in fast earnings and profit and on the other the need not to unduly disable the potential of the earning source.

A balance should occur once the involved actors reach (involuntarily) a kind of mutual advantage: on one side in not suffering further violence and on the other in not making the negative effects of the compulsory repression process irreversible. On the contrary if the relation remains

unbalanced (and the reason is that it is a quasi slavery relation) the standards of intensive wealth are guaranteed only by the continuous proceeds of the victims respectively of those who accept submission due to their vulnerability to a relation of quasi slavery exploitation (generally for a medium to long period of time) and the role of those who voluntarily accept such a relation (generally for a short time)<sup>6</sup>. In the first case there is a total lack of free will, whereas in the second, at least in the initial phase, free will still exists and above all it is possible to assume a minimum level of negotiation and ability to end the professional relationship.

### *Forms of forced labor*

Labor exploitation often occurs within the agricultural, the catering and the construction sector and also within the clothing industry, where adult and child victims of both genders are coerced into working under ruthless and exploitative conditions.

Children and young adults are moreover forced into street begging, recruited and trafficked to earn money for others by begging or selling goods on the street. In some cases, beggars are maimed in order to arouse pity and increase charity. It is not unusual for victims in the cases of forced labor to be subjected to sexual abuse as well.

Trafficked victims have to work under compulsive overtime without pay, further jobs which they have not consented to, or to accept very lengthy delays in the payment of wages.

Children and young adults are especially vulnerable to trafficking for the exploitation as criminal agents. The criminal agency traditionally means activities such as pocket picking and other forms of low-level crime. Cases are known e.g. of Roma children from SEE countries, who are circulated within Europe and committed the task to steal considerable amounts of money per day. Boys and young men are also trafficked to act as criminal operatives who carry out minor functions associated with the trafficking crime itself, acting as “look-outs” or “runners”.

Additionally, boys and young men are appointed as street runners for drug trafficking.

Also in the sports sector trafficking in human beings is not an unknown phenomenon. Especially adolescent persons are ready to leave their countries of origin in order to become rich and famous and depend on “helpers” as regards the realization of these dreams. A sport is often a very profitable business for many clubs, federations, players, private companies and individuals. The “right” athlete - the one that is cheap to “buy” and profitable to “sell” or “lease” – is recruited by use of deception, fraud, exploitation of somebody’s position of vulnerability and then treated like a commodity.

### *Domestic servitude*

Domestic servitude is a special case of forced labor. Servitude in itself represents a broader concept, covering conditions of work or service, which the individual cannot change or escape from – implying that one person dominates over another person. In European countries there are also informal markets in the housekeeping and cleaning sector for trafficked women from Africa, Asia, Latin America and also Eastern Europe. Those women and girls have to work under exploitative and degrading conditions as domestic workers, as chars, as nursemaids and au pair respectively in private homes.

Domestic workers are kept without residence and work permits and thus in total dependence. Thousands of domestic servants in Europe are subjected to long working hours with no holidays or decent living accommodations: those servants have to work between 15 and 18 hours a day, without ever being allowed a day off, they do not have their own rooms, and often get only their “employers” leftovers to eat. Among the perpetrators are also many diplomats who are provided with immunity from prosecution. Individuals with diplomatic status are able to import domestic staff based on their needs.



The work of domestic servants is accompanied by abuse, humiliation and confinement. Possibly existing working contracts are ignored completely.

Also so called mail order brides can end up in domestic servitude. The international "mail-order bride" industry has been proliferating in recent years, using the internet as a high-powered engine to reach an unprecedented number of clients.

International marriage or "mail-order-bride" agencies, capitalize on increasing disparities between women in economically distressed countries and men in the wealthiest nations of the world.

As domestic workers work in the privacy of the home, the abuse is usually invisible and difficult to tackle.

Trafficking for domestic servitude affects equally adults and children.

### **Slavery or practices similar to slavery (and servitude)**

#### *Sexual exploitation*

Victims, predominantly women and girls, who are trafficked into the sex industry, are forced to prostitute themselves in 'red-light areas', in hostess bars, escort agencies or in apartments being used as brothels. They are required to work extremely long hours and to provide unprotected and dangerous sexual services to many clients per day. In many cases they are unable to speak the native language and communicate with their clients by the use of a written 'menu' of sexual services. The women are frequently moved from city to city and country to country. The purpose is to disorientate the victims in order to prevent them from developing friendships and becoming familiar with their surroundings. This simultaneously prevents police detection and intelligence gathering activity.

Experts' systemization of different national groups of women involved from the Region: e.g. the Albanian group or the Eastern women group.

### *Forced marriage*

Trafficking in human beings for forced marriage is often a combination of several forms of exploitation: sexual exploitation, forced labor, domestic servitude.

Seeking a way out of hardship and poverty, women are ready to leave their countries of origin and marry a EU citizen, in order to enter and live in the EU legally. Some of these women, however, find themselves exploited in domestic slavery and under the total control of their husbands. They have no choice but to stay even in an exploitative marriage, as a divorce may be tantamount to the loss of legal status or her being reported to police by her husband for fictitious marriage.

### *Removal of organs*

Also in the case of organ trafficking, traffickers take advantage of the demand – supply situation.

Trafficking in organs according to the UN Trafficking Protocol is a form of trafficking in human beings, however, it is not included in the EU Framework Decision against

### *Sexual and labor exploitation of children*

In general there is little information about the mechanism of trafficking of young children between 1 – 5/6 years old.

For children's psycho-physical vulnerability the deceit, the trick and the fraud assume a wider dimension. Once they arrive at their destination, children who are victims of trafficking in human beings are usually exploited in one of the following ways:

a) sexual exploitation, especially of girls, even if there are also forms of exploitation of boys, including street prostitution and, more and more,

conducted in private houses or night clubs and the production of pedophile or pornographic material;

b) begging, as far as it is a quasi slavery activity when it is based on violence, abuse and exploitation of the minor used to make profit;

c) black labor, especially in the manufacturing industry, in situations of harsh exploitation and without any possibility for the minors to leave voluntarily. This happens when their parents or relatives are involved, or when they are alone and thus are subjected to various forms of intimidation or threat of violence 20 ;

d) fictitious illegal adoption (hiding trafficking recruitment with adoption practices) or recruitment and transportation finalized to the removal and trafficking in human organs for profit.

The sexual exploitation of child girls is the most alarming among the other phenomena, because of the conditions of violence, abuse and harsh exploitation of the victims. It is also the more widespread form of exploitation and the more difficult to be intercepted by the police. The sexual exploitation of minors happens both in developing countries and in developed ones. As regards the latter, small parts of the population resort to upper-middle classes travel to poor countries in order to sexually abuse children.

## **Consequences and risks of trafficking in human beings**

Consequences and risks for the victim

### *Violation of human rights*

Victims of trafficking very often are subjected to particularly detrimental forms of physical and/or psychological violence.

Human trafficking is a risk to the right to life, liberty and security of person, as victims face physical and psychological violence, are kept

against will, being held in slavery and servitude, being subject to torture cruel, inhuman or degrading treatment, etc.

To summarize, when each of the above control mechanisms are considered together, the outcome is a regime of actual and psychological imprisonment and torture. It is important to view the situation through the eyes of a (female) victim:

Alone in a foreign country, isolated from contact with other compatriots, unable to communicate in the native language, denied possession of own identity and travel documents, denied contact with the family, disorientated by constant movement and re-location, subject to repeated physical and sexual abuse, denied access to police assistance through fear of the consequences, required to engage in physically dangerous and un-protected sexual practices on a daily basis for very long hours with male clients with whom effective communication is impossible, existing under a regime of threats or reprisals against herself and/or her family if she seeks to escape.

Whether all of these factors are applied collectively or singular, it becomes simple to understand why so few trafficked victims seek to escape from their traffickers and why there is such a compelling humanitarian duty upon law enforcement officers to act against the traffickers and provide for the victims' protection.

### *Shame, stigmatization and trauma*

Victims of forced prostitution are often subjected to psychological and/or physical torture (threats, humiliation and degradation, beatings and rape) by their traffickers. In many cases the women blame themselves for having become involved in trafficking and prostitution. They later feel ashamed to have given in to the demands of their tormentors.

When forced to return home, the victims are faced with disappointment from their families and friends, having fallen short of everyone's expectations to make a new start in the West (this can also be the case

with victims of forced labor). Others are stigmatized as prostitutes and have great difficulties re-integrating in their country of origin. In many cases, the full psychological consequences of their ordeals first become apparent months after the traumatic experiences have occurred. Frequently an intensive period of therapy is the only way to help the victims come to terms with what they have been put through.

### *Complicity*

Victims are very often regarded as offenders and accomplices instead of victims of crime. Hence they are – instead of receiving assistance and protection – accused of offences such as illegal entry and stay, illicit employment, illegal prostitution, impermissible begging, dealing in illicit drugs, and other petty crimes.

### *Secondary victimization*

Victims moreover face secondary victimization. Child victims involved in human trafficking cases in addition face the risk that the law enforcement and judicial authorities do not use the child friendly instruments for sexual abused children.

### Consequences and risks for the state and society

- Destabilization of existing labor markets
- Growth and diversification of organized crime
- Growth of money laundering
- Growth of corruption
- Undermining governmental action and the rule of law
- Growing number of socially excluded persons
- Growth of social problems which are weakening the society

### *Consequences and risks for the traffickers*

Trafficking in human beings is often called a “low risk high profit” crime. This term refers to the prevalent situation that traffickers hardly face criminal proceedings, as the risk of detection, arrest and adequate

punishment remains low. Yet, the profit of trafficking in person tends to surpass that made in the trafficking in drugs and arms.

Reasons for the lack of prosecution and convictions are the underground nature of the crime, the lack of testifying victims (in many European systems the investigations into trafficking cases are based on victims' complaints) be it due to fear or due to the fact that many victims are even detained/deported as illegal immigrants/criminals, the lack of adequate anti-trafficking legislation.

### *Consequences and risks for the "end user"*

As shown above the lucrative criminal business of trafficking in human beings is also determined by the demand for cheap and informal labor provided by vulnerable persons. End users, demanding cheap and vulnerable workers, could be e.g. employers in small businesses or large scale industries, but also persons that engage in the informal economy, private households, clients of prostitutes, etc.

Because countries place focus on the control of illegal migration instead of the protection of migrants from abuse and exploitation, also the end users face little to no consequences for having exploited a trafficked human being.

Some countries, however, decided to penalize the clients of prostitutes in an effort to reduce demand.

The current trend seems to be towards increasing penalties for the hiring of "illegal" migrant workers. This can be seen for example in such countries as France, Germany, Russia, the United Kingdom and probably many others.

### **The scale of trafficking in human beings**

Trafficking in human beings is a global concern leaving no region of the world unaffected – with people usually being trafficked from the poorer regions of the world to the more affluent ones. Trafficking in human

beings and contemporary forms of slavery have progressively assumed a significant importance and social visibility in almost of all European countries and neighboring geographical areas, especially those forming its Eastern boundaries.

Based on estimates done by the EU, women in the European Union forced into prostitution under strong subdual number around 500,000 units of which less than half – around 200,000 – come from Eastern European countries. These last communities, by the way, are the most involved in trafficking for serious exploitation, followed by some African components, among which, in particular Nigerian women.

However, the real scope of human trafficking is very difficult to determine, as concrete statistical figures are lacking. The clandestine nature of the crime, the confusion of trafficking in human beings with smuggling of migrants, the frequent lack of proper legal and criminal justice responses, the difficult access to the victims and other factors result in very little reliable data on the crime and estimates vary.

The European Union is a region of destination and transit for trafficked victims, but also, as regards Central and Eastern European countries, a region of origin to some extent.

### **European regulations and policy documents**

All EU member, candidate and accession countries are to have specific anti-trafficking laws or provisions that criminalize trafficking in their penal codes. Lack of specific anti-trafficking legislation, however, cannot justify lack of action. Until specific domestic legislation on trafficking is passed, existing UN treaties and EU legislation provisions as well as national provisions concerning slavery and work under slavery-like conditions, forced labor exploitation, violation of a person's liberty, facilitation the illegal border crossing, violation of public order, the prohibition of the formation of criminal association, the exploitation of prostitution, and other provisions can be used to investigate, prosecute and adjudicate trafficking in human beings.

Judges and prosecutors can avail themselves to international standards, as a means of interpreting national law, even if these standards are not directly applicable or legally binding. And though the EU Framework Decision is “closer” to EU and candidate countries, the UN Trafficking Protocol contains more comprehensive provision.

A number of documents have been adopted over the last years within the EU in order to strengthen the penal framework to fight trafficking in human beings.

However, only few of the legislative acts are binding and they are often not yet effective or fully implemented.

### *Charter of Fundamental Rights of the European Union*

According to Art. 5 of the Charter of Fundamental Rights of the European Union

- 1) No one shall be held in slavery or servitude.
- 2) No one shall be required to perform forced or compulsory labour.
- 3) Trafficking in human beings is prohibited.

### *The European Convention on Human Rights and Fundamental Freedoms*

Art. 4 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) prohibits slavery and servitude, forced or compulsory labor, stating:

- 1) No one shall be held in slavery or servitude.
- 2) No one shall be required to perform forced or compulsory labor.

The Convention applies also to violations committed by private individuals. The European Court of Human Rights clearly stated, under Art. 8 concerning the protection of private life, that the rights in the Convention create obligations for States which involve the adoption of



measures designed to secure respect for private life even in the sphere of the relations between individuals themselves.

This approach, which considers the European Convention to be applied also in the private sphere, is very important concerning trafficking, which is a violation typically committed by private individuals, even though in some cases public officials are involved.

*The Council Framework Decision on combating trafficking in human beings*

The definition in the UN Protocol is the basis for the Council Framework Decision of 19 July 2002 on combating trafficking in human beings.

Unlike the UN Trafficking Protocol, the EU definition does not include the removal of organs as a form of trafficking. (But also EU instruments distinguish between trafficking in human beings and smuggling of migrants.) The framework decision is legally binding for EU Member States, but does not entail direct effect.

Articles 4 and 5 of the decision concern the liability of and sanctions on legal persons. This is the first time that legal persons are addressed explicitly with regard to trafficking in persons.

The protection of and assistance to victims is dealt with in detail in the UN Trafficking Protocol and the parent Convention, but less comprehensively in the framework decision. The framework decision only requires ‘adequate legal protection and standing in judicial proceedings’. Also as regards the prevention of trafficking, unlike the UN Trafficking Protocol, no reference is made in the decision to tackle the root causes of trafficking such as poverty, unemployment, and gender discrimination.

## *Council Directive 2004/81/EC on the residence permit for victims of trafficking*

On 29 April 2004 the Council of the European Union (Council of Ministers) adopted a directive on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. This directive is based on Art. 63 point 3 of the Treaty on the European Union.

According to its Art. 3 (3), the directive applies primarily to adults, but may be extended to minors.

The directive has two main objectives: obtaining the cooperation of victims of trafficking and illegal immigration for criminal procedures and providing assistance to these victims by granting a residence permit.

