












# TRAFFICKING IN HUMAN BEINGS IN CENTRAL EUROPE



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An outline map of Europe showing national borders. The text is centered over the continent.

**TRAFFICKING IN HUMAN BEINGS**  
IN CENTRAL EUROPE

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## INTRODUCTION

This publication is one of the outcomes of a tri-lateral Czech-Slovak-Polish project on prevention of trafficking in human beings realized in the year 2004. The three partners to the project, **La Strada Czech Republic, La Strada Poland and Aliancia žien Slovakia** have worked together to create a tri-lateral network on combating the issue of trafficking from several aspects and to fill in the informational gap on the issue in Slovakia. The task of the Czech and the Polish La Stradas was on the one hand to continue nationally successful implementation of activities on three levels (prevention of trafficking, assistance to trafficked persons and lobby), on the other hand to transfer know-how and good practices on assistance to trafficked persons, prevention of trafficking (with a specific focus on prevention among the Roma communities) and lobby to the Slovak partner.

Information and skills were delivered to the Slovak partner via three trainings tailored to the needs of the participants. The needs assessment was carried out in a form of direct interviews with the relevant organizations in Slovakia. Furthermore, the project partner organizations created a joint informational material in a form of a CD. The CD is designed for a wide spectrum of target groups: it includes information for professionals as well as prevention materials in a printer friendly form. This publication is yet another of the results of the joint effort of the three organizations. It contains texts about the issue on trafficking in general, specific information about the issue in the respective countries and also several analyses on particular topics within the issue of trafficking. The publication contents are divided into four parts: the first part contains general information about the issue of trafficking in human beings; the second, third and fourth parts consist of relevant information and documents from the respective countries, i. e. the Czech Republic, Slovakia and Poland.

*Elaboration and the contents of the texts were the sole responsibility of the respective project partners.*





**WHAT IS "TRAFFICKING IN HUMAN BEINGS"?**

**TERMINOLOGICAL GLOSSARY**



# WHAT IS “TRAFFICKING IN HUMAN BEINGS”?

## DEFINITION

The concept of trafficking in human beings has a long history. Its ways and manifestations changed as well as the attitudes to the solution of trafficking in human beings as a problem. At the beginning, trafficking in human beings was called “white slave traffic.” This term related to trafficking women from Europe to harems in Middle East. However, this term is not acceptable for experts any more and it is used only by tabloids. Trafficking in human beings is called “modern slavery” now – and it is what it is. Though methods used by traffickers in human beings have changed since then, however, their principles remain similar.

The first international conventions reflecting the efforts to solve this issue appeared in the first decades of the 20th century (at the beginning, the conventions concerned the protection of slavery in particular.) The fundamental convention was the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (UN 1949). However, its text was already outdated at the end of the 20th century and did not correspond with reality. The existence of a coherent and comprehensive definition is fundamental to combat trafficking in human beings and to aid trafficked persons. After trafficking in human beings started taking on new dimensions in late 80s' of the 20th century, NGOs in particular started calling for a new, precise and all-embracing definition. Organisations like Global Alliance against Traffic in Women (hereinafter referred to as “GAATW”) created, based on their experience, definitions of trafficking, which they used for their work. These definitions served as background materials to create a new international definition consequently. It is a part of United Nations Convention:

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

*Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organised Crime, UN, Palermo 2000*

The definition contained herein is, at the moment, the best usable definition of the problem and can serve as a consolidating element for those dealing with the issue.



The way we talk about trafficking in human beings is the reflection of not only prejudice construed by society but also of the way they are described by media. There are many myths about trafficking in human beings, which can affect directly the situation of the trafficked person and the manner they are treated. Stereotypical ideas that we hear about trafficking in human beings most often are as follows:

- Trafficking in human beings is identical to prostitution.
- Victims of trafficking in human beings are responsible for their situation themselves – they were stupid, naïve or bad even before (e. g. prostitutes).
- Trafficking in human beings concerns only people from lower class and low level of education.
- Trafficking in human beings is basically identical to irregular migration.

However, when defining trafficking in human beings one has to avoid any stereotyping. The concept of human rights and, in particular, respect to human rights of those who became victims of trafficking in human beings should be basis when defining trafficking in human beings and for work with this topic as well. The basic human legal definition of trafficking in human beings is as follows: **Trafficking in human beings is serious violation of human rights. People are forced to perform some work by means of threats, fraud, coercion or directly by means of mental and physical violence. People become victims already at the stage of recruitment when they are offered work by somebody who misleads them at the moment (e. g. by promising a certain type of job despite of knowing at the moment that the reality will be different). The person gradually becomes commodity by trafficking and can affect his situation only very hardly or gradually loses control of the situation to full extent.**

## **WAYS OF TRAFFICKING IN HUMAN BEINGS AND ITS ORGANISATION**

One usually says that trafficking in human beings is directed from economically less developed countries or regions within one country into countries or regions economically more developed. The economic situation is very important, however, not the only determining feature of the direction of trafficking in human beings. Other factors can be, for instance, infrastructure or communication (where it is easier to get into and out of a country, to circulate within it), demand for prostitution or cheap labour, the occurrence of bribery, and worse enforceability of law.

Trafficking in human beings is often related to organised crime. Two types of criminal structures, which mutually complement and interconnect each other, are usually described:

**Supranational and national organised criminal groups** are usually engaged in various forms of organised crime – traffic in arms, drugs, etc. They resort to the form that is most profitable at the moment. High profits of trafficking in human beings in relation to relatively low risk make this activity very attractive.