However, for all the benefits described, the directive also very much meets with criticism:

- A residence permit is only issued to a cooperative victim, which is described as an instrumentalisation of the victim.
- It is moreover greatly criticized that the stay permit under the directive depends on the duration of the criminal proceedings. A victim will have to leave the country (Art. 13) unless the member state has adopted national legislation allowing the victim to stay. Victims, who are understandably afraid of returning home, be it because of the awaiting stigmatization, be it for fear of intimidation, may not be ready to file a complaint.
- A further critique of this directive is its focus on third-country nationals, as nationals of other EU member states cannot refer to this directive. This matters especially for nationals of those origin countries, which after the accession of the ten Central and Eastern European countries to the EU on 1 May 2004 became part of the EU. Nationals of these states do no longer belong to a third county. Also nationals who are settled in one of the EU states on a valid residence permit may fall outside the scope of this directive as well.

### *Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings*

The Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA) has the aim to improve access to justice for victims of crime in the European Union and to protect their rights. The framework decision provides rules on the prevention of victimization, assistance to victims, standing of victims in criminal procedures and on compensation issues.

On 16 June 2005, the European Court of Justice issued a ground-breaking judgment stating that a Council framework decision concerning police and judicial cooperation in criminal matters must be respected in a national criminal court case.

### *National legislation*

By now all EU countries, including the new Member States (should) have legislation on the crime of trafficking in human beings. Provisions are either decreed as specific anti-trafficking legislation or included in the national criminal code. But even the absence of specific anti-trafficking legislation cannot justify lack of action. Until specific domestic legislation on trafficking is passed, existing penal provisions concerning slavery and work under slavery-like conditions, forced labor exploitation, violation of a person's liberty, facilitation the illegal border crossing, violation of public order, the prohibition of the formation of criminal association, the exploitation of prostitution, and other provisions can be used to investigate, prosecute and adjudicate trafficking in human beings.

### Trafficking in the context of the crime of slavery

Until the adoption of national legislation concerning a specific crime of trafficking, the crime of slavery can be used to punish trafficking, as slavery is envisaged by all the national penal codes. In this case a process of progressive interpretation and adaptation is needed, which is

already in place in some countries, considering that the crime of slavery should not only apply to those cases in which the right of ownership over a person is exercised, but also to slavery-like practices.

### *Trafficking in the context of exploitation of labor*

Each of the below acts, when committed intentionally by an employer against an employee, is likely to be a criminal offence within the criminal law of most countries: Physical violence, physical restrictions on the movement of workers, forms of debt-bondage, (i.e. deliberately inducing persons into a situation of spiraling debt from which they cannot hope to extricate themselves), refusing to pay wages, retention of passports and other identity documents, or threat of denunciation to authorities, in order to avoid paying wages and social benefits for work performed. Acts of violence for example are likely to come within the scope of the criminal offence of assault. Non-payment of wages can be subsumed under the criminal law of theft. The withholding of identity documents and passports may also be classified as theft or part of the offence of deception, depending on the intention of the employer—was the intent never to return the documents or to deceive and coerce the victim into receiving little or no remuneration. And in many jurisdictions, the threat of denunciation to the authorities can fall within criminal law definitions relating to blackmail.

### *Trafficking in the context of the crime of exploitation of prostitution*

Until specific national legislation on trafficking is passed, the provisions of the penal codes concerning exploitation of prostitution can also be applied to prosecute and punish trafficking for the purpose of sexual exploitation. Harsher sentences must be applied when the trafficking is aggravated by violence, threats, coercion or deception. Even though penalties are often inadequate to the gravity of trafficking, it is possible to start combating trafficking through the provisions already existing in the majority of national penal codes. In countries where prostitution in itself is criminalized, it is necessary to understand that women will find it difficult to come forward and declare they are victims of trafficking, for fear of being prosecuted themselves. Provision prohibiting

prostitution may not be used against victims of trafficking whose prostitution has been exploited.

*Trafficking in the context of the crime of facilitating illegal border crossing*

The crime of facilitating illegal border crossing can be used to prosecute trafficking involving the element of illegal entry. Also here applies the prime principle that only the offenders may be punished, not the victim. In practice it can be difficult to identify a case of trafficking, especially at an early stage of the trafficking process. Nonetheless, a clear distinction between trafficking in human beings and smuggling of migrants must be held as a basic approach to the problems implied by investigation and prosecution.

Sometimes cases are mentioned as trafficking cases, but the trafficked person has been deported without any attempt of collecting evidence on her/his condition of victim. As soon as there are reasonable grounds to suspect that violence, threats or other forms of coercion, deception or abuse have been used against the migrant, prosecution should be clearly oriented to protect and support the person and favor her/his collaboration.

*Trafficking in the context of the crime of criminal association*

Where national legislation envisages a crime of criminal association, this provision should be applied with a view to identifying and prosecuting the criminal network that very often manages trafficking, sometimes at international level.

This should be considered an essential step forward in the fight against trafficking. In some legal systems, an indictment of a criminal association makes it possible to use the most effective techniques of investigation, such as electronic surveillance, phone tapping and undercover operations.

Unfortunately, even in countries where (thanks to victims' testimonies) many criminal proceedings are in place, only the final exploiters are prosecuted. The main architects of the trafficking ring remain undetected and unprosecuted.

### *Illegal conduct of the victim - exemption of punishment*

One of the serious obstacles of obtaining the victim's cooperation in an investigation is the fear of being prosecuted for breaking laws regarding clandestine work, prostitution, illegal border crossing, etc.

A special clause of exemption from punishment for the victims of trafficking in national legislation is necessary. Typically, a nation's non-punishment clause applies at least to all crimes related to transferring of the person from one country to another, such as illegal border crossings, or occurring while the individual was under the influence of the traffickers.

### **Interdisciplinary and cross-sectoral anti-trafficking response in SEE countries**

Trafficking in human beings is a complex phenomenon, which is related to different fields and interests, such as migration, organized crime, corruption, labor, prostitution, human rights, unequal international economic relationships, gender issues, violence against women, the feminization of poverty, etc. Effective counter-strategies must take this complexity into consideration in order to address the different aspects of trafficking simultaneously. To this end, it is necessary to work "interdisciplinary", which means that the knowledge and expertise of different disciplines as well as their respective methods are combined to develop measures to prevent and combat trafficking (e.g. legal instruments, educational methods, social research, economic empowerment, psychological assistance etc.). The term "cross-sectoral" indicates that interventions should be designed and implemented in a way that they cover all sectors of society (e.g. judiciary, education, labor market, etc.).

An interdisciplinary and cross-sectoral anti-trafficking response is important, because trafficking is a complex and multi-faceted phenomenon. Only a holistic approach allows tackling all aspects of trafficking at the same time.

To ensure an interdisciplinary and cross-sectoral approach the national anti-trafficking response:

- Must address explicitly different fields and sectors at both the strategic as well as the operational level.
- Must involve all relevant state and non-state actors, such as governmental authorities, law enforcement and migration authorities, judiciary, NGOs, researchers, etc.
- Must ensure a regular exchange of information between the different actors.

Hence, the anti-trafficking actors in the SEE region has to be provided with guidelines on how to develop and implement a comprehensive anti-trafficking response, by describing best practices for inclusion at both the strategic and the operational level.

It is acknowledged that SEE countries are no longer countries of origin and transit, rather also destination countries. Consequently, the approach towards the establishment of a comprehensive anti-trafficking response is very extensive and could contribute to enhance the anti-trafficking response also in other regions of the world.

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# Trafficking in Persons in South East Europe and its Human Security Implications

*Akif Ayhan*

Trafficking in persons can be depicted as the modern day slavery against which legal, social and economic measures are taken. In order to combat this scourge, countries, international and non-governmental organizations should closely co-operate on every level, focusing on prevention, victim assistance-protection and law enforcement aspects. A multi disciplinary and integrated approach is recommendable with the involvement of State agencies and the civil society.

In the last couple of decades, the international community has experienced rapid globalization accompanied by the economic liberalization and a remarkable progress of information technology. At the same time, this process has significantly deepened interdependence of the world, having brought substantial benefits to certain social layers on one hand, widening the gap between the rich and the poor both nationally and internationally on the other.

Organized crime plays a key role in facilitating human trafficking as a growing industry. Yet the expansion of human trafficking is propped up by underlying economic, social and political disparities in many developing countries. Poverty, unemployment, lack of education, lack of work skills, limited opportunities of access to the labor market, political oppression and civil strife are among the factors that disenfranchise people, making them defenseless preys to organized crime groups. Everyone does not have the same possibilities to achieve their dreams of a better life. We live in an unequal world where people's yearnings to improve their lot in life can be easily exploited.

Trafficking in persons violates basic human rights of victims and encompasses transnational criminal dealings. Its victims are often vulnerable women and children, misled about what will await them when they reach their destination. Trafficking means coercion and

abduction as well as fraudulent promises for seemingly attractive jobs and a better life. The transaction does not end at the point of destination, as traffickers may continue to profit through sexual exploitation of their victims, forced labor and other forms of slavery. Therefore a humane approach is needed. There is also an obligation to prevent, investigate and punish violations and to provide the victims with adequate remedies.

The primary concern is to combat the exploitation of human beings under forced labor or slavery like conditions. However, individual endeavors of the protagonists in this field are not sufficient to wipe out this phenomenon from our lives so long as the root causes persist. One had better speak of diminishing the impact or controlling damages of this evil. In sum, human trafficking can be best evaluated by bearing in mind all the relevant push and pull factors. The promotion of regular migration and regulated influx of legally admitted labor may contribute to reducing trafficking.

Security policies should take into consideration both the safeguarding of national borders and the protection of the individuals. Human security should be an integral part of governmental security policies.

The following steps could be instrumental in furthering counter-trafficking: establishing a common data and referral system at regional and international level, strengthening the technical capacity in particular through training, developing awareness raising activities and taking preventive and repressive measures as law enforcement priorities.

Turkey's ongoing economic transformation and European vocation make her a favorite destination luring people from adjacent areas in search of a more suitable environment.

Trafficking in human beings is considered as one of the prominent types of organized crime. Current rather restrictive migration policies are one of several factors contributing to the rise in human trafficking. Measures taken against terrorism bring ever tighter controls. Connections between organized crime and terrorist organizations appear as a source of major concern.

It is estimated that 700.000 women, children and men are bought and sold across international borders each year and exploited for sex or forced labor. The world-wide number of trafficking victims each year is believed to reach 3.000.000 when victims of internal trafficking are included.

The 2005 ILO report on forced labour states: “Human trafficking is so common now that it is the third most profitable criminal activity in the world after drugs and arms trafficking. Globally, forced labor – including sexual exploitation – generates 31 billion USD, half of it in the industrialized world, a tenth in transition countries.” This quote is self-explanatory to demonstrate how seriously the question should be tackled.

International agreements and multilateral arrangements within the UN system, OSCE and Council of Europe provide useful tools for bolstering solidarity in anti-trafficking. Nevertheless, adherence to such instruments is far from being a panacea in itself.

### **The situation in Turkey**

Situated at the intersection of continents, Turkey has been displaying an active approach in the struggle against trafficking in human beings. In this sense, Turkey performs a security producer function.

Areas of instability close to Europe are mostly situated in Turkey’s neighborhood. Turkey’s cooperation is therefore essential for the stability of the South East and wider Europe though benefits may not be perceived immediately.

Turkey is a destination country in trafficking of essentially women. Two out of four main routes into Europe are in Turkey’s vicinity: The Balkans and Eastern Mediterranean. Others are the North African and Central and Eastern European routes.

Trafficked human beings are most commonly employed in unregulated therefore unprotected domestic work such as childcare or taking care of

the old, etc. According to ILO research as many as 20 % of irregular migrants in the CIS are at some stage exposed to some form of physical constraint.

Fight against human trafficking comprises a wide range of strategies:

First of all, it is necessary to strengthen measures to alleviate the circumstances that make people vulnerable to trafficking. Lack of appropriate rights for returned trafficked persons and adequate financial resources in the countries of origin increase the risk for re-trafficking and re-victimization. Prevention of trafficking should devote a serious effort to organized crime side of the problem in origin, transit and destination countries. Combating human trafficking should rely on close co-operation between origin, transit and destination countries. Turkey stands ready to share the responsibility of addressing this issue, but should not be seen as a border guard or an outpost for “Fortress Europe”.

As a token of Turkey’s commitment to the struggle against human trafficking, a far-reaching project has lately been launched to step up measures and assist victims.

The principal components of the project are:

- Operation of a tip-off helpline “157”,
- Opening of more shelters for victims across Turkey (İstanbul, Ankara, Antalya, Trabzon, Van, Adana/Mersin),
- A public awareness-shaping information campaign (TV spots, billboards at airports etc.),
- Passport inserts for foreign visitors,
- Intensive training for officials,
- Improvement of the national referral scheme with the establishment of a network of NGOs dealing with the issue.

Within the framework of this project, the helpline became operational as of May 23<sup>rd</sup>, 2005. Since this date, 269 trafficking-related calls and 163 rescue requests have been received. Through helpline calls, almost 30 victims of trafficking have already been rescued.

This project is coordinated by the Government of Turkey and implemented by IOM, Ankara Mission. The spot film designed for victims and promoting “157” helpline has started to be aired on Turkish nation-wide channels and on other TV channels in Moldova and Ukraine.

More than 500.000 passport leaflets have been printed and handed over at İstanbul and Antalya airports by staff members of the Police Department for Aliens which is responsible for passport control and immigration.

Finally, in collaboration with the Ministry of Interior, the Ministry of Justice and Gendarmerie, IOM will organize a set of training programmes for law enforcement officials and officers.

In line with her multilateral and bilateral commitments, Turkey has implemented new policy measures on migration and in particular for the repression of human smuggling and trafficking. The new Turkish Penal Code prescribes heavy penalties for these two offences. Besides, the Citizenship Law and Law on Work Permits were amended to deter attempts for irregular migration and labour-related exploitation including its sexual form. Furthermore, Turkey has been pursuing a pro-active policy, strengthened by bilateral cooperation agreements. Such Agreements are concluded with Georgia, Ukraine and Belarus.

Since we are convinced that NGOs play a major role in counter-trafficking efforts, we are working on setting up a network of NGOs in this domain.

NGOs also play an important role in managing the shelters for the victims of trafficking. In this regard, Human Resource Development Foundation (HRDF) and Foundation for Women’s Solidarity (FWS) deserve special thanks for their efforts in managing shelters with their limited resources. Furthermore, HRDF organizes training programmes for law enforcement agencies in Turkey.

Another important aspect in the fight against human trafficking is not to lose from sight the genuine requirements of NGOs which are actively serving on the ground. There is a need to devote funding to various projects to implement in the real surrounding; therefore, we should step up our efforts to help NGOs, in particular financially.

Trafficking is considered not only as matter of concern at humanitarian level but also as a security issue by Turkish authorities. It is perceived as a field that links the concept of public security to that of individual human beings. Therefore connecting security concerns with freedoms and rights and bringing in a human rights-oriented approach is essential. For example, extendable residence permits for up to six months are issued for victims in order to enable them to stay in Turkey for treatment and rehabilitation. Furthermore, free medical care, accommodation and psychiatric counseling are also provided. Victims can also apply for working permits.

From this perspective, Turkey would become a leading country in her region. Yet a strong correlation remains between trafficking and insufficiency of economic opportunities, social desperation and urge for a better life in source countries. Diminishing the impact and limiting the high damage caused by trafficking may be partial remedies but beyond these there do not seem to be so many effective alternatives though one should not refrain from looking for creative policy options.

Recent statistics reveal that an annual average of 250 victims of trafficking have been identified in Turkey, a significant number of which returned voluntarily to their countries, some obtained temporary residence permits while some other victims were accommodated. Of course, with the “157” helpline running quite smoothly the number of identified victims is likely to increase in a foreseeable future. Available figures point to that tendency.

Under the guidance of the Turkish Ministry of Foreign Affairs, a national Task Force on combating trafficking was initiated to convene since 2002 and a National Action Plan was drawn up to develop further policy and enforcement measures.

Turkey is used in general as a transit territory for irregular migration with the likelihood of becoming a destination country while it is already a destination country for victims of trafficking. In addition to counter-measures taken to curb both irregular migration and trafficking in and through Turkey, a positive change of mindset has emerged and public awareness raising activities have been intensified.

Turkey believes in the need for developing better information systems along with data and information exchange on irregular migration and trafficking. Cooperation between international organizations such as IOM and BSEC promises a lot in capacity building in the wider South Eastern European region. In view of the organized crime dimension of trafficking, comprehensive and compatible systems for the collection, processing and distribution of information among origin, transit and destination countries would let us efficiently tackle with this scourge. Once again, it is noteworthy to recall that human trafficking now ranks as the third largest source of money for organized crime after trafficking of arms and drugs according to the United Nations.

Black Sea Economic Cooperation Organization (BSEC) is composed of main origin, transit and destination countries for human trafficking. Therefore, Turkey contemplates calling on the BSEC countries to consolidate their accomplishments in combating human trafficking through solid arrangements within BSEC. That may be carried out either by an experts group or by introducing the trafficking issue on the agenda of the already existing organized crime scheme.

Taking into account the transnational character of trafficking, there is a pressing need for sustainable regional and multilateral preventive actions and networks addressing the international dimension of this crime.

Our joint drive should be further enhanced not only by better equipping ourselves in terms of infrastructure and control instruments but also by acting more efficiently in preventing, detecting and prosecuting the human trafficking related crimes as well as protecting and assisting victims. But without overlooking the root causes. The struggle against human trafficking is a long-term one. A staunch dedication is necessary.

## **The situation in Moldova**

Moldova has been a country of origin in human trafficking for years. In 2004, 62 victims out of 239 victims identified in Turkey were Moldovan.

Based on the interviews with those who were apprehended in Turkey, the main pull factor for Moldavian irregular migrants appears to be mostly economic in nature as Turkey's GDP per capita (3000 USD) is five times higher than the Moldavian GDP (600 USD). Besides, a rather liberal and neighbour-friendly visa regime applied by Turkey as well as easy transportation from South East Europe to Turkey is secondary pull factors.



# **Invisible Routes: An Exploratory Study of Changing Patterns and Trends in Routes of Trafficking in Persons in the Balkan Region**

*Ladan Rahmani*

## **Introduction**

In July 2004 two consultants, Tal Raviv and Alberto Andreani, carried out an assessment for IOM titled: *Changing Patterns and Trends of Trafficking in the Balkan Region: Assessment carried out in Albania, Bosnia and Herzegovina, the Province of Kosovo (Serbia and Montenegro), the Former Yugoslav Republic of Macedonia and the Republic of Moldova* (hereinafter Raviv and Andreani 2004 report). The report examined the visible marked decline in the number of referrals of victims and concluded that trafficking is in fact on the increase, but that the methods of operation have become less visible. Traffickers have adapted their strategies and routing systems according to measures taken by governments and organisations.

The purpose of this exploratory study is to examine whether the IOM Counter Trafficking Module (CTM) database,<sup>57</sup> corresponds to the findings of the Raviv and Andreani 2004 report and whether any additional findings or suggestions can be given to the question regarding why there has been a decrease in the number of referrals of Victims of Trafficking (VoT). The central questions examined are: What have been the changes and trends in routes of trafficking in persons in the Balkan region based on the data from the IOM CTM database? How do these

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<sup>57</sup> The CTM database stores information collected from assisted victims of trafficking. The information is derived from two interviews with the victim of trafficking: the Screening Interview that assesses the individual's eligibility to be assisted by one of IOM's counter trafficking projects and the Assistance Interview that captures a more in-depth set of information regarding the trafficking process. In December 2000, IOM adopted the UN Palermo Protocol, and is the international legal instrument guiding IOM counter-trafficking activities.

patterns and trends correspond to the July 2004 IOM assessment? What recommendations for future research and anti-trafficking measures may be made in light of these findings? Thus, the main aim and objective of this article is to assess the value of the sampling of the IOM CTM database through examining whether the database corresponds to the findings made in the Raviv and Andreani 2004 report concerning the changes and trends in routes of trafficking in persons in the Balkan region.

## **Background Literature**

It has been argued that there is an overall lack of documentation regarding specific trafficking routes (Van Reisen and Stefanovic, 2004: 13). It has also been acknowledged that trafficking routes change regularly within a short span of time to adapt to new policies and enforcement mechanisms by governments and international institutions. A recent report on Albania found that transportation routes had changed significantly within a 12 month-period (Hunzinger and Sumner Coffey, 2003: 30). This change has mainly been as a result of law enforcement measures to close the speedboat routes between Albania and Italy.

The Raviv and Andreani 2004 report makes several observations regarding the changes in trafficking routes. Their findings show that there has been an increase in the trafficking of victims across a single border. Internal trafficking has increased within the Province of Kosovo (Serbia and Montenegro) whilst further research needs to be conducted regarding internal trafficking in FYR of Macedonia and BiH. Overall, Raviv and Andreani argue that trafficking has not declined but rather increased but has become less visible. The lack of visibility in trafficking has been due to changed methods of operation, changes in sexual exploitation taken into private contexts such as private apartments, internet and phone communication, victims being given small payments and the recruitment of women as traffickers and pimps.

It has been argued that victims of trafficking are increasingly traveling with valid documentation directly to the countries of destination. It is argued in the recent report titled *Trafficking in Human Beings in South*

*Eastern Europe* that these changes have led to altered trafficking routes and have not represented a decrease in trafficking as has been suggested by some commentators (2004: 8, 13). The Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings issued an assessment and also argued that the continuous shifts in trafficking routes are strongly related to changes in Schengen visa regulations for future EU countries rather than a response to counter-trafficking measures (2003: 2).

It is argued in this paper that the declining numbers in IOM referrals is related to a decrease in visibility of trafficking rather than a decrease in numbers. Traffickers are using alternative routes to avoid obstacles and interruptions, making trafficking less visible. These alternative routes can be clearly noted in the visual presentation of the maps that are featured in this article. Thus, the findings of the Raviv and Andreani 2004 report may be confirmed from the IOM CTM database in relation to two points: the decreased visibility of VoT and changes in trafficking routes.

The main gap in the literature on trafficking routes is the lack of assessment of primary documentation such as stories of victims of trafficking. The IOM Counter-Trafficking Database is one of the most unique resources globally that provides this necessary primary documentation. IOM's database is perhaps the largest collection of stories from victims of trafficking and will offer greater possibilities for researchers who can utilize such reliable primary documentation. This exploratory study contributes in beginning to fill this gap in the literature and contributes to confirming findings conducted by other researchers, particularly the research carried out by Raviv and Andreani.

## **Methodology**

The areas of focus in this study are the same as the Raviv and Andreani 2004 report: Albania, Bosnia and Herzegovina, the Province of Kosovo (Serbia and Montenegro), the Former Yugoslav Republic of Macedonia and the Republic of Moldova. The data source is the IOM CTM Database. The number of records in the database (as of April 2005) for

these four countries and the Province of Kosovo (Serbia and Montenegro) is 2 412 of which 2 334 contain interview information.

Due to time restrictions of the study, the large body of data is limited. The method used to assess the data consists of a random selection of 20 stories from the period 2000-2001 and 20 stories from 2003-2004 from each of the four countries and the Province of Kosovo (Serbia and Montenegro). Thus, a total of 200 stories are examined and analysed in this study. Where there is insufficient data from the specified periods to reach 20 stories, the 2002 data will be used instead. This applies in the case of the Republic of Moldova where there are only 15 stories in 2000-2001. This data set is sufficient to conduct an exploratory examination of the questions. Clearly a larger data set is required to conduct an in-depth examination.

The data is analysed through mapping the routes that are reported in each story for each geographical area in two distinctive periods: 2000/2001 and 2003/2004. The data covers Albania, Bosnia and Herzegovina, the Province of Kosovo (Serbia and Montenegro) and the Former Yugoslav Republic of Macedonia. The data comes from referrals of victims to IOM, thus they are not strictly destination, origin or transit points but places where victims have been referred to IOM. For the case of the Republic of Moldova, there is only a focus on the country of origin as Moldova and the routes of trafficking for Moldovans.

In addition, the analysis considers factors such as the type of documentation that is used by victims of trafficking (whether legal or illegal), the modes of transport that are used and other relevant factors that can be identified in the routes. The findings in the report refer to both specific city names and country or province names without a city reference. It would be preferable to specify city names to identify an exact route however as there no such consistency in the stories in the database, both city, country and province names are used in reporting the findings.

A note should be made on the confidentiality of the records in the database. No references are made to victims that could identify an

individual in any way. The study conforms to the ethical and confidential requirements of the IOM database.<sup>58</sup>

### **Albania: old routes**

The Raviv and Andreani 2004 report suggests several changes in the routes related to Albania. In the summer of 2002 heightened maritime control measures were taken to intercept speedboats between Albania and Italy. Thereafter, there was a dramatic decline in speedboats as a mode of trafficking between Albania and Italy. In addition, the report suggests that new routes are discernible. New routes include travelling through the mountains, such as from Korce, Kapshtice, Gjirokaster or Kakavije to Greece, from Podgarec and Oher to FYR of Macedonia and from Shkodra to Montenegro. Routes through FYR of Macedonia mean that Albanian citizens do not need visas and can use genuine Albanian documents. Victims are being rerouted to Greece and transferred by ferry or plane to Italy. Since 2002, Romanian and Bulgarian citizens do not need a visa to enter the Schengen area, thus they no longer need to pass through Albania illegally to enter the EU. There has also been a trend noticed in the use of fake documents and real visas, allowing modes of transport such as airplanes and ferries making it more difficult to detect trafficking cases. The open border between Province of Kosovo (Serbia and Montenegro) and Albania enables easy illegal movement and trafficking of victims in both directions.

### **Albania: changes**

The data from the CTM database indicates that traffickers are continuing to use illegal means to move people across borders, such as by foot through green borders and by boat through blue borders. There has also been a use of fake documents to enter borders, however from the data collected the number of VoT travelling with fake documents was not in the majority and in many cases the stories in the database did not clearly indicate whether fake documents had been obtained or not.

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<sup>58</sup> The counter-trafficking services unit at IOM specifies that no personal data can be disclosed of trafficking victims that might reveal the identity of the victim and that all data must be used with utmost care and confidentiality.

## **Albania: new routes**

There are several patterns that emerge from an examination of the CTM data of routes in trafficking related to Albania. In 2000/2001, there is a certain pattern that emerges from the data of the common route. The country of origin is either Moldova or Romania and the transit places are Belgrade and Podgorica travelling through to Shkodra and Vlora, Albania with Italy as the final country of destination planned for most cases. In the 2003/2004 period certain patterns emerge that indicate changes in routes. In addition to Moldova and Romania, there is an increase in different countries of origin. There are also several new transit points: Bucharest, Sofia and FYR of Macedonia. There is a decrease in the number of transits to Podgorica but an increase in Durrës and Tirana as transit points. New routes that appear are: Chisinau to Bulgaria; Bulgaria to FYR of Macedonia; FYR of Macedonia to Albania; Albania to Greece. The following two maps show these changes in routes.

Figure 1: Albania - 2000/2001 trafficking routes

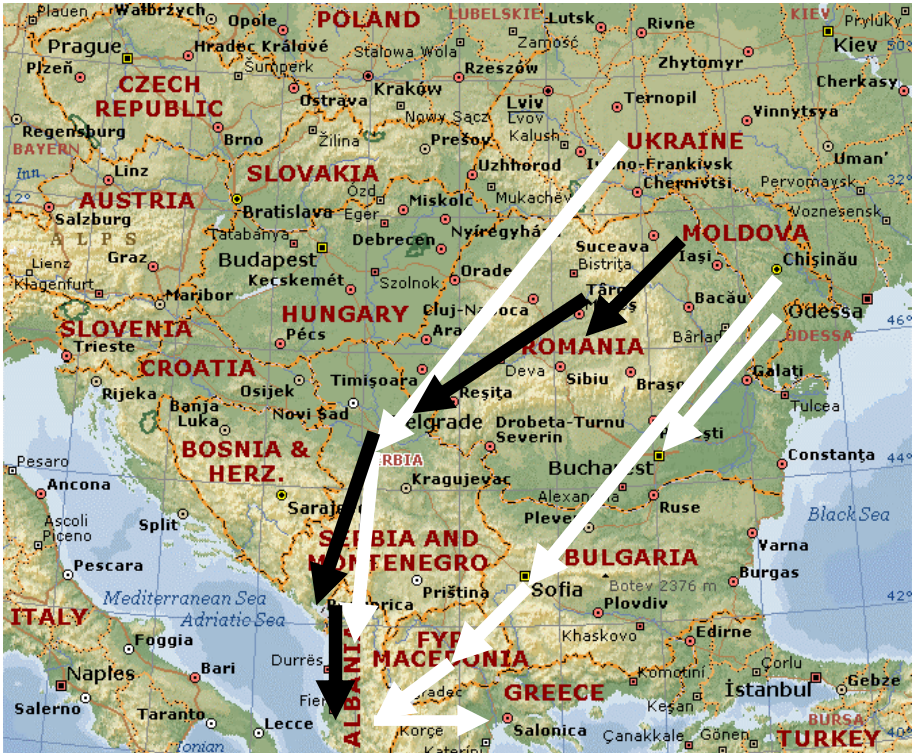


Figure 2: Albania - 2003/2004 trafficking routes





Figure 3: Albania – patterns and trends in trafficking routes  
Legend: → 2000/2001 black → 2003/2004 white



## **Bosnia and Herzegovina (BiH): old routes**

In relation to Bosnia and Herzegovina (BiH), there are four main reasons given by Raviv and Andreani to explain the decline in referral of trafficking victims. To begin with the International Police Task Force (IPTF) had created STOP teams that were combating trafficking, these teams and the IPTF withdrew their operations and responsibility was shifted to the national police. Another factor is that trafficking has been moved to private contexts rather than open public establishments making it more difficult to detect trafficking. Victims of trafficking are now also reported to have improved living conditions and to be receiving modest payments. However, there continues to be intimidation and threats and victims of trafficking fear approaching authorities as there is a lack of future witness protection. Another factor that may be linked with the decline in referrals is the increase in internal trafficking rather than international trafficking for purposes of local prostitution.