**Local criminal groups and individual "recruiters."** It appears that a victim is recruited very often by somebody whom she/he knows. As reported by aiding organisations, more than 80% of trafficked persons were trafficked by somebody

they knew – a family member, a relative, an acquaintance of the family, a partner, or friends. These people are not professionals but they are engaged in trafficking in human beings because of profit. Relationship to the victim makes their job easier.<sup>1</sup>

## MECHANISM AND ROOTS OF TRAFFICKING IN HUMAN BEINGS

Mechanism of trafficking in human beings<sup>2</sup> can be described in a simple diagram:

**recruitment and transport → place/places of destination → liberation (by oneself or by somebody else)**

The individual parts of the mechanism identify stages that a trafficked person passes through at the time when he or she is trafficked. Recruitment and transport takes place usually, not exclusively, at the place of origin of the given person. Reasons why trafficking in human beings takes place are dependent on various factors:

a) **External factors, so-called “push” and “pull”<sup>3</sup> factors:** push factors can be social and economic situation in the given country/place, rate of unemployment, poverty, violation of human rights, discrimination, living environment, security situation, war conflict, etc.

Pull factors are e. g.: stable social and economic situation and high living standards resulting from it, ideas about affluent style of life of all inhabitants, better social security, demand for cheap labour.

b) **Internal factors:** factors that are directly related to the person of the victim or potential victim. We call them risk factors as well. They include age, education, affiliation to a national minority, problematic family background, previous experience with violence, unemployment, poverty, addictions, etc.

c) **Global causes:** globalisation and economic liberalisation in the world act as catalysers of trafficking in human beings. The roots of trafficking in human beings include unequal distribution of wealth in the world, which creates regions where it is very difficult to maintain oneself, on one hand, and regions where it is necessary to push the prices of products and services to lowest possible level due to competition. One of the described causes is the feminisation of migration<sup>4</sup> as well.

Demand for cheap labour, the existence of grey economy and spheres of unprotected work<sup>5</sup>, high profits and low risks for traffickers in human beings are specific phenomena that create environment for trafficking in human beings.

To certain extent, the trafficked person plays an active role at the beginning when he responds to an offer of a job (the most frequent type of recruitment – see Terminological Glossary). However, he is misled and cheated in the process of trafficking and, consequently, forced to perform an entirely different job or the original job, however, under absolutely different conditions that they were agreed before, being subject to a form of violence, threat, blackmail etc.

Here one has to rebut another myth – trafficking in human beings is often perceived as dragging abroad, i. e. kidnapping and consequent enslavement. According to information of police, kidnapping in trafficking in human beings (at

least in Europe) occurs only to very low extent. Trafficking in human beings tends to be a series of steps that one can recognise and one can defend oneself against them. Prevention programmes dealing with trafficking in human beings focus on this fact. For example, we offer information and tips to target groups within preventive activities of La Strada dealing with the fact what one can do for his own safety before one goes in quest of a job, but also dealing with the fact where I can turn for aid in case of emergency (see information materials).

However, prevention with potentially endangered groups is only a fragment of mosaic. It cannot prevent trafficking in human beings, who searched for a way out from a dismal situation, channels of regular migration for work are closed to them, they have no access to information about risks and conditions of work abroad etc. The problem is much more difficult and facts that allow its existence, as it was already mentioned above, have global character.

## **ATTITUDES TO TRAFFICKING IN HUMAN BEINGS<sup>6</sup>**

Those who are engaged in the solution of the problem of trafficking in human beings should focus on the protection and support of human rights of the handicapped and should make every effort not to create or not to contribute to situations that allow for trafficking in human beings – e. g. by using practices or implementing a policy that weakens legal, economic and social position of trafficked persons and risk groups.

Trafficking in human beings is a problem that touches many areas – migration, organised crime, sexual industry, prostitution, human rights, violence battery caused to women, feminisation of migration, international labour market, unequal economic relation in the world, etc. When defining procedures and strategies of dealing with this topic, one has to ask himself: What are possible consequences of this strategy for trafficked persons? Whose interests do they serve?

The most frequent strategies of and attitudes to the issue of trafficking in human beings are summarised below. Moreover, each strategy can contain repressive elements (focused on fighting with unwanted or dangerous behaviour, control over a situation and punishment of illegal actions) and empowerment elements – (support and restoral of rights of victims, general support and aid, the strengthening of independence and support of self-confidence).

## **STRATEGIES:<sup>7</sup>**

### **TRAFFICKING IN HUMAN BEINGS AS A PROBLEM OF HUMAN RIGHTS**

**Repressive attitude:** Prostitution itself is seen as a violation of human rights.

**Empowering attitude:** Conditions – the abuse, exploitation, coercion and fraud are violation of human rights, not the prostitution itself.

## **TRAFFICKING IN HUMAN BEINGS AS A PROBLEM OF LABOUR RIGHTS**

**Repressive attitude:** Prohibition of migration for a job to a non-formal sector.

**Empowering attitude:** Decriminalisation of work in sexual industry – shift towards the issue of labour conditions.

## **TRAFFICKING IN HUMAN BEINGS AS A PROBLEM OF PUBLIC ORDER**

**Repressive attitude:** The fight against trafficking in human beings is equivalent to state supervision of the sex industry. Prostitution is seen as an inevitable evil and, at the same time, as violator of public order. The target is its regulation in favour of public order, health, morals and taxes.

**Empowering attitude:** Public order is not defined as the supervision of an employee but as the supervision of labour conditions.

## **TRAFFICKING IN HUMAN BEINGS AS A PROBLEM OF (IRREGULAR) MIGRATION**

**Repressive attitude:** Fight against trafficking in human beings is equivalent to fight against migration. One pays attention to movement across the border and the prohibition of entry of potential victims into the country.

**Empowering attitude:** The right to migrate should be guaranteed. People should have “free choice” to stay at home, in the country of origin as well.