## **BiH: changes and new routes**

The CTM data analysis of BiH indicated that there has been a decrease in Romania as a transit from Moldova and that Belgrade has increased as a transit point, Budapest has also become a new transit point. There has been an increase in Ukraine as a country of origin and an increase in Sarajevo as a destination, rather than a concentration to the North-North West of BiH. There does not appear to be a marked increase in the use of legal documents, but rather a continuation of illegal border crossings. There does not appear to be an increase in internal trafficking of local individuals within BiH with only one VoT originating from BiH in the data collection. However, overall statistics from the database suggest otherwise indicating an increase in internal trafficking from none in early 2000 to eleven victims in 2004.

Figure 4: BiH – 2000/2001 trafficking routes

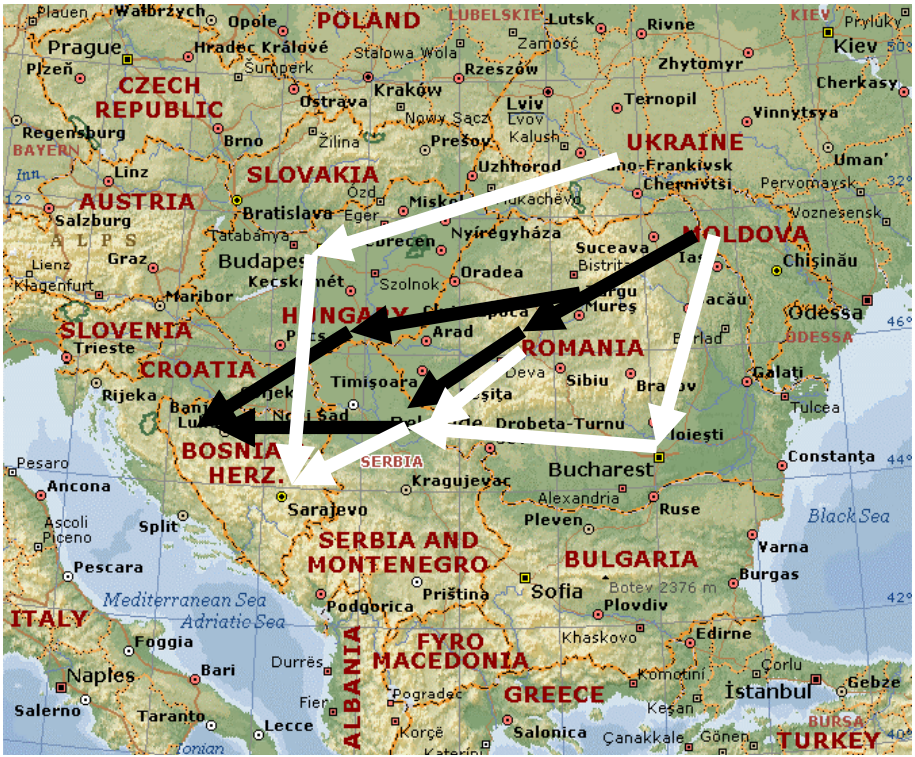


Figure 5: BiH – 2003/2004 trafficking routes



Figure 6: BiH – patterns and trends in trafficking routes

Legend: → 2000/2001 black → 2003/2004 white



## **The Province of Kosovo (Serbia): old routes**

The Raviv and Andreani report made several observations regarding trafficking routes related to the Province of Kosovo (Serbia). Victims from Moldova travel with false documents and cross the border with scheduled bus services to Romania. They enter Serbia illegally through green borders and then the Province of Kosovo (Serbia) illegally. The same is done by Romanians. Victims from the Ukraine travel overland or by plane with legal documents and valid visas to Hungary, then to the Province Kosovo (Serbia) via Belgrade crossing the border legally with authentic documents. Victims from Bulgaria transiting to or from FYR of Macedonia are trafficked across green border. Victims from Albania travel without documents as there are no checks along the Province Kosovo (Serbia)-Albanian border. Some of the possible reasons that are given for the decline in the numbers of referrals of VoT are that there has been an increase in hidden or more sophisticated methods of operation such as bringing victims legally by air or land. Another reason given is that victims are being held privately. A further reason suggested is that there has been an improved change in the victims' living and working conditions.

## **The Province of Kosovo (Serbia): changes and new routes**

The data for the Province of Kosovo (Serbia) suggests that Hungary and Belgrade have decreased as a transit points and that instead Bulgaria and the FYR of Macedonia have increased as transits. A new route that it is apparent in the data is: Bucharest to Bulgaria to FYR of Macedonia. There have also been more direct routes taken such as flights.

Figure 7: The Province of Kosovo (Serbia) – 2000/2001 trafficking routes

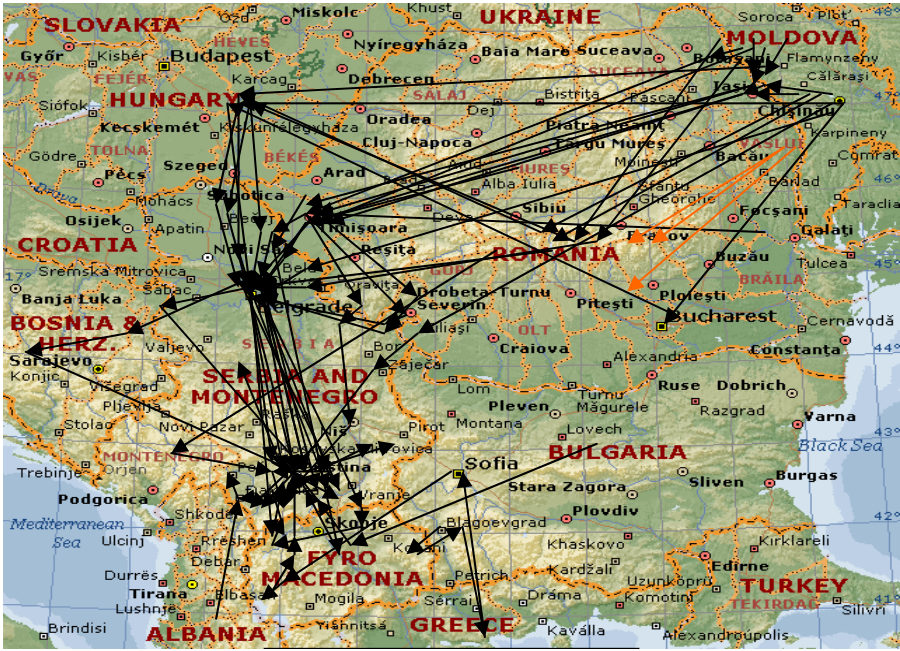
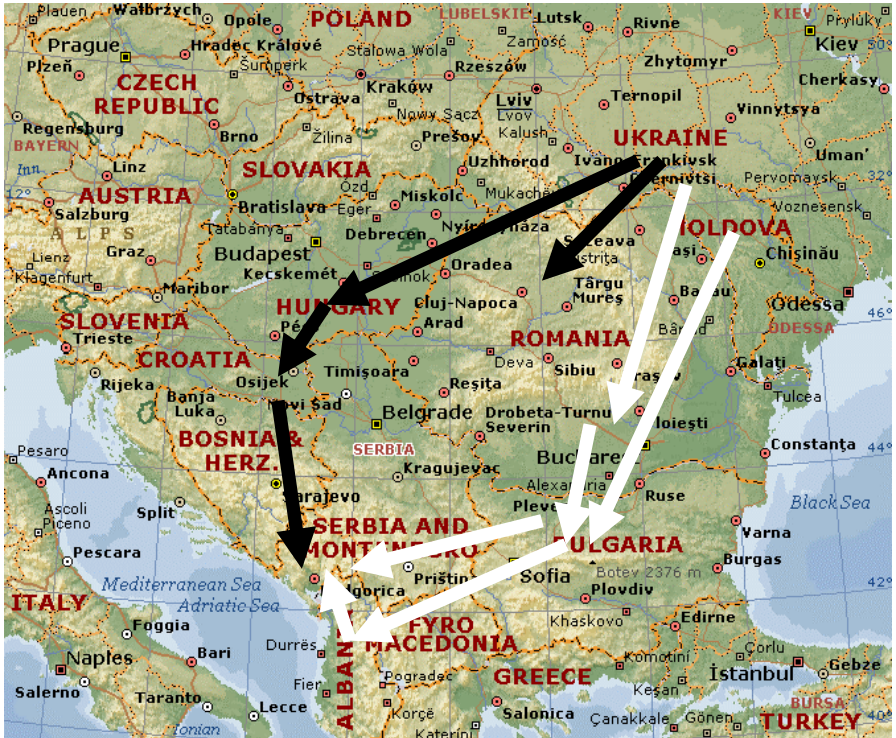


Figure 8: The Province of Kosovo (Serbia) – 2003/2004 trafficking routes





Figure 9: The Province of Kosovo (Serbia) – patterns and trends in trafficking routes  
Legend: → 2000/2001 black → 2003/2004 white



## **Former Yugoslav Republic of Macedonia (FYR of Macedonia): old routes**

The Raviv and Andreani 2004 report suggests several possible reasons for the decline in the number of referrals in FYR of Macedonia. There has been a reduction of police referral of non-victims,<sup>59</sup> a reduction of police raids in bars and a possible reduction of international victims who have been replaced by local victims of trafficking. It is suggested that more secretive methods are being used and that forced prostitution is going underground. There has also been a decrease in the number of escapes.

## **FYR of Macedonia: changes and new routes**

The data shows that there is a decrease of Moldovans who are referred to the IOM in FYR of Macedonia as Moldova as a country of origin decreases significantly, by half, in the records. There data also suggests an increasing route through Bulgaria and Bucharest as transit points. An increase in internal trafficking is also clear from the data. In the data set examined, there are no cases that indicate any underground covert operations, most of the VoT are taken to bars where they have restricted freedom of movement. There are a few cases where fake documents are obtained compared to the period of 2000/2001 where none of the cases examined had fake documents. In the earlier period, there is also a higher number of border crossings by foot across green borders. In 2003/2004 these incidences of border crossings by foot decreases.

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<sup>59</sup> In the FYR of Macedonia, the police is responsible in referring individuals as victims of trafficking to IOM. The police were referring individuals to IOM who did not fit the definition of victims of trafficking. The police reviewed their referral methods which translated in a decline in the number of referrals. There is a concern that changed methods of referral has not only meant a decline in non-victims but has also led to some VoT being deported indiscriminately.

Figure 10: FYR of Macedonia – 2000/2001 trafficking routes



Figure 11: FYR of Macedonia – 2003/2004 trafficking routes

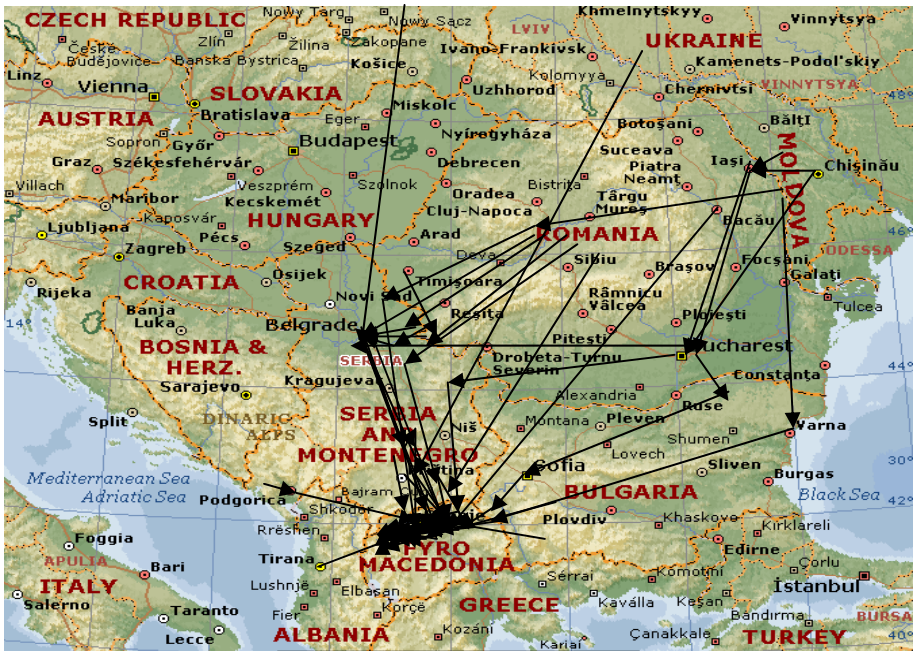
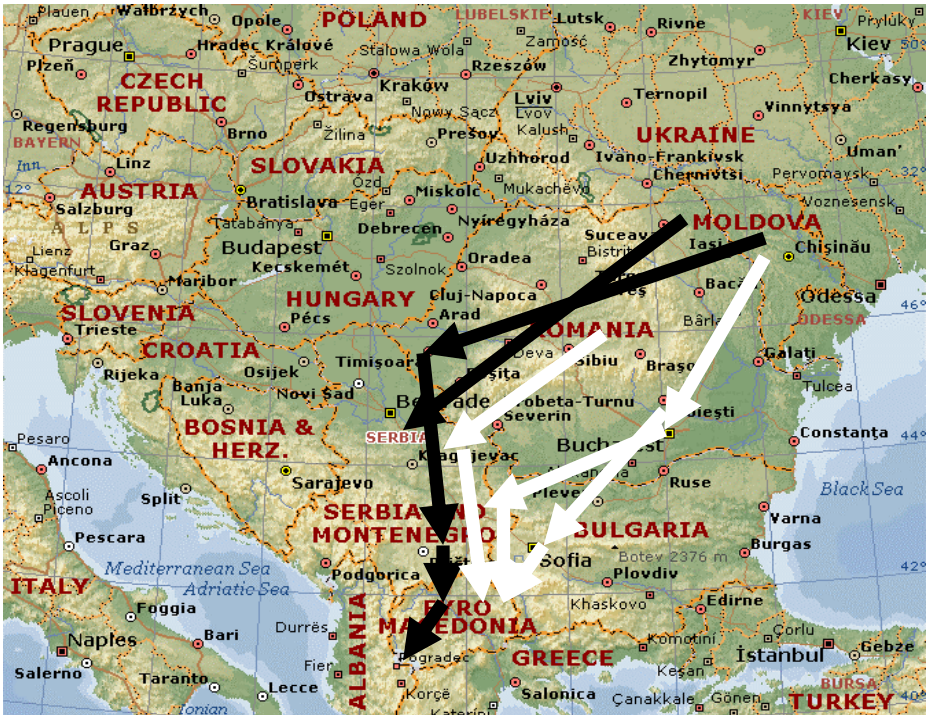


Figure 12: FYR of Macedonia – patterns and trends in trafficking routes  
Legend: → 2000/2001 black → 2003/2004 white



## **Moldova: old routes**

Moldova has been known as one of the highest rates as a country of origin for VoT. The Raviv and Andreani 2004 report stated that there had been a 20% decline each year since 2001. The report cites an increase to Moscow, Russia as a new destination country. Many victims are still taken across national borders illegally. The preferred route from Moldova is through Russia, Czech Republic, Ukraine, FYR of Macedonia, Kosovo (Serbia and Montenegro) and Albania. The mapping of routes for Moldova is shown in terms of the country of origin. Five cases are taken from the countries and the province examined in this article: Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia and the Province of Kosovo (Serbia) to examine whether routes from Moldova have changed.

## **Moldova: changes and new routes**

In comparing the maps from 2000/2001 to 2003/2004, it is clear that there have been some changes. Bucharest and Sofia increase as transit destinations. There is also an increase in the FYR of Macedonia as a destination country where there has also been an increase in movement to different cities and villages within the country. A recent IOM report concerning return and reintegration of victims of trafficking in the Western Balkans and main countries of origin highlights an increase of Moldovan victims of trafficking who are returned from Turkey.

Figure 13: Moldova – 2000/2001 trafficking routes from country of origin

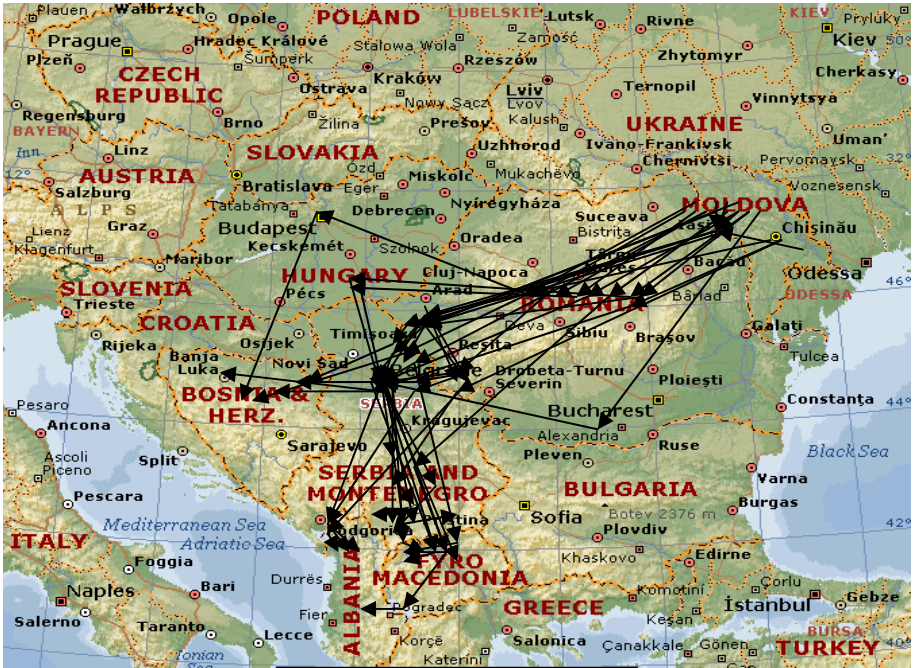
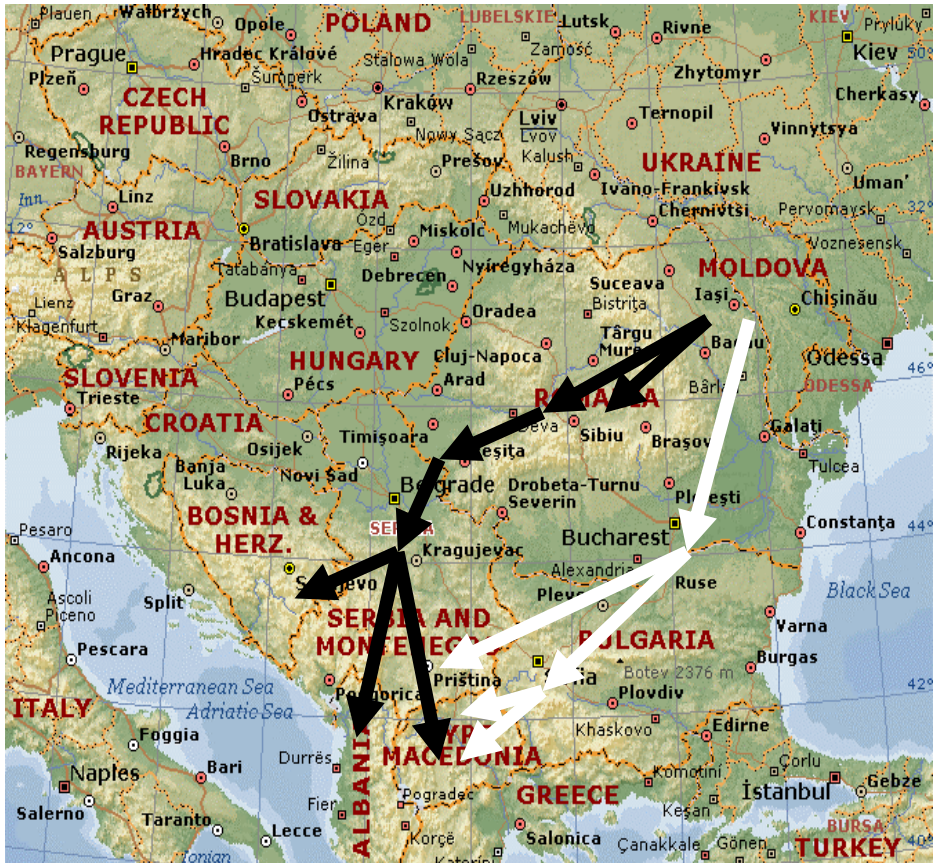


Figure 14: Moldova – 2003/2004 trafficking routes from country of origin





Figure 15: Moldova (country of origin) patterns and trends in trafficking routes  
Legend: → 2000/2001 black → 2003/2004 white



## Conclusions

Several new patterns and trends have emerged in this exploratory study. In the case of *Albania* new transit points that appear are Bucharest, Sofia and FYR of Macedonia. There has been a decrease in transits to Podgorica and an increase in transits to Durrës and Tirana. There are also new routes that appear: Chisinau to Bulgaria; Bulgaria to FYR of Macedonia; FYR of Macedonia to Albania; Albania to Greece.

In the case of *BiH*, Budapest emerges as a new transit point and there is an increase of Belgrade as a transit point with a decrease in Romania as a transit. Ukraine increases as a country of origin and Sarajevo increases as a destination point within BiH.

For the *Province of Kosovo (Serbia)* Hungary and Belgrade have decreased as transit points and instead Bulgaria and FYR of Macedonia have increased as transit points. A new route that appears is: Bucharest to Bulgaria to FYR of Macedonia.

For *FYR of Macedonia*, there is a significant decrease of Moldovan victims. There is an increase in Bulgaria and Bucharest as transit points.

In terms of *Moldova* as a country of origin, it is clear from the data that Bucharest and Sofia increase as transit points for Moldovan VoT. FYR of Macedonia increases as a destination country.

There is a need to further examine the findings of the Raviv and Andreani 2004 report and the findings in this article by considering a wider selection of data. Preferably, it would be useful to go through the entire body of data for the countries and the province featured in the report, in case of limited resources or time, the data may be restricted to comparing only 2000 and 2004. Given that trafficking routes can change rapidly, it may also be useful to focus on monthly changes within 2004.

It is clear that alternative paths are being taken by traffickers to move VoT, there is a need to heighten levels of security at these new routing points. A trend in the use of false documents calls for enhanced methods

of detection. Such findings challenge other arguments cited earlier that there has been an increase in legal documents.

A trend in the use of false documents calls for enhanced methods of detection. In the FYR of Macedonia and the Province of Kosovo (Serbia) there has been more internal movement. Thus, there is a need for heightened attention in identifying trafficking networks that are operating.

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# **An Analysis of the Legal Framework governing Prosecution of Traffickers and Victim Protection in Central Asian Countries**

*Katerina Badikova*

Slavery, institutions and practices similar to slavery have a long history of existence in Central Asia. These traditions were practiced during the ancient time and middle ages, and many of them continued to exist, albeit illegally, under the Soviet regime. In fact, the penal codes of the Soviet Socialist Republics of Central Asia included articles on abduction of a person, illegal detention, rape, forced marriage, marriage with more than one person, and sexual relations with a minor. Such acts were legally punishable in Turkmen, Tajik, Kazakh, Kyrgyz and Uzbek Soviet Socialist Republics.

However, the observance of some slavery-like traditions persisted and the majority of the population continued to practice the rituals even under the risk of criminal prosecution. The traditional practices included such rituals as payment of kalym<sup>60</sup> for the bride and arranged marriages. Bride kidnapping ritual was also widespread. At the time, it was impossible to prosecute anyone on the charges of human trafficking, because as a phenomenon or a legal concept it was generally unknown and therefore, not addressed in the criminal legislations.

In the early 1990s, the newly independent republics of the former Soviet Union tried to amend the inherited Soviet legislation, adapting it to the new social and economic conditions. However, amended Soviet laws were still inadequate in reflecting the emerging realities in Central Asian countries and therefore, by the middle of the decade, the governments introduced a set of new legislations that included new Penal Codes, Codes on Criminal [Investigation and Prosecution] Procedures, Codes on Administrative Misdemeanors, Civil Codes, Codes of Civil Trial Procedures, Tax Codes and Customs Codes.

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<sup>60</sup> Kalym – a payment

The new and improved legislations more or less corresponded to the emerging realities of independent Central Asian Republics, however, the results of the further development demonstrated that in some countries the new legislation reflected the economical and social situation and feed the needs of the society better than in the others. In Kazakhstan and Kyrgyzstan, the legislation facilitated the development of a free-market economy, despite of weak enforcement of some law, high level of bureaucratic procedures, and corruption, preventing small and medium businesses from rapid development. In Uzbekistan, agriculture and heavy industry continued to be controlled by the state and the development of a small business sector was curtailed by high taxes and strict government control. The government in Turkmenistan took under the control all spheres of economy. In Tajikistan, the economical development was seriously impeded by civil wars of mid 90-ies. As a result, the differences between the economical, social, and political development became more and more obvious in the five countries. In recent years, Kazakhstan demonstrated stability and progress in the economy, especially in comparison with the neighbor Kyrgyzstan and Uzbekistan. In the same time, the significant commercial activity moved into the conditions of a shadow economy, especially in Uzbekistan, with its high income tax forcing many people to seek unofficial ways of employment. This situation has been creating conditions for the organized criminal activities in general and for the successful development of human trafficking networks and structures, in particular. In this context, human trafficking became one of the most profitable economic activities in Central Asia, along with illicit drug trafficking and other kind of organized crime.

The main forms of human trafficking that have been registered until now in Central Asia are trafficking for labor and sexual exploitation. Men are most vulnerable to become victims of the first form, while women and under-age girls are at the highest risk for the second.

Central Asia is a source, transit and destination region for trafficking in persons. During the period from September 2003 to May 2005, IOM registered 370 victims of trafficking, 66 male and 304 female, who were trafficked from, through, and within Central Asia for sexual and labor

exploitation. Among them, 292 persons were trafficked abroad from CAR, and 44 were trafficked from one country to another within the region. There were also 34 victims of in-country trafficking registered.

The registered cases were divided along the gender lines, with the majority being young women who were mainly trafficked to the UAE, Turkey, Israel, South Korea, Greece, Thailand, Malaysia, and, more rarely, Western Europe. Incidence of internal trafficking cases from oblast<sup>61</sup> centers to larger cities and Astana is increasing as well. However, it is difficult to calculate the actual total number of trafficking cases due to the deep social misgivings that confuse the phenomenon of human trafficking for sexual exploitation with voluntary prostitution. This stigma along with maltreatment of trafficking victims by the authorities and lack of overall public conception of human trafficking as an issue of human rights abuse discourage victims from reporting the crime or relaying their experience even to their' closest friends and relatives. Moreover, law enforcement often fails to recognize trafficking cases as such if the victim was not subjected to physical abuse, but was coerced into exploitation through psychological pressure. Therefore, many trafficking cases remain unaccounted.

In addition to trafficking of young women from Central Asia for sexual exploitation abroad, the work of hotlines<sup>62</sup> revealed cases of young and middle age men being recruited for labor in slavery-like conditions in other states. Furthermore, cases of Uzbek, Kyrgyz and Tajik girls trafficked to Kazakhstan, as well as cases of unacceptable conditions for Uzbek and Kyrgyz workers on tobacco and cotton plantations in southern parts of Kazakhstan and construction sites all over the country, have been reported.

Central Asian traffickers establish connections with each other and network with the criminals who exploit victims in the countries of

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<sup>61</sup> "Oblast" is for administrative unit, a province in many NIS countries.

<sup>62</sup> IOM in close cooperation with its partner NGOs started establishing counter-trafficking hotlines in Central Asia in 2001. Currently, NGOs operate 12 hotlines in Kazakhstan, 8 in Tajikistan, and 10 in Uzbekistan. During the period from September 2003 to May 2005 the hotlines served over 40,000 phone calls.



destination. Central Asian countries, especially Kazakhstan and Kyrgyzstan, also serve as transit territories. A trafficking victim recruited in Uzbekistan may leave for the United Arab Emirates with a false Kyrgyz passport from an airport in Kazakhstan.<sup>63</sup> Many Tajik and Uzbek labor migrants, who become subjected severe exploitation in Russia, cross Kazakhstan on their way from home to the country of destination.

Despite some visible progress in adopting legislation criminalizing trafficking in persons, the official criminal statistics register few trafficking prosecution cases in Central Asia. In 2004, Kyrgyzstan and Tajikistan passed amendments, which included the article “Trafficking in persons” into their penal codes; in 2003, Kazakhstan improved the article which punishes recruitment for sexual and other exploitation and developed a number of amendments to other laws in order to strengthen victim protection mechanisms and to improve the capacity of law enforcement to prosecute the crime of trafficking. These amendments were presented to the Parliament in May 2005. Uzbekistan has not yet passed any counter-trafficking legislation but has been trying to prosecute traffickers relying on the articles of the penal code that punish recruitment for exploitation and pimping. In Turkmenistan, the government agreed to participate in a workshop on prevention of trafficking in persons in 2005, which can be viewed as a positive development for a country where human trafficking never before has been treated as a politically acceptable term or a relevant problem for the state.

In the framework of the existing legislations it is difficult to prosecute all those involved in the Central Asian trafficking network (from recruiters to exploiters to corrupted officials). Usually, law enforcement may only charge individual criminals on separate charges individually. Active legislation in the sphere of social protection also provides little in terms of reintegration and rehabilitation of victims.

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<sup>63</sup> Presentation by the representatives of the Committee for National Security of the Republic of Kazakhstan at an IOM workshop for prosecutors and investigators, Medeo / Almaty, April 2003

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing UN Convention against Transnational Crime, the crime of human trafficking involves numerous elements including: recruitment, facilitation of dependency and exploitation. However, to this day and despite recommendations from the national and international legal experts, the Criminal Codes of Kazakhstan and Uzbekistan still lack an article that would address “human trafficking” as a specific and autonomous crime.

The UN Convention against Transnational Organized Crime (so-called UNTOC Convention) was signed by Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, and ratified, along with its counter-trafficking supplementary Protocol, by Kyrgyzstan (2004) and Tajikistan (2005). After the ratifications, the two countries made amendments in their national legislation, and currently, trafficking in persons is punishable as a specific crime according to the penal codes of Kyrgyzstan and Tajikistan.

Uzbekistan announced the ratification of the Protocol in 2003; however, the ratification of this document contained a number of reservations, which referred to the already existing laws covering prosecution of organized crime and for confiscation of criminal incomes. In the result, despite theoretical legal possibility of confiscating assets obtained from criminal acts, in practice such confiscations are not enforced.