## **TRAFFICKING IN HUMAN BEINGS AS A PROBLEM OF (ORGANISED) CRIME**

**Repressive attitude:** Fight against trafficking in human beings is equivalent to (and it is limited to) fight against organised crime. Criminal law is seen as a tool to solve it.

**Empowering attitude:** The basis of this strategy is legal support of individual trafficked persons and improvement of their position vis-à-vis investigative, prosecuting and adjudicating bodies.

## **TRAFFICKING IN HUMAN BEINGS AS A MORAL PROBLEM**

**Repressive attitude:** Fight against trafficking in human beings is equivalent to fight against prostitution. Prostitution is seen as immoral evil.

**Empowering attitude:** It is against moral judgement and distinguishing between good and bad people and guilty and innocent people.

Danger involved in the choice of bad unilaterally focused, mainly repressive strategies are as follows: stigmatisation, marginalizing, isolation and social expulsion of trafficked persons.

## **PROTECTION OF HUMAN RIGHTS OF TRAFFICKED PERSONS, IN PARTICULAR**

A few years ago, NGOs (Global Alliance Against Traffic in Women, Foundation against Traffic in Women and International Human Rights Law Group) proposed standards to treat trafficked persons in compliance with the concept of human rights. These standards are aimed particularly at countries and are to assist in respecting and protecting human rights of trafficked persons.

### **STANDARDS OF HUMAN RIGHTS FOR THE TREATMENT OF TRAFFICKED PERSONS<sup>3</sup>**

**Undiscriminating principle:** Substantive or procedural law of individual countries should not contain elements discriminating trafficked persons either in principle or in practice.

**Safety and just treatment:** The country shall treat trafficked persons as victims of very serious violation of human rights. Regardless their irregular immigration status, they have to defend and assert their rights and to prevent further violence and abuse.

**Right of justice:** Investigative, prosecuting and adjudicating bodies should make every efforts to achieve that the system in which they try to punish traffickers in human beings respect and protect the victim's rights of privacy, maintaining human dignity and safety. Just court remedy should include strict punishments for rape, sexual and other types of attacks like murder, forced pregnancy or forced abortion. Further, kidnapping, torture, cruel and inhuman treatment, enslavement, forced labour, indebtedness/debt slavery or forced marriage.

**Right to return to one's homeland and reintegration:** The state should ensure their safe return home if requested by the victim of trafficking.

**Residential status:** During criminal, civil or other proceedings with traffickers, the state should permit the trafficked persons to stay there temporarily (including the possibility to work regularly there during this time). People should be entitled to apply for asylum in the new country, but they should be allowed to return home at the same time (even though they assume the risk of revenge by traffickers knowingly).

**Health and other services:** In the course of a temporary stay, the state should ensure adequate health care and quality social services for the victims of trafficking.

People working in aiding professions as well like social workers should observe certain standards not only of provided social services but of assistance to trafficked persons based on human-rights and empowering attitude as well. These

general principles of social work with trafficked persons (called “clients” here) include the following principles based on La Strada's experience:

- Social workers respect wishes and opinions of clients.
- Social workers do not make any decision about client without their consent.
- Social workers do not disclose information about clients without their consent.
- Clients are entitled to use or refuse an offered service,
- Clients are entitled to change their decision to accept or reject the offered service.
- Clients have a right of privacy and protection of personal data.
- Clients are entitled to lodge a complaint.
- Clients are entitled to leave the care of an organisation anytime.

## WHO ARE TRAFFICKED PERSONS

Trafficked persons are women, children and men of various age, race and they come from various parts of the world. They are trafficked for various purposes: abuse in sexual industry, forced work in building industry, agriculture, small-scale production, domestic works, nursery, etc. At the beginning, they were probably offered a job and, consequently, they were misled and forced to accept different labour conditions or an entirely different job.

Should trafficked persons break free from environment where they are abused, they are mostly in very bad physical and mental conditions, they are not supported by their original families, mostly, they are afraid of returning home and are fully without any financial means. Most of them do not have ID documents and are made to wait until their substitute documents are issued. In a number of cases, these people are socially discriminated and have insufficient social and legal protection.

Many of them were exposed to the following living and labour conditions:

- **Mental violence:** blackmail, insult, manipulation, humiliation, offence, threats
- **Physical violence:** beating, threats with physical violence
- **Sexual attack or rape**

- **Limitation of movement:** supervision, impossibility to leave the place of work without permission or without a supervisor
- **Permanent fear of arrest**
- **Isolation:** the limitation or elimination of common social contacts, the prohibition of contact with family, friends etc.
- **Non-payment of salary or only a part of it; the seizure of whole salary or a part of it**
- **Often almost unlimited working hours**
- **Confiscation of a passport or other ID documents or forcing to accept false documents**
- **Impossibility of medical treatment**
- **Blackmail of family or other close relatives or coercion by harming a relative**
- **In case of prostitution – the impossibility to choose a customer, the forcing to accept many customers, in some cases, the impossibility to use condoms, the impossibility to refuse a customer, and choice of certain sexual practices**
- **Violent abortion or abortion without sufficient medical treatment**
- **Lack of food**
- **Unsatisfactory accommodation and bad hygienic conditions**

This list includes some living and labour conditions under which trafficked persons are made to live. Similar experience has very traumatising effects. Besides the trafficked person, also those who work with them have to cope with traumatising experience. There is a range of responses encountered by workers in aiding professions as well as other professionals (police, a prosecuting attorney, a judge):

## **THE LIST OF MOST FREQUENT RESPONSES AND PROBLEMS OF TRAFFICKED PERSONS<sup>9</sup>**

**Fear** – of loneliness; of revenge by traffickers; of judicial proceedings; of one’s own expression; of venereal diseases; of sleeping (nightmares); of those who want to help them

**Feelings of guilt** – that I made mistakes, that I was stupid, that I breached cultural or religious customs, that I was not able to take care of my family

**Anger** – at oneself for allowing “it”; at the others for failure to protect them; at society for the entire intervention in one’s own life

**Feeling of shame, humiliation, dirtying** (in case of forced prostitution)

**Feeling of betrayal** – against those who acquainted him with traffickers; against his God; against the government; against the family; against oneself and one's own decision-making; against everybody else

**Depression and sense of impotence** – the loss of control; the feeling that "it will never improve any more", being chased by one's own experience; the feeling of discrimination (e. g. as a woman, a foreigner, a person who worked in prostitution)

**Shock** – the feeling of loss of any feelings and impossibility to cry; questions: "Why me?"

**Disorientation** – impossibility to calm down; troubles to survive each new day; blanks; questions: "What is it going to be with me now?"