In June 2001, Uzbekistan signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Women and Children supplementing the UN convention against Transnational Organized Crime. The Protocol urges states to establish human trafficking as a criminal offense under their national legislations and introduce measures that would uphold protection of victim’s rights and recognize their special status. In subsequence, the government of Uzbekistan passed a law on 29.08.2001 N 254-II which imposed tougher sentences for crimes that have direct relevance to human trafficking. However, this law failed to introduce any amendments to the country’s Criminal Code that would allow consideration of human trafficking activity as an autonomous crime whose definition would reflect that included in the Protocol.

Kazakhstan has planned to ratify the UN TOC Convention and to sign its supplementary Protocol by the end of 2005. In October 2004, the amendments to the current legislation were submitted to the Parliament of Kazakhstan.

The amendments included:

- Incorporating the definition of trafficking in persons as a separate article in the Penal Code of Kazakhstan;
- Sentencing traffickers to no less than eight years of imprisonment;
- Confiscating traffickers' assets that were acquired as a result of activities related to TIP directly or indirectly;
- Protecting trafficking victims from various threats during the investigation, trial, and after the sentence to traffickers is pronounced;
- Providing rehabilitation and reintegration assistance to trafficking victims by government bodies and local executive bodies in cooperation with NGOs and IGOs;
- Protecting trafficking victims who serve as witnesses from immediate deportation and/or charges for their illegal stay in the country, and giving them the right to stay in-country legally at least for the duration of their testimony in court.

To date, these amendments were not passed yet.

Currently, certain articles included in the penal codes of the Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan can be evoked in prosecution of crime of trafficking (in Kyrgyzstan and Tajikistan) or at least separate stages of the trafficking process.

In Kazakhstan and Uzbekistan, the countries which have not passed the laws allowing prosecution of trafficking as autonomous crime, not all of the interconnect acts mentioned in the Protocol that are correlated with the crime of human trafficking can be regarded as illegal under the law. For instance Article 128 of the Penal Code of Kazakhstan and Article 135 of the Criminal Code of Uzbekistan, on "recruitment of persons for

the purposes of sexual or other exploitation committed by using deception” can be, and often is used in cases of human trafficking. Yet, this article addresses only the act of recruitment and requires proof of deception, the fact of which is very difficult to argue in courts. Therefore, recruiters often escape responsibility and transporters or exploiters, under this article, cannot be charged at all, unless it can be proven that they were committing the act of transportation for the purpose of “illegal limitation of a person’s freedom”, which is criminalized in another articles of the penal codes.

In Kyrgyzstan and Tajikistan, the articles which allow prosecution of trafficking as autonomous crime contain all the parts of definition of trafficking in persons as it is given in the Protocol. However, investigators and prosecutors often try to avoid prosecution of traffickers under these articles but initiate criminal investigations under other articles which don’t need such a complicated procedures of gathering evidences of all the stages of the crime of trafficking, from recruitment to exploitation. Practically all of the noted methods of exploitation and of facilitation of dependency are criminalized according to Kazakhstan’s, Kyrgyzstan’s, Tajikistan’s and Uzbekistan’s criminal law. These include such crimes as “selling or buying a child” (in Kazakhstan and Tajikistan only), “death threats and use of force”, “abandonment in a dangerous situation”, rape, satisfaction of a sexual urge in an unnatural way using force, forcing a woman to consent to sexual intercourse, intercourse with or seduction of a minor under the age of 16, extraction of organs and human tissue, kidnapping of a person, fraud, abuse of position of power or vulnerability.

In addition, other general criminal acts committed towards victims of trafficking during the trafficking process can also be prosecuted under the criminal law of Central Asian countries.

These crimes include:

- causing physical harm and injuries of varying degrees of severity
- murder and causing a suicide
- coercing a woman to have an abortion

- involving of a minor in antisocial behaviour
- coercion of a woman to enter into marriage or hindering her entering a marriage
- intentional harm or destruction of assets
- accepting bribes
- giving bribes
- abetting in the process of bribery
- production, use or distribution of forged documents, stamps, or forms

As a result, despite the lacking definition of human trafficking as an autonomous crime in Kazakh and Uzbek legislation, it appears that the existing legislation in Central Asia offers a broad base for the law enforcement authorities to prosecute the crime of trafficking in its entirety and to convict traffickers. In practice, however the necessity to invoke a large number of different articles to lay charges against traffickers complicates prosecution of human trafficking crime in its entirety. As a result, it is only possible to convict some traffickers and only for some committed acts leaving the majority of offenders and particularly the organizers of the trafficking process free.

At the initial stage of the trafficking process – recruitment, the offender committing the act of recruitment can theoretically be charged for the recruitment for the purposes of exploitation. In practice, in order for a person to be charged for the recruitment, prosecution must provide proof that the fact of recruitment (active dissemination of information about alleged lucrative employment opportunities abroad or offering of services for organization of departure) was committed with the goal of exploitation of the recruited individuals. Considering that the fact of exploitation usually occurs in the country of destination and thus outside of legal jurisdiction of the country of origin, it is extremely difficult to obtain convicting evidence of exploitation.

Moreover, the necessity to wait for exploitation of the recruited persons to occur in the country of destination involves a high risk of victimization of the recruited individuals and does not guarantee their release even if the recruiter was charged and committed in the country of

origin. Also, the time gap between the point of recruitment and exploitation can be used by the recruiter to escape the country or hide from the authorities.

Another problem emerges due to absence of legal definition of the term “exploitation” in Kazakhstan’s, Tajikistan’s and Uzbekistan’s criminal law. As a result, the term is subject to individual interpretation of a judge and thus, can be construed in divergence with minimal standards dictated by the Protocol. Cases have been registered, when exploitation of prostitution was used to acquit the offenders, when victims confessed that they were aware that they might have to engage in prostitution. The fact that a victim had no choice but to submit to the condition of exploitation were not considered. Similarly, in cases of trafficking for labour exploitation, the fact that victims left the country voluntarily was used as evidence of consent to future exploitation.

Another problem in convicting traffickers emerges when prosecution must prove an existence of a relationship between recruiter and exploiter and show that they have acted on agreement to recruit and exploit the victim. If it cannot be shown that such agreement was made between the parties, then it is impossible to argue that the goal of recruitment was exploitation. Proving such interdependency is difficult even in cases of in-country trafficking. When the nature of the crime was transnational and collection of evidence outside of Central Asian countries’ jurisdiction was required, assuming that the victim was able to return back home, victim and witness testimonies often become the only proof of occurred exploitation.

As a result, many criminal cases initiated under the article punishing trafficking in persons (in Kyrgyzstan and Tajikistan) and recruitment for the purpose of exploitation (in Kazakhstan and Tajikistan) were either dismissed or closed during investigation for lack of sufficient evidence. The cases that made it to court and were tried and convicted often resulted in lighter sentences, if not amnesties, in which cases the recruiter was freed directly from the courtroom and was able to continue engaging in the crime. Hence, it is not surprising that investigators either try to avoid laying charges on “trafficking in persons” articles

completely or strengthen the accusation by evoking charges on other articles in order to raise the likelihood of conviction in court.

Convictions of traffickers on charges for kidnapping of a person are also very rare, because victims of trafficking are not usually kidnapped. Human trafficking is a well-organized activity in Central Asia and thanks to convincing work of recruiters, majority of the trafficking victims independently makes a decision to travel abroad for work.

Article punishing for illegal keeping of the person becomes relevant only after the victim has been recruited and the traffickers must ensure that the victim is kept in conditions that he or she cannot escape. Thus, this article can be applied to cases when victim is forcefully kept at the place of exploitation or transported there by force. Yet, again, forced transportation or detention of the victim occurs rarely in the country of origin and forced transportation or detention of the victim in the countries of transit or destination is often outside of Central Asian countries' legal realm. Surely, this article is applied to cases of internal trafficking, however courts interpret the term "illegal keeping of the person" to mean physical limitation of a person's ability to move (keeping the person locked up, beating the person, limiting his or her connection with the outside world, etc.). Such interpretation ignores other types of psychological or economic manipulation that traffickers often rely on to facilitate victim's obedience without necessarily locking him or her up. Examples of such psychological and economic manipulation include debt-bondage, blackmail, threats, etc.

In cases of human trafficking for sexual exploitation, the articles on keeping of the brothels and pimping are used. Application of these articles is best only for cases of in-country trafficking, where the exploiter is present in the country of origin and derives direct profit from exploitation of prostitution of the third persons. To convict under this article, it is necessary to present evidence of a trafficker keeping of a brothel and receiving revenue from operating the brothel. This means, that it is impossible to evoke this article to prosecute cases of out-of-country trafficking.

Considering that one or several criminal groups have to cooperate closely in order to execute the crime of trafficking, prosecution of traffickers is possible under any one of the noted articles for the qualified crimes and harsher sentences for perpetration of the act by an organized criminal group. However, proving of a criminal agreement, organization of the trafficking network, relationships between the network's actors are very difficult especially in cases, when different stages of trafficking occur in different jurisdictions.

Other shortcomings of the criminal law system that complicate prosecution and prevention of human trafficking are the lack of a proper mechanism for the protection of victims and witnesses in court or during investigations and existence of poor legal foundations for seeking compensation for moral harm, health and material damages by the victim. This discourages the already reluctant victims of human trafficking to report their cases to the police and initiate proceedings against their traffickers.

Legislation of the studied countries contains a number of articles that incriminate acts committed by victims of human trafficking as a result of their situation of dependency on traffickers. One of such example is article 190 on prostitution in the Code of Administrative Misdemeanors in Uzbekistan. Persons that are arrested on prostitution charges are subject to fine and in cases of second conviction the amount of the fine increases. Considering that neither administrative nor the criminal code of Uzbekistan criminalize the acts of involvement of a person into prostitution or coercing a person to engage in prostitution, the exploiter risks nothing in forcing a victim to engage in prostitution, because even if the victim is arrested for provision of sexual services, it is the victim and not the person who coerced her into prostitution who bares the responsibility for the act. On the other hand, victim is discouraged from seeking assistance from law enforcement authorities to protect her from exploiter's actions out of fear of prosecution.



In Central Asia, the victim of trafficking can be prosecuted for the following offenses:

- Spreading of a venereal disease or.
- Illegal crossing of the state borders.
- Using of forged documents.

In practice, when victims are charged with violations described above, considerations of particularities and dependencies inherent to the situation of human trafficking are not taken into account. Thus, the facts that a victim was forced to commit an illegal act or if she was deceived about consequences of her voluntary offense are not considered.

Paradoxically, however, a human trafficking victim under prosecution for some committed offenses has greater protection and legal rights guarantees during the case hearing than a victim involved in trial as a plaintiff or a witness. The apparent contradiction is explained by the fact that following accepted standards of criminal trial dictate that a right of defense must be guaranteed to each person suspected or accused of committing a criminal act. Guarantees of defense for the plaintiff are expected to follow from the work of investigative services and the court.

The legal right for protection in court for all involved parties is guaranteed by the codes of criminal law procedures, which state that honour and dignity of all parties involved in the criminal process must be upheld though the state protection of the parties' rights and freedoms. Yet, special emphasis is placed on protection of the rights of the accused, implying that victim's rights are automatically protected through prosecution of the crime. This means, that first the investigator and then the prosecutor act to protect and uphold the rights of the victim. However, practice shows that mixing of prosecution of traffickers and defense of victims functions often interferes with observing the principle of contest in a criminal trial. Moreover, both the investigator and the prosecutor are so fully focused on proving the case that they often lack time or opportunity to ensure quality defense for the victim.

Moreover, when Central Asian victims report their cases to the police, the latter often view the victim as an offender for violation of the border crossing regime, rules of stay in the country of destination, or illegal prostitution abroad but not a victim of a transnational organized crime. Even when a criminal case is initiated, the police and other law enforcement services are often unable to collect necessary evidence due to insufficient experience of investigating trafficking cases and weak cooperation with law enforcement agencies in the countries of transit and destination. Thus, victims that are trafficked from one country to another within Central Asia or returning to the region from abroad fear recriminations by either traffickers, border guards, customs or law-enforcement officers and have little faith in the ability of the law enforcement to protect them and bring the traffickers to justice.

In recent years, when local police apprehended foreign citizens that were trafficked to Kazakhstan from the neighboring countries, they immediately deported them back to the country of origin as illegal migrants. Few other alternatives are available to the law enforcement in treating such cases because Kazakhstan lacks clear legal procedures to allow the victims to remain in the country for the duration of investigation and the court hearing. Moreover, law enforcement has no facilities, except for the detention centers, where the victims could safely stay before undertaking a return to their home country.

This situation has been changing slowly since 2003, when Kazakhstani police began to open criminal cases against traffickers who imported victims from a neighboring state to exploit them sexually in Kazakhstan<sup>64</sup>. Approximately at the same time, law enforcement in Kyrgyzstan, Tajikistan and Uzbekistan started investigating a number of trafficking cases related to trafficking of their citizens abroad. Investigations focused almost exclusively on the cases of trafficking for sexual exploitation, while labor exploitation cases were almost not investigated at all.

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<sup>64</sup> Before, the police did not react to such cases at all.

The brief analysis presented above is not complete by any means. The author considered mainly criminal legalization regulating legal procedures relevant to counter-trafficking. Meanwhile, a more comprehensive examination of issues connected with assistance provision to victims of human trafficking would entail a detailed analysis of laws regulating social and labour relations. To develop substantial recommendations on the issues of detection and prosecution of human trafficking cases, it would be necessary to review not only criminal law, but financial, tax and citizenship law as well. Such extensive analysis is possible only in a framework of a large research on jurisprudence and not in the context of a brief article based on materials to be presented at a conference. The author intends to continue this work in the future.

As for IOM and the current legal framework for regulation of questions of counter-trafficking in persons, IOM always includes a legal component in its projects, participating in development of national legislations through organization of trainings and seminars for the law enforcement services and lawyers. These events take place in the framework of a currently active IOM project on counter-trafficking in persons in Central Asia. In the future, IOM plans to continue organization of such events.

For the conference in question, the author's main objective was to attract the attention of lawyers and other relevant counterparts from the countries of destination in order to develop foundations for future cooperation on harmonization of legislations between the countries of origin, transit and destination, which would facilitate better and more encompassing prosecution of all actors involved in the criminal networks of human trafficking. This would also ensure better protection of rights and lawful interests of human trafficking victims at every stage of the transnational crime of human trafficking.

# Human Trafficking and Turkey

*Sueda Elif Tuba Dündar*

Turkey has been facing a very important and devastating international problem, human trafficking, in the recent years. The recent political turmoil and clashes occurring in neighboring areas have pushed people into the country with the hope of a better life, security and protection from persecution. Turkey becomes a destination country for persons trafficked for the purposes of sexual exploitation and labor. Most victims come from countries of the former Soviet Union, including Azerbaijan, Georgia, Armenia, Russia, Ukraine, and Moldova. Although the trafficked victims in government statistics still show low numbers, HRDF believes that this might be the tip of an iceberg.

Turkey's response to this problem has been quite effective since 2002. Turkey has been placed among Tier 3 countries in US TIP Report in 2000 and 2001. Ratifying most of the international agreements, first enacting a specific local law on combating human trafficking and then enacting of new Penal Code by June 2005, training of police officers and judiciary staff (judges and prosecutors) and involvement of HRDF as an NGO in combating efforts have moved Turkey from Tier 3 countries to Tier 2 countries with the declaration of the President of USA in September 2003.

Combating human trafficking cannot be considered as a program that can be executed or implemented by one sector. It is a program that involves various sectors and agencies from the public, NGO and private sector at the national level. Furthermore, it should include regional and transnational collaborations and cooperation including various sectors.

The Human Resource Development Foundation<sup>65</sup> has been involved in combating human trafficking activities since 2003 and has developed its

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<sup>65</sup> Human Resource Development Foundation (HRDF) is a leading non-profit, non-governmental and autonomous organization based in Istanbul working on population and development fields with an emphasis in reproductive health as well as the

programme. The overall objective of the program is to contribute to international efforts and to enhance the national capacity of Turkey to prevent trafficking in women as well as to increase awareness of Turkish population on trafficking in women.

The initial activities were directed towards the capacity building of HRDF on combating human trafficking. HRDF professionals have participated at:

- International meetings (i.e. OSCE-Uzbekistan; KEPAD-Greece);
- Trainings (i.e. ICMPD Police-NGO training, Combating Human Trafficking Training by British Council-United Kingdom);
- Study tour (Moldova, Ukraine, Austria, Netherlands).

HRDF has signed two protocols with the government to collaborate in combating human trafficking and one protocol with the Istanbul Metropolitan Municipality for the funding of a flat for the shelter for victims:

- The protocol between the Ministry of Interior General Directorate of Security and HRDF, signed in September 4, 2003;
- The protocol between the General Commandership of Gendarme and HRDF, signed in June 14, 2004;

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empowerment of the human resource. Since its establishment in 1988 by 40 founding members, HRDF has developed, executed, implemented, and also participated in, a number of projects and activities at national and international levels on wide and versatile range of issues such as STIs & HIV/AIDS training and Information, Education and Communication (IEC), community development, community-based health services, development of technical training materials for service providers, promoting children's rights and improving the socio-economic status of women, providing social support for refugees and victims of human trafficking. Through these projects and activities, HRDF has accumulated a remarkable experience and know-how in project development, implementation and assessment, and also partnership and coordination skills with various international organizations and has served 400,000 women, 30,000 health service providers, 8,000 immigrants and refugees. Since 1997, HRDF is one of the internationally accredited executing agencies of UNFPA. HRDF has a special consultative NGO status with UN Economic and Social Council.

- The protocol between the Istanbul Metropolitan Municipality and HRDF, signed in June 29, 2004 (extended for another year in June, 2005).

Provision of assistance is an essential component of the programme. Victims of trafficking need help and support in areas like shelter, medical and legal counseling, translation, adaptation to a new environment, organization for their voluntary and safe returns.

## **Shelter**

The flat for the shelter was rented in July 2004 with the funding provided by the Istanbul Metropolitan Municipality. A protocol has been signed between the Municipality and HRDF during the NATO Summit in Istanbul; a ceremony was held with the presence of Mr. Colin L. Powell, US Secretary of State USA and Mr. Abdullah Gül, Turkish Minister of Foreign Affairs.

Most of the refurbishment and related repairs have been finalized by the end of October, 2004 and the shelter is operational since November, 2004. The running costs (other than the rent) of the shelter is covered by both Philip Morris/Turkey and Philip Morris/International; the administrative costs are covered by HRDF. Beyoğlu District Municipality supports the shelter by providing dried food items.

## **Running the Shelter**

The shelter is a support center for victims of trafficking where their voluntary participation is essential. All administrative and paperwork are conducted at the Headquarters of HRDF, by the Programme Coordinator.

Currently, there are three housing counselors, who speak Turkish and Russian, working at the shelter. Main responsibilities of the housing counselors are:

- Transfer of victims from Istanbul Foreigners Department to the shelter;
- Transfer of victims from the shelter to the airport and accompanying them to the airplane for departure;
- Accompanying and assisting the victims to health services;
- Daily management of shelter, including shopping and assisting the victims in daily activities;
- Translation for interviews during psychological and legal counseling;
- Assisting IOM staff for the issues related with the safe return of the victim (during IOM screening, consulate visits, etc)

The shelter referral system for victims is as follows: Police and/or Gendarme forces identify the victims among others that have been caught during the raids or through phone calls. IOM expert makes screening to identify the victim status of these women using standard tools to provide their voluntary return. HRDF's case manager takes the responsibility of the victim from the police and transfers her to the shelter. The victim stays at the shelter until her safe return is arranged in collaboration with IOM.

The victims of trafficking spend their *reflection period* at the shelter. This quietly spent period helps the victims of trafficking to regain their self-confidence and also trust to other people. Occasionally, the victims at the shelter are called back to the police station if there is new evidence for that particular file. Also, the victims who have refused to witness or testify initially, sometimes change their minds during the reflection period and decide to share the information they got.

More than 100 victims have stayed at the shelter since the opening. 38% of the victims come from Ukraine, 28.5% from Moldova, 8.5% from Russia, and the rest are from other countries in the region.

## **Psychological and Health Support**

Psychological and medical support for victims of trafficking are carried out under international patient rights protocols as well as ethical rules of medicine and with the consent of the individual victim of trafficking.

Taking into consideration the heavy trauma that the victims of trafficking have been through, HRDF's psychologist conducts an initial interview and a counseling session with each victim after her arrival to the shelter to determine her psychological needs and provide counseling on how to cope with what she has lived. The psychologist conducts extra sessions if the victim of trafficking needs continuous psychological support. Moreover if there is a need, she refers the victims to a psychiatrist. She also conducts group sessions in addition to above-mentioned individual interviews.

The Ministry of Health has announced a circular to all state hospitals on providing free medical care for victims of human trafficking. HRDF staff takes the victims to hospital whenever is needed.

### **Safe Returns**

Voluntary and safe returns of the victims of trafficking are provided in collaboration with IOM. After all the paperwork is completed by IOM, Ministry of Interior informs HRDF about the schedule of the flight and HRDF's housing counselors accompany the victim(s) of trafficking to the airplane.

### **Training of Law Enforcement Officers, Judges and Prosecutors**

Training of police officers and judiciary staff is crucial to raise awareness within these groups in order for the efficient implementation of legal regulations against human trafficking. HRDF has successfully implemented a training program in 2004 with the funds received from the European Union and British Council.

A total of 151 law enforcement officers have participated at the three-day trainings organized by HRDF in 6 different provinces. A total of 63 prosecutors and judges have participated at 3 two-day trainings organized by HRDF in 2 different provinces.



These trainings are expected to provide knowledge and skills to the judiciary and law enforcement staff on issues like the basic concepts of human trafficking; its motives, consequences and mechanisms; international protocols; national laws and regulations; basic rules of working with victims; cooperation and collaboration of all relevant parties in combating human trafficking; case studies; victim assistance programmes; the role of NGOs' in combating human trafficking, etc.

### **International Collaboration in Combating Human Trafficking**

Catholic Relief Services/Bulgaria and the HRDF have organized an international meeting on “*Cooperation Between NGOs and Law Enforcement Agencies Across Countries in Combating Human Trafficking*” held in Istanbul between the dates 16-17 September 2004. The main purpose of the meeting was to explore and identify opportunities for cross-border cooperation of police, authorities and NGOs in Bulgaria, Turkey, Romania and Moldova. Participants invited from four countries represented the government sector, and mainly the security forces as well as NGOs working in the area of combating human trafficking either to prevent trafficking in human beings or to assist the victims. A total of 54 participants from these countries have participated at the conference.

A project on “*Cross Border Cooperation for Efficient Victim Assistance*” with the partnership of CRS/ Bulgaria, CRS/ Serbia; Caritas/ Bulgaria, Astra/Serbia and HRDF is launched by the beginning of 2005. HRDF has organized a workshop in May in Istanbul to exchange experiences with the participation of representatives of Foreigners Departments of Security Directorates of 10 provinces in Turkey. A regional forum with the participation of relevant organizations, i.e. Gos and NGOs from these 4 countries will be organized in September in Sofia to further discuss the regional activities and possible collaborations.

## **Human Trafficking in Bulgaria**

A survey has been conducted in August 2004 in two Bulgarian towns at the Turkish-Bulgarian border. HRDF has provided consultancy including preparation of the questionnaire and survey design and data analysis for this survey. The main objective of the survey was to obtain information to clarify trafficking of women or children from Bulgaria. The starting point of this was the local rumors in Bulgarian border towns, about Turkey's being a transit country for trafficking from Bulgaria. So the survey was designed both to inquire these rumors and also to collect information on the general characteristics of the population under risk in these two towns. The field study was conducted by CRS/ Bulgaria and a local Bulgarian NGO. The data has been processed by HRDF. The rumors regarding the intense mobility from Bulgaria to Turkey as a transit country has not been supported by the data obtained in this survey.

## **Networking**

HRDF has started its networking activities in 2003. Currently a database of NGOs has been established. HRDF communicates and does information sharing with the NGOs on this database.

HRDF has participated at many international meetings as well as national meetings to present its anti trafficking activities and to discuss durable solutions to the ongoing problems in this area. These activities have led to the recognition of HRDF in this area. As a consequence of this recognition, HRDF has been receiving denunciations from the NGOs in source countries on missing women who can be potential victims of human trafficking. These kinds of information have been forwarded to the General Directorate of Security and HRDF makes the follow up of them to provide feedback.

## **Partners and Collaborators**

HRDF collaborates with a number of institutions and organizations while working on various components of its combating human

trafficking programme, bearing in mind that the collaboration of the agencies is a critical factor:

- Ministry of Foreign Affairs,
- Ministry of Interior,
- Ministry of Health,
- General Directorate of Security,
- General Commandership of Gendarmerie,
- Istanbul Metropolitan Municipality,
- IOM.

HRDF collaborates with EU, British Council and Catholic Relief Services in other projects to combat human trafficking and also exchanges information with UNHCR and ICMC.

The collaboration of HRDF with Ministry of Interior and General Commandership of Gendarmerie is mentioned in a book written by Kemal Derviş, Daniel Gros, Michael Emerson and Sinan Ülgen.

### **Awareness Raising through the Media**

HRDF maintains relationship with the media to increase the awareness of the society on human trafficking issues and the situation in Turkey through interviews with the major media organizations.

### **Current Situation**

Turkey has been placed among Tier 3 countries in US TIP Report in 2000 and 2001. Following Turkey's response to human trafficking problem, Turkey was moved from Tier 3 countries to Tier 2- watch list countries with the declaration of the President of USA in September 2003.

The interim report of US State Department in January 2005 has mentioned about HRDF's shelter and the collaboration of HRDF with the Government. Lastly, the 2005 TIP Report has placed Turkey in Tier 2 countries.

# Trafficking of Human Beings within the Context of Turkey's Accession Process to the EU

*Basak Kale*

In the last decade with the end of the Cold War, Turkey has become an increasingly important country at the crossroads of migratory movements as a country of origin, transit and destination. Migration in Turkey reveals all the complexity of contemporary migration movements in Europe. The migratory flows reflects a mixed nature involving various types of people such as people in need of international protection or people in searching for better living conditions through legal and illegal means.

Geographic location of Turkey makes it vulnerable to these various types of human displacements and movements. This brings us to the point that one has to acknowledge the complex nature of this field. There is a direct link between irregular and illegal migration, human smuggling, trafficking, and organized crime. They constitute separate but not completely separable issues. Therefore, in order to reflect this complexity it is necessary to understand trafficking in human beings in a comprehensive framework.

Regulating the migration field is a contemporary concern. The end of the Cold War and the dissolution of the Soviet Union with the establishment of newly independent states were influential factors behind the emergence of this issue as a priority area. In addition, the persistence of ethnic and political conflicts all over the world accompanied the increasing numbers of refugees and asylum seekers. In this context, the perception of refugees in the West has changed from freedom fighters to a challenge which has to be dealt with as a threat to national security and stability. This brings the issues of asylum, immigration and irregular migration to a status of high politics throughout the Western world with this changing understanding of comprehensive security.

The increased numbers of victims of human trafficking added a critical dimension to the field of asylum seekers, refugees, legal and illegal migrants in the last decade. Human trafficking poses a great threat to social order, solidarity and democratic values of states that are exposed to such activities. It is an issue of global concern which has to be tackled regionally and internationally. Consideration of human trafficking solely as a national security issue will pose limitations to the understanding of its complex nature.

### **Finding common European solutions to common problems: Turkish Accession process to the EU**

In order to respond to the increasing challenge of irregular migration, human trafficking and organized crime European governments aimed at achieving common policies. The developments regarding Justice and Home Affairs (JHA) field within the European Union (EU) in the last decade highlight the important intergovernmental cooperation through intergovernmental bargaining process. The treaty formation with the Maastricht and Amsterdam Treaties has transformed the area on immigration, asylum, and visa and border control towards further integration.<sup>66</sup> This led to an increased influence of European integration within the member states on policies regarding these issues. Through the enlargement processes of the EU the impact of European integration generates an increased pace of policy alignment with the candidate states. This process of alignment with the EU *acquis* creates legislative, administrative and ideational transformation in various policy areas.

The Turkish accession process to the EU explicitly reveals the impact of this comprehensive alignment process. Turkey, as a candidate state has accepted the transformation of its political and legal system with the adoption of the EU *acquis communautaire*. This is achieved through legislative and policy harmonization in its accession process. This process of alignment with the EU *acquis* generates legislative, administrative and ideational transformation leading towards a systemic

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<sup>66</sup> For more details see also Lavenex, S. (2001), *Europeanization of Asylum Policies: Between Human Rights and Internal Security*, Hampshire: Ashgate.

transformation in several policy areas of the national governance systems. This process of alignment has accelerated with the official declaration of Turkey as a candidate state to the EU.

After the European Council Meeting in Helsinki on 10-11 December 1999, Turkey was declared as an official candidate for full membership to the EU. This decision reinforced the launch of a process of pre-accession including a transitional period of policy and legislation adoption and harmonization. During the Turkish pre-accession period, which covered the period from 1999-2005, several legal documents such as the Accession Partnership (AP), National Programme for the Adoption of the Acquis (NPAA), and the National Action Plan for Asylum and Immigration (NAP) were adopted.<sup>67</sup>

After the Helsinki Summit of 1999, in order to comply with the Copenhagen political criteria Turkey entered a new period of democratisation with the adoption of several democratisation reform packages. During this process, the long run pursued Turkish Westernisation project turned into a more concrete project of Europeanization which is a more complex process of adoption of common values, transforming political and economic structures and governance systems. In the last couple of years the political practices, institutions and the general approach to political problems are dramatically changing in Turkey. This requires a major mental shift to think and act within the larger context of the EU.<sup>68</sup> Asylum and migration policies are not immune from that mentality change. Issues

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<sup>67</sup> European Communities (2001), Accession Partnership with the Republic of Turkey: Adopted by the General Affairs Council of the European Union, Official Journal, 2001/235/EC, L85/13, 24.03.2001; European Communities (2003), Revised Accession Partnership with the Republic of Turkey: Adopted by the General Affairs Council of the European Union, Official Journal, 2003/398/EC, L85/13, 12.06.2003; Official Gazette of the Turkish Republic (T.C. Resmi Gazete) (2003), Turkish National Program on the Adoption of EU Acquis Communautaire, No.25178, 24.07.2003; Official Gazette of the Turkish Republic (T.C. Resmi Gazete) (2001), Turkish National Program on the Adoption of EU Acquis Communautaire, No. 24352, 27.03.2001

<sup>68</sup> Eralp, A. (2005), Turkey and the Enlargement Process of the European Union, in Nikolov, K. (ed.), The European Union After 1 May 2004: Is There a Shock from Enlargement?, Sofia: BESCA Publications, pp. 129-146.

which have not previously discussed transparently and openly such as the status of refugees, illegal migration, border control and asylum policy started to be discussed openly in legal documents which are exchanged between Turkey and the EU.