Experience from trafficking in human beings is traumatising. A trafficked person needs support, aid and advice in his situation in particular. Therefore all trafficked persons should be entitled to aid and support and those working with them should take their needs into account (in case of aiding organisations providing social services to trafficked persons, the needs of a victim should be determining when providing these services.

## HOW WE CAN HELP?

Organisations focused on aiding trafficked persons have created mechanisms for aid and support. However, trafficked persons can turn to an aiding organisation that is focused on another type of clientele or even to a private person.

Should I get into a similar situation, what can I do?

- Trafficked person will not probably tell you that he is abused in some manner.
- You can ask him whether he needs anything but do not make him talk.
- If the person shows an interest in talking to you and can move away from the place, leave to a safe public place (e. g. a café) and continue your talking there.
- If the person does not want to talk to you and it seems to you that he is afraid of doing so, you can offer him information about the possibility of aid (e. g. "It seems to me that you don't feel well here or you need some help. I will leave contact information here for one NGO offering help and you can call there if you want to"), e. g. a phone number of the emergency line of La Strada.
- Be careful, do not play a hero and do not promise something you do not want to do or you cannot do.



## WHAT WE KNOW AND DO NOT KNOW ABOUT TRAFFICKING IN HUMAN BEINGS

At the beginning, we mentioned myths about trafficking in human beings. One of the reasons why people create myths is the fact that they do not know everything about the given problem and that something remains hidden. Trafficking in human beings is a latent phenomenon taking place outside legal sphere. Therefore, there are still many unknown things in this area.

### THE GAATW ORGANISATION MENTIONS:

What we know about trafficking in human beings:

- Trafficking in human beings dramatically increased in past years.
- Trafficking in human beings is relating to massive violation of human rights.
- Trafficking in human beings is very lucrative for its offender.
- Trafficking in human beings takes place both on national and international levels.

What we do not know about trafficking in human beings:

- How many people are trafficked.
- What are real financial profits of traffickers.
- How many countries/regions does trafficking in human beings concern.

Statistics and exact data about the total extent of trafficking in human beings are not at disposal. Information about recorded cases of trafficking in human beings is available in certain countries. Generally, one says that a so-called “iceberg phenomenon” works here – known cases represent only an imaginary tip of the iceberg (B. Limanowska says that they represent not more than 1/3 of the total number of cases of trafficking in human beings). The rest remains hidden to us. Statistic information about the number of trafficked persons is, more or less, a qualified estimation and they differ often. By way of illustration, we quote some of them:<sup>10</sup>

Ministry of Foreign Affairs of USA: 800–900,000 people trafficked in the world annually

Council of Europe: 4 mil. of women trafficked in the world annually

Organisation for Safety and Cooperation in Europe: 4 mil. of people trafficked in the world annually

United Nations Criminal Justice Information Network (UNCICP): 700,000 cases of trafficking in human beings in the world annually; 96 % of trafficked persons are women; 50 % of trafficked persons are children; 80–90 % of persons trafficked for the purpose of sexual exploitation, rest-forced work

International Organization for Migration: 500,000 women are trafficked to Europe annually

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Limanowska, B.: Trafficking in Human Beings in South Eastern Europe, OSCE/ODIHR, 2001

## Notes:

- <sup>1</sup> GAATW: *Trafficking in Women, Factsheet*, Thailand, 2002; Detailed experience is confirmed by European aiding organisations as well.
- <sup>2</sup> The definition of the mechanism of trafficking is an ideally typical definition in the Weber concept. However, cases of re-trafficking occur in practice sometimes, in particular, if trafficked persons have not real alternatives at disposal and, therefore, they become persons belonging to an at-risk group again. Then one-way mechanism becomes a vicious circle.
- <sup>3</sup> According to the *First Report of Dutch National Rapporteur on Trafficking in Human Beings*, the “push” factors (i. e. the factors that exert pressure on the given person to migrate) are relating to the situation at the place of origin – they are reasons why the given person wants to leave this place. “Pull” factors (something what attracts) are relating to the country/place of destination; they are what make the region attractive for migrants.
- <sup>4</sup> Feminisation of migration – a term that describes the reality of migration in high 90s<sup>1</sup> of the 20th century when women migrate independently (they used to migrate as a part of a family – mothers, sisters, wives, etc. – in past)
- <sup>5</sup> Unprotected works are activities that are not generally perceived as “work” and usually are not covered by employment regulations – e. g. domestic labours.
- <sup>6</sup> It is based on the relevant chapter in the book: *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution*, Marjan Wijers and Lin Lap-Chew, GAATW/STV, 1997.
- <sup>7</sup> The listed strategies are related to trafficking in human beings for the purpose of exploitation in sexual industry.
- <sup>8</sup> See *Lidská práva v praxi.*: GAATW, La Strada, Praha 2002
- <sup>9</sup> According to GAATW; modified
- <sup>10</sup> According to *Unesco Trafficking Statistics Project*