In terms of practical changes there has also been some developments. The Accession Partnership process established eight sub-committees to discuss the harmonisation process to the EU. The 8<sup>th</sup> sub-committee is dealing with JHA issues. These sub-committee meetings bring actors which are involved in the asylum and migration policy field. Traditionally these actors did not have the opportunity to come together to discuss these matters transparently. These actors are the Turkish Ministry of Foreign affairs (MFA), the Directorate Security under the Ministry of Interior (MIO), the European Commission Representation to Turkey, the Coastal Security Command, the Gendarmerie General Command, and the Chief of Command for Border Controls. The Secretariat General for European Affairs (EUSG) has the coordination function in these activities. These discussions stimulate fundamental changes in sharing information, discussing possible solutions for common concerns among these various actors.

### **Accelerated Legislation Changes with the EU Accession Process**

The EU Commission prepared the Accession Partnership Document (AP) for Turkey on 8<sup>th</sup> November 2000. This document identified short and medium term political and economic priorities that the accession partnership should rely on. Turkey was expected to adopt its National Program on the Adoption of the Acquis (NPAA) on the basis of the short and medium-term political and economic priorities set forth in the AP. The JHA component of the AP document covers three issues relating specifically to immigration and asylum. These can be specified as the lifting 'geographic limitation' on the 1951 UN Geneva Convention, illegal immigration and border controls.

As a response to the priority descriptions mentioned in the AP, Turkey adopted its National Programme in March 2001.<sup>69</sup> Accession Partnership triggered a reform and democratisation process in the Turkish legislative, administrative and political system. The goal to meet the Copenhagen political criteria made Turkey to take a number of steps to address EU concerns. While it took some time after the AP to prepare certain legislative changes, the Turkish Government introduced a number of measures to improve the implementation of constitutional and legal guarantees in the sphere of political criteria, between October 2001 parliamentary session and the 3 November 2002 early general elections. In that period, the Turkish Grand National Assembly (TGNA) passed a series of reforms aiming to reduce restrictions on certain political rights and fundamental freedoms.

With the changing context of pre-accession after various constitutional reform packages, the Commission reconsidered the priorities to be given in the pre-accession process. The European Council adopted the Revised AP document of 2003 following the NPAA of 2001. The Revised AP involved adjusted priority areas to reshape the road map of Turkey's accession towards membership.<sup>70</sup> It dismissed certain priority areas from the list of priorities assuming that they were fulfilled. However, it further emphasised certain areas where more progress has to be made to fulfil the priorities of the Union.

As a response to the Revised AP document, Turkey prepared and adopted its Revised National Program (RNPA) in June 2003. It was prepared under the coordination of the Secretariat General for EU Affairs with other ministries. Reconsidering the revised priorities of the new AP document, it was understood by the Turkish government that the process of harmonisation needs to be intensified.

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<sup>69</sup> Official Journal (2001), Turkish National Program on the Adoption of EU Acquis Communautaire, No.24352, 27.03.2001.

<sup>70</sup> European Communities (2003), Revised Accession Partnership with the Republic of Turkey: Adopted by the General Affairs Council of the European Union, Official Journal, 2003/398/EC, L85/13, 12.06.2003.



On the way towards finding the critical points in the field of asylum, an “Asylum and Migration Task Force” was set up in 2002 involving various state agencies responsible for border control, migration and asylum. This special task force produced an EU acquis alignment strategy “Strategy Paper on Activities Foreseen in the Field of Asylum within the Process of Turkey’s Accession to the European Union (Asylum Strategy Paper)” with the help of EU experts in October 2003.<sup>71</sup> This strategy paper was submitted to the European Commission in December 2003.

With the purpose of mapping the gap areas in this field three working groups in fields of borders, migration and asylum are established for developing an overall strategy in this field. These working groups became operational from 18<sup>th</sup> June 2002 onwards. These working groups met in order to prepare national strategy papers for three of these three complementary fields. These strategy papers aimed at bringing the important issues to the attention and preparing a national action plan in the area of immigration and asylum.

In order to utilize the findings of the Strategy Paper the EU funded Twinning project on Asylum and Immigration commenced on 8th March 2004 and ended on 31st March 2005. The result of the Twinning project on asylum and immigration was the acceptance of a National Action Plan on Asylum and Migration (NAP). The NAP envisaged the establishment of a specialized, civilian unit for migration and asylum issues under the MOI, which will be responsible for migration management and for receiving and deciding on requests for residence permits of foreigners and asylum applications in the first instance. The NAP also commits Turkey to prepare a new asylum law in conformity with the relevant international conventions and the EU acquis in the process of accession to the EU.

The comprehensive harmonisation process with the EU acquis has also generated legislative, administrative and ideational transformation

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<sup>71</sup> Strategy Paper on Activities Foreseen in the Field of Asylum within the Process of Turkey’s Accession to the European Union (Asylum Strategy Paper), Ankara, limited access document.

involving a policy aspect with respect to human trafficking. In terms of legislative change the NAP argues that the system related to victims of human trafficking is in harmony with the EU acquis. On the other hand, the European Council Parliamentary Assembly calls for an alignment with Schengen Agreement in Turkey.

In the area of trafficking in human beings Turkey has undertaken national legislative changes while adopting several international documents. Turkey signed the UN Convention on transnational organized crime and its two Protocols regulating migrant smuggling<sup>72</sup> and human trafficking which are also referred as Palermo Documents in 2000. These Protocols are ratified at the TGNA in 2003. In addition to those documents, sixty seven security cooperation agreements with various countries in combat against organized crime and terrorism are undersigned by Turkey. These legislative efforts are inline with the aim to improve Turkey's border-control capacity and align its visa system with that of the EU and concluding readmission agreements with source, transit and destination countries of irregular population movements. In that respect, readmission agreements with source and destination countries such as Greece, Syria, Romania, and Kyrgyzstan are signed. The readmission agreement with the European Commission is still under negotiation. Several other readmission agreements were proposed to Pakistan, Bangladesh, India, People's Republic of China, Tunisia, Mongolia, Israel, Georgia, Ethiopia, Sudan, Algeria, Morocco, Nigeria and Kazakhstan.

With respect to national legislative changes on human trafficking several domestic laws are amended. One of the examples of these amendments was on the Citizenship Act No.403. In order to avoid marriages of convenience Citizenship Act was amended in 2003. Under afore mentioned arrangement, aliens marrying Turkish citizens may be involved in the naturalization procedure three years after the marriage

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<sup>72</sup> The UN Convention Against Transnational Organized Crime, Protocol to Prevent, Suppress and Punish Trafficking persons, Especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime, [http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf)

contract has been concluded, provided the investigations prove that “the alien in question does not have a profession inconvenient for marriage, the spouses do not live with other partners but together, and have no connection with human trafficking”. Likewise, the Law on Work Permits of Aliens No. 4817 has been drafted by the Ministry of Labour and Social Security and ratified by the TGNA in 2003 in order to avoid illegal employment and to regulate the labour market with work permits. One of the critical turning points in fight against human trafficking was the explicit definition given for “human trafficking” as a criminal act under the Turkish Penal Code. In 2002 human trafficking defined as a crime in Turkish Penal Code. It brought the punishment of heavy imprisonment to the perpetrators ranging from five to ten years. In June 2005 a New Turkish Penal Code is accepted by the TGNA which brought the punishment of heavy imprisonment of eight to twelve years to traffickers.

### **Policy Implementation Transformation in the Field of Combat with Human Trafficking**

The legislative arrangements are also supported by policy implementation measures in this field. A circular was accepted in conjunction with the identification of the victims of human trafficking. It ensured the application of the relevant legislation by the Provincial Directorates of Security, the Gendarmerie General Command and the Coastal Security Commands. This circular regulates the delivery of health care and psychological rehabilitative support to the victims of human trafficking. It also allows for the temporary residence of the identified victims according to their consent without resorting deportation from Turkey. These temporary residence permits aims to provide the necessary time required for the treatment and rehabilitation of victims. At the same time it allows for a period to identify and apprehend the interest oriented and organized individuals or networks committing such crimes and to initiate the legal/administrative process against these individuals or networks. These issued residence permits cover a six months period and these periods can later be extended for another six months if trial periods for the accused individuals require an extended time span.

Several cooperation protocols were signed with the Directorate General for Security, the Gendarmerie General Command and the Human Resource Development Foundation (HRDF). In line with these protocols a shelter has become operational in Istanbul for victims of human trafficking through the cooperation of the HRDF and the Istanbul Metropolitan Municipality. This shelter accommodates victims of human trafficking for a temporary period while their safe voluntary returns to their home countries are arranged in cooperation with the International Organisation for Migration (IOM).

IOM, in close cooperation with the Turkish government promoted a “Helpline” for victims of human trafficking. The Helpline is operational and it can be reached through toll free number (157). Currently the Helpline is operated by IOM and its operation will be transferred to a NGO which will be selected through an open tender process. This Helpline is a positive development in fight against human trafficking for providing help for individuals who may be at risk of trafficking and for emergency rescue. The project aims to target victims in their home countries before their arrival to Turkey. In that respect, Turkey can be regarded as a leader in the Balkans region with a proactive approach to the victims of human trafficking.

Adding to these activities, under the scope of the Turkey-EU Financial Cooperation the “Building Institutional Capacity in Combating Human Trafficking” project has been prepared. The aim of this project is to adopt a strategy to prevent human trafficking and to pave way for its implementation by sectoral action plans in line with the targets of attaining minimum standards to decrease human trafficking and strengthening relevant institutions operating against human trafficking. Raising public awareness is another fundamental aspect in fight against human trafficking. Two panels on “Combating Human Trafficking” were organized. The first one was organized in collaboration with the UN Population Fund in 2002 and the second one was organized in 2003 by the Directorate General for Women’s Status and Problems in Turkey. There were also awareness raising campaigns targeted at officers who were working in the field of combating human trafficking.

Adding to the institutional and administrative changes, one has to acknowledge the ideational change in this field in Turkey. The acceptance of human trafficking as a problem can be considered as a fundamental step in Turkey. Defining human trafficking as a criminal activity and imposing heavy penalties for the perpetrators can be regarded as a fundamental step in search for combating this crime. The willingness to involve international cooperation and active collaboration in this field is a new development. The IOM regards the international cooperation initiated by Turkey to involve several countries for a multi-country campaign as a pioneer activity of its kind. The willingness to involve NGOs working this field is explicitly expressed in the NAP.<sup>73</sup> The Plan foresees an enhanced involvement of civil action to provide help and services for the victims, to raise public awareness and to apprehend traffickers. This mentality change can be attributed to the EU accession process which has systematized these transformations in Turkey.

The subcommittee meetings bring together institutions working in this field which traditionally have difficulties in sharing information. This opened up a process of transparency and increased collaboration between these institutions. Thus, it is possible to argue that the EU pre-accession process boosted the necessity to work on the JHA issues. In this framework, training activities involving law enforcement officers, judges and public prosecutors contributed to the change in the formation of perceptions and ideas. The NAP foresees the adoption of a strategy to prevent human trafficking with a long-term policy planning.

In order to establish a long-term strategy to combat human trafficking a comprehensive framework encompassing the issues of irregular and illegal migration, organised crime and humanitarian protection has to be established. In this framework, a balanced approach safeguarding the rights of states on controlling their borders, protecting their citizens, providing security and solidarity to their societies has also have to reflect

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<sup>73</sup> Turkish Ministry of Interior (2005), General Directorate of Security, Turkish National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration, 17.01.2005

safeguarding of the protection of the rights of the individuals who are or will be the victims of trafficking.

## **Conclusion**

Illegal migration, human smuggling and human trafficking are all separate but not solely separable issues. Their link with organised crime and criminal networks makes the study of this subject far more complex. Human trafficking poses a great threat to social order, solidarity and the democratic values of both the source and the destination countries. It poses a threat to the source and the destination country as a result of its link with organized crime, drugs and weapons smuggling. The criminal networks make it more difficult to fight against traffickers in a single country. A multilateral approach is necessary in combating against this crime.

Increased multilateral collaboration between law enforcement officials is necessary for an effective multilateral action. Sharing information on this field will inevitably provide means and sources for increased collaboration on combating organized crime and terrorism. The humanitarian aspect of this field can generate a strong impetus for multi-state cooperation. This cooperation can be supported by technical cooperation programs. The funding for these cooperation programmes can be generated from various sources including EU funding. Moreover, training the personnel working on the combat on human trafficking can provide a long-term investment in human capital specialized on these topics. Trained human resources dimension can shape and support the establishment and implementation of a long-term policy planning with national and regional strategy on human trafficking.

Increasing public awareness has a critical position for raising public interest. In that respect, media can play a role in the public awareness raising campaign. In this regard, the fundamental issue is defining the target group and specifying the result targeted at the end. Such as targeted result can be raising awareness for defining who is a victim or a trafficker, the result can be helping the victims or alternatively it can be making trafficker activities easy to identify by ordinary citizens.

Fight against human trafficking in that respect has to be a civilian project. Combating cannot be achieved solely by security officers. The involvement of national or international NGOs is essential. National or international NGOs are the watchdogs for the implementation of certain legislation or policies in the countries of origin and destination. They provide the push factors for better implementation of certain policies while endorsing better practices. Promoting projects to involve NGOs can provide the necessary means for the NGOs to have greater role in this field. These NGOs will have to be financial supported by national and international sources or by donors to build up their capacity in terms of human resources and technical infrastructure. Strengthening the NGOs operational capacity will provide the necessary means to sustain their financial resources as they will be able to apply for specific EU funds. The critical point in this aim has to be that promoting projects for building up the institutional capacity of the NGOs with a goal oriented rather than a project oriented approach. Establishing the NGO networks with an aim to establish “networks of networks” can also increase the capacity of action of the NGOs while avoiding the duplication of work.

Social integration programmes in countries of origin with social assistance projects can help the victims to start their new lives more easily. In that respect, projects that can provide simple financial resources for the victims can constitute an elementary step to create a basis for financial sustainability of their households. This can break the vicious circle for the victims who can be targeted by the traffickers for a second time. In conclusion, it may be argued that Turkish accession process to the EU fundamentally altered the nature of fight against human trafficking. The process of alignment with the EU *acquis* generates legislative, administrative and ideational transformation. Human trafficking poses a threat to human security which makes multilateral action inevitable. In this process, increased role of national and international NGOs can make this issue a civilian project. Sustainability of the NGO efforts can only be possible with sustainability of their financial resources. In general, it can be argued that the overall fight against human trafficking is also a fight against organized crime. A concrete result in this field can only be achieved through acknowledging this dimension.