## TERMINOLOGICAL GLOSSARY

**Trafficking in human beings** – definition pursuant to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organized Crime (UN, Palermo 2000)

*Trafficking in human beings shall mean:*

<b>ACTIONS</b>	Recruitment / Transport / Harboursing / Receipt of persons
<b>MEANS</b>	by means of Threat / Use of force or the forms coercion / Abduction / Fraud Deception / Abuse of power / Abuse of position of vulnerability
<b>PURPOSE</b>	for the purpose of exploitation, which shall include The exploitation of the prostitution of others or other forms of sexual exploitation Forced labour or service Slavery or practices similar to slavery, servitude The removal of organs

## FORMS OF TRAFFICKING

Trafficking in human beings for the purpose of exploitation in the sex industry – some trafficked persons realise already in advance that they will work in the sex industry. However, most of them are not acquainted with conditions under which they will have to work. Some of them get into the sex industry environment fully against their will based on fraud or use of force. Indebtedness/debt slavery, retention of documents, psychological and physical violence, sexual violence and imprisonment are the most frequent trauma experienced by trafficked persons.<sup>1</sup>

**Trafficking in human beings ≠ prostitution.** When granting aid and support to a trafficked person, his/her primary agreement to work in prostitution is irrelevant and shall not be a condition to grant this aid.

**Trafficking in human beings for the purpose of forced labour or service/practices similar to slavery** – the trafficking usually takes place in the sectors of agriculture, building industry and factory production. People are forced to work under conditions similar to slavery (violence, abuse, restraint, minimal or no salary, etc.)

**Trafficking for the purpose of domestic work/nursery** – people are forced to work as servants or to take care for gravely ill or handicapped people under slavish conditions day and night (violence, abuse, restraint, minimal or no salary, etc.).

**Trafficking in human beings for the purpose of marriage** – the procurement of a marriage usually with a “rich” foreigner. Women come into a strange environment where they know neither language nor culture and their status, in most cases, is fully dependant on their husbands. They become slaves of their husbands and are forced to be prostitutes, work for free etc.<sup>2</sup>

**Trafficking in human beings for the purpose of beggary** – women, children, elderly or handicapped people are forced to beg in big cities, even in foreign countries. They do not know their way there and are permanently supervised by a person who collects money they have earned.<sup>3</sup>

**Trafficking in human beings for the purpose of the removal of organs** – young people or children are sold or kidnapped and organs for transplantations are removed from them afterwards.

## TRAFFICKING MECHANISM

Trafficking in human beings starts already at the place of origin where a person is misled or cheated by means of a false offer of a job. The trafficking mechanism has three stages:

**Recruitment/impress** (usually but not exclusively it takes place at the place of origin)

**Place of destination** (the place where the person is forced to perform a certain type of work)

**Liberation** (breaking free from the trafficking environment with one’s own strength or with the assistance of other people)

This mechanism is an ideal and typical definition. Of course, there are exceptions where some of the stages are skipped (e. g. in case of kidnapping, the first stage misses; there are cases as well when the trafficked people become traffickers in human beings, consequently, the stage of liberation does not occur)

## **RECRUITMENT/IMPRESS**

Trafficking in human beings starts often already at the place of origin. It takes place by an offer of a job most frequently:

**A formal way** – a person responds to an offer of a job offered by an agency or an employment bureau. He/she signs an incomplete or non-understandable employment contract; arranging for necessary documents follows (visa, work permit, etc.). These formalities are arranged for by the agency, usually for consideration (or on credit). The recruited persons are usually accompanied by an “agency representative” and their “colleague” picks them up after their arrival. Under false pretence of protection, documents are taken away from them often or they can be replaced by fake documents sometimes. People can be very vulnerable abroad without having their documents and often without knowing the local language and the given environment – it makes their enslavement easier.

**A non-formal way** – a job is offered by an acquaintance (even a relative).

In this case, an employment contract is not signed often; everything is dependent only on a verbal agreement. Besides the abuse of the situation of the given person, trust or relationship with the acquaintance are abused here in particular.

## **COUNTRY/PLACE OF ORIGIN**

A country or a region within a national state where the person has been living before being trafficked.

## **TRANSIT COUNTRY**

Countries across which the route from the country of origin to the country of destination leads.

## **COUNTRY/PLACE OF DESTINATION**

A country/a place where the person is trafficked and forced to perform some work. The countries and places can change; the person can be trafficked on and on.

## DEBT BONDAGE

The performance of work or certain services as a guarantee for a debt. If the value of these services or work is not determined in advance, the employment shall not result in the repayment of the debt finally<sup>4</sup> – the debt and interests keep increasing and the person loses thus control over his/her situation and can be enslaved for unlimited time.

## ABUSE OF AUTHORITY OR DOMINANT POSITION

The abuse of dependence or abuse of a vulnerable position to subjugate or to exploit another person – e. g. by taking away documents, the abuse of irregularity of another person or of natural authority (a parent, a superior).

## MIGRATION/TRAFFICKING IN HUMAN BEINGS

Trafficking in human beings in the stage of preparation to the place/country of destination contains elements equal or similar to migration. However, it is not migration and it is very important to distinguish trafficking in human beings from migration or smuggling. The main distinguishing features of migration and trafficking in human beings are as follows:

**Migration** – it is **voluntary**; in case of irregular migration or smuggling (they are voluntary as well), it is organised movement of people across the border of a foreign country for the purpose of making profit (however, both parties benefit here – the smuggler and the migrant). The relationship between the parties terminates at the moment of arrival to the country of destination.<sup>5</sup>

**Trafficking in human beings** – it is **involuntary**. The critical factor is the presence of deception, violence, fraud, abuse, kidnapping etc. in the course of the entire process or in any of its stages. It is the transport of people aimed at long-term abuse of their work and services in the country of destination.

## CHARACTERISTIC FEATURES OF TRAFFICKING IN HUMAN BEINGS

The main features of trafficking in human beings are as follows:

**Transport** – the separation from supporting social network; within borders or across borders

**Coercion** – violence (psychological, physical), threat of violence, fraud, indebtedness/debt slavery, the abuse of a more advantageous position of power

**Abuse** – prostitution or other forms of sexual abuse, forced labour or services, slavery and practices similar to slavery, oppression

## AIDING ORGANISATIONS

Organisations granting aid and services to trafficked people.

## REFLECTION PERIOD

Some countries provide identified trafficked persons with a so-called “reflection period” (its duration is different – from 30 days up to several months). It is determined for:

- a) primary recovery with the assistance of the aiding organisation;
- b) making an informed decision about one’s own life, including the decision of whether the trafficked person wants to cooperate with prosecuting, investigating and adjudicating bodies. During this period, the state legalises stay of the person within the territory and offers social services to him/her (they are usually provided by NGO).

## REPATRIATION

Assisted voluntary return to the country of origin. In most countries, return programmes are implemented by the International Organisation for Migration (IOM).

## REFERRAL MECHANISM

A national referral mechanism is a type of cooperation of national actors when they meet their obligations aimed at the protection and support of human rights of trafficked persons. An inseparable part thereof is strategic partnership with civil society<sup>6</sup> (the system of referring the clientele among individual actors within national action plans can be an example of a referral mechanism).

### Notes:

<sup>1</sup> Lidská práva v praxi; GAATW, La Strada, Praha 2002

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Preventing Discrimination, Exploitation and Abuse of Women Migrant Worker. An Information Guide, Gender Promotion Programme, International Labour Organization, Geneva

<sup>6</sup> National Referral Mechanisms – A Practical Handbook , OSCE/ODIHR 2004





**SITUATION IN THE AREA OF TRAFFICKING IN HUMAN BEINGS**  
IN THE CZECH REPUBLIC

**LEGAL FRAMEWORK OF TRAFFICKING IN HUMAN BEINGS**  
IN THE CZECH REPUBLIC





# **SITUATION IN THE AREA OF TRAFFICKING IN HUMAN BEINGS IN THE CZECH REPUBLIC**

The Czech Republic (hereinafter referred to as “CR”) is one of the countries that has to face the problem of trafficking in human beings. Trafficking in human beings is very dynamic and those who benefit from the abuse and exploitation of the others respond to any changes very flexibly – whether amendments to rules (laws, subordinate legislation) in individual countries, changes in demand or opening space for new “market” forms (e. g. offer of sex business to tourists; cheap labour decreasing the prices of services, etc.). In order to create efficient strategy to fight against this phenomenon, therefore, the cornerstone is monitoring, observing situation, changes and trends. The following pages will show you brief indication of the existing situation in CR from the point of view and experience of an NGO.

## **GENESIS OF TRAFFICKING IN HUMAN BEINGS IN THE CZECH REPUBLIC**

Despite the fact that one mentions often that trafficking in human beings appeared as a new phenomenon in CR after 1989, it is not an absolute true. Trafficking in women in CR is not a new phenomenon. This phenomenon has its roots in Central and Eastern Europe already in the 18th century when trafficking in women took place through so-called “marriage tricksters.” Later at the beginning of the 20th century, Františka Plamínková, a senator, became the chairwoman of Czechoslovak branch of International Office against Trafficking in Women and Children. Although trafficking in human beings was not a problem relevant to the so-called Soviet block during the Communist era, however, it is questionable whether it did not exist at all. It is interesting that CSSR acceded Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (UN 1949) at that time.

After the changeover in 1989 and re-opening borders between East and West Europe related thereto, trafficking in human beings from Central and East Europe increased considerably. It was probably caused by the consequences of the turnover. In the first years of transformation, a problem unknown by then – unemployment – appeared. One of alternative solutions of the situation was a possibility unknown by then – to migrate for a job. On the other hand, the “West” was something very attractive and, at the same time, something that was seen positively without any criticism particularly during the first years. Information about real possibilities of regular stay and work was not almost at disposal as well as information about the risks and hazards that can be related to one’s way abroad. Another handicap and factor putting people in a more vulnerable position was the lack of language knowledge.

In the early 90s', one spoke about trafficking in women in particular in the sex industry. Aiding organisations in West European countries were the first ones that referred to the fact of trafficking in women from Central and East European countries. They recorded changes among their clientele – a great number of women from Central and East Europe started coming besides women from Africa and Latin America. They searched for help after breaking free successfully

from trafficking environment. Consequently, West European organisations again triggered the foundation of aiding organisations (like La Strada network) in Central and East Europe.

CR was the country of origin then (it was caused by the economic situation of the country or individual regions in the given country) and transit country (it was caused by geographical position of the country). Along with proceeding transformation and stabilisation of economy, CR became the country of destination as well. At present, CR is still both the country of origin and a transit country and, moreover, it is the country of destination as well.

## FORMS OF TRAFFICKING IN HUMAN BEINGS IN THE CZECH REPUBLIC

However, CR is not always the primary target. A great number of people from countries eastwards from CR leave to West European countries because of a job, however, they end up in CR due to a fraud. The most frequent countries of origin are as follows: former Soviet Union countries, Slovakia, Bulgaria, Rumania, Vietnam, and China. People from Asian countries appeared among the clientele of La Strada newly. With regard to the number of Chinese and Vietnamese groups in CR, one can conclude that there are many more cases of trafficking in human beings within these groups. However, it is not easy to establish contact with them – the groups are closed and, in contrast to people from East European countries, communication is complicated by significant cultural and language barrier as well.

As one mentioned above, the monitoring of trafficking in human beings (in women) was limited to the abuse in sexual industry at the beginning. One can assume that trafficking in human beings for the purpose of abuse in sexual industry (called “forced prostitution” often as well) is still the most frequent form of trafficking in CR. However, this assumption can be only a consequence of the lack of information about the other forms of trafficking in human beings within the territory of CR.

In past years, NGOs had been monitoring still more and more the other forms of trafficking in human beings, forced labour, in particular. Based on existing knowledge, one can assume that men are victims here to a great extent (e. g. in building industry). La Strada CR recorded a few cases of trafficking in human beings for the purpose of forced works in 2003. One of cases is illustrated by the following case study:

*I. get undertook apprenticeship in dressmaker in Ukraine and was searching for a job. Through an acquaintance of hers, she got a contact to a man from Poland who promised her the job of a dressmaker in Poland. However, he transported I. to CR where she was closed in a flat and forced to work as a dressmaker along with a few other women from Ukraine. She had to work almost continuously, every day. Their salary amounted to CZK 1,000 per month. Documents had been taken from them. In case of showing any disagreement, they were threatened by the fact that the owner sells them to a nightclub or they received no food or could not contact their families.*

*I. did not know for a long time that she is in CR. She made use of an opportunity and run away along with several other women...*

The sectors in which cases of trafficking in human beings occurred or with regard of which one can (based on experience from abroad as well) assume that trafficking could occur in them are as follows: building industry, agriculture,

small-scale industry and production or domestic work. A specific type of trafficking in human beings, which appeared in CR in past (in Prague and in Brno), is trafficking in human beings for the purpose of beggary. They were Rumanian children who were forced to beg in streets and means of transport in city centres in an organised manner. Consequently, money is taken away by a man to whom children are entrusted by their parents. If children failed to beg enough money, they were physically punished.

The occurrence of trafficking in human beings is unequal within the territory of Czech Republic. There are regions where more cases of trafficking in human beings were recorded as well as regions where no trafficking in human beings was registered. The individual regions can be described based on several indicators from the point of view of the risk of trafficking in human beings. The level of risk can be determined on two levels:

**Geographical** – trafficking occurs in the given region factually or potentially (e. g. nearness of borders, the occurrence of the sex industry or other spheres where half-regular employment appears) – like North Bohemia, South Bohemia, South Moravia as well as big cities like Prague and Brno;

**Social and economic** – the give region is the source of potential victims of trafficking in human beings (a greater number of groups that can be characterised as risk groups live here – i. e. socially excluded communities, high unemployment etc.) – e. g. Ostrava region, Chomutov region.

Should we speak about CR as the country of origin, one has to mention risk groups as well. In early 90s', young women and girls were considered to be the principal risk group. This group still remains to be risky even though its awareness of trafficking in human beings improved. However, there are sub-groups within the group, which are less informed due to many reasons and in case of which a greater number of risk factors is combined and, therefore, they are more endangered. They include persons from socially excluded Roma communities, from regions with very high unemployment and growing in institutional education establishments and substitute family care. Therefore, one has to focus preventive activities on these target groups in particular now. Besides information about the risks of working abroad, one has to emphasize and consider another fact as well – trafficking in human beings within the national border. This type of trafficking is one of new trends and takes place within the territory of CR, among individual regions. The algorithm of trafficking people from poorer regions (with high unemployment) to economically stronger regions is usually preserved here. In past years, cases were recorded when girls from Ostrava region were sold to night clubs in North Bohemia, usually by somebody, they knew.

Besides the above-described groups, there is still another group of people that are in a very vulnerable position and can become the target of abuse and trafficking in human beings. They are migrants whose status within the territory of CR can be either irregular or regular (irregularity being one of the most significant risk factors and coercion or blackmail of these persons are other risk factor).

Non-awareness, the lack of knowledge of environment and possibilities of aid are the main risky factors. It is important to realise that many foreigners were trafficked only within the territory of CR by abusing their disadvantageous situation and disorientation. By way of illustration, a case study follows:

N. arrived to the Czech Republic because of a job that was offered to her by an acquaintance of her, who has been living in CR already for a long time. This woman was supposed to pick up N. at the station, to accommodate him and help it to search for a job in CR. N. arrived but the acquaintance of her did not wait at the station and it was not possible to contact her. N. went downtown to look for accommodation. She was contacted by a compatriot downtown who offered her a job. Finally, he took her to a nightclub where she was made to provide sexual services. She managed to escape after one month...

## STATISTIC DATA

Trafficking in human beings is a latent phenomenon. It takes place under the surface in the sphere of grey economy, it is a criminal act. Therefore, it is impossible, in fact, to collect exact data about its extent. Various international organisations try to estimate the extent of trafficking in human beings in the world. There is no qualified estimation of the extent of trafficking in human beings in CR. Only data about cases recorded by the organisations and institutions that deal with this issue are at disposal. However, these data are incomplete and, considering the fact that there is no harmonized data collection system about this phenomenon on the level of the state, some data can be incomparable and confusing.

La Strada has at disposal data about the number of trafficked women and other persons to whom it provided social aid and advice. There were both women who are Czech nationals that were trafficked abroad and foreign women trafficked to CR. In past years, foreigners from former Soviet Union countries (Ukraine, Moldavia, Belarus, Russia...), Slovakia, Bulgaria as well as Vietnamese and Chinese prevailed. During 1998–2003, the organisation provided social advice to 314 persons and social aid<sup>1</sup> to 152 women and girls.

Table 1 includes the number of cases of trafficking in women or in human beings, if applicable (from 2003 after amendment to the Criminal Code in 2002) solved by Police CR. Police statistics do not mention the number of victims detected in individual cases.

**TABLE 1**

Year	Detected cases	Clarified cases	Number of prosecuted / / investigated persons
2000	13	13	22
2001	27	25	26
2002	15	10	12
2003	10	10	19
1st half 2004	7	7	18
Total	72	65	97

Source: website of Ministry of Interior

Table 2 contains court statistics about persons sentenced for trafficking in human beings and Table 3 contains the number of crimes of trafficking in human beings in the files of prosecuting attorney's offices. It is interesting to note the duration and type of punishment for which offenders were sentenced for this crime.

**TABLE 2**

Year	Number of convicted persons	Unconditional sentence of imprisonment (Duration of the sentence)	Conditional sentence of imprisonment
1998	5	3 (1–5 years)	2
1999	25	17 (1–5 years)	8
2000	16	6 (1–5 years)	10
2001	15	7 (1–5 years)	8
2002	20	5 (1–5 years)	15
2003	5	1 (1–5 years)	4
1st half 2004	11	3 (1–5 years)	8
<b>Total</b>	<b>97</b>	<b>42</b>	<b>55</b>

*Source: website of Ministry of Justice*

**TABLE 3**

Year	Number of crimes
1998	55
1999	70
2000	36
2001	40
2002	19
2003	27
1st half 2004	8
<b>Total</b>	<b>255</b>

*Source: website of Ministry of Justice*



These figures are one of few sources of so-called “hard” data about trafficking in human beings and can partially provide an idea about the extent to and trends in which this serious violation of human rights occurs in CR. It is questionable whether one can get idea about trends in trafficking in human beings in CR from them. When looking at data for the last two years, it could seem that trafficking in human beings occurs less within our territory. Considering the character of this phenomenon, however, this judgement would be slightly premature.

Should we work on the assumption that not more than  $1/3^2$  of trafficked persons get to some form of aid and should we consider the willingness and motivation of these persons to cooperate with investigative, prosecuting and adjudicating bodies (should we consider that the situation of trafficked persons does not improve and does not offer any prospective to the future despite of an offer of the state in fact), one can conclude that the real number of trafficked persons in CR can be higher up to several times.

Considering the fact that the Criminal Code still distinguishes only trafficking in human beings for the purpose of abuse in sexual industry across the border; the cases of forced work or practices similar to slavery as well as trafficking in human beings within CR are not included in these statistics.<sup>3</sup>

The statistics of investigative, prosecuting, and adjudicating bodies do not contain data about the number of trafficked persons detected in relation to the investigation of a crime. Trafficking in human beings is usually connected with organised crime, i. e. offender have “a greater number of victims” in most cases. I. e. if we want to speculate and multiple the number of recorded crimes of trafficking in human beings from 1998 (255) e. g. by 7 (i. e. the number of victims per one offender), we would obtain possible estimation of the number of trafficked persons for this period approaching two thousands.

A generally known and described fact is that many trafficked persons are not identified as victims of trafficking in human beings and are expatriated as irregular migrants. These people (as well as those who abuse them) never appear in statistics.

## TRENDS AND CHALLENGE TO THE FUTURE

In contrast to mid 90s', the issue of trafficking in human beings is already an acknowledged public policy issue in CR in 2004. Its solution was ignored among the others serious social issues relating to the turnover of political regime. Since 1995 an organisation called La Strada has been working in CR; they started not only looking for the solution of this issue but, in particular, started drawing the attention of decision-makers on the level of the state in particular.

With regard to the growing character of this phenomenon, trafficking in human beings started being monitored even though it was still a marginal affair for a long time, which was a big unknown relating to many myths and stereotypes at the same time. It is apparent from rhetoric of governmental bodies – trafficking in human beings was called “white slave traffic” unworthily in the documents of ministries and other bodies of state administration a few years ago. However, as time went, one managed to break the wall of ignorance (partly due to activities of NGOs, which tried to resolve the issue of the absence of institutional mechanisms) and partly due to the pressure of international organisations) and trafficking in human beings is not only an acknowledged problem now but there are tools and efforts to

resolve it by the state. In September 2003, the government approved National Strategy of Fight against Trafficking in Human Beings for the Purpose of Sexual Exploitation in CR, which assumes the implementation of a national referral mechanism – Model of Support and Protection of the Victims of Trafficking in Human Beings for the Purpose of Sexual Exploitation in CR.<sup>4</sup> Governmental institutions and NGOs are engaged in the system. However, experience of the application of the national strategy or the above-described model showed that this solution is not ideal and one has to review it and complete it further so that it takes into account all forms of trafficking and, in particular, that it offers real perspective for trafficked persons.

Besides the review of the existing tools and procedures, it is important to keep monitoring trends and to focus on challenges that seem to be significant topics for the following period:

**How does trafficking in men show in CR?**

**Forced work**

**What changes did accession of CR to the EU bring in trafficking in human beings?**

## **Notes:**

- <sup>1</sup> Social aid includes comprehensive services starting from asylum accommodation through ensuring basic living needs all the way up to the mediation of specialised care by other experts. Social advice includes only some of the offered services. Both result from the needs and requirements of the given person.
- <sup>2</sup> B. Limanowska, *Trafficking in Women in South Eastern Europe*
- <sup>3</sup> The data of La Strada include the cases of trafficking for another purpose as well – forced work.
- <sup>4</sup> See **Government Resolution of 3 September 2003, no. 849**



# LEGAL FRAMEWORK OF TRAFFICKING IN HUMAN BEINGS IN THE CZECH REPUBLIC

## CONSTITUTION

After 1989, Czech law was reviewed in order to include measures aimed at the protection of basic rights and freedoms. They are incorporated in the Charter of Rights and Freedoms, which is a part of the constitutional order of the Czech Republic (hereinafter referred to as "CR"). Moreover, the preference of international conventions on human rights to national laws follows from the Constitution.

Trafficking in human beings is perceived in international documents as a serious breach of the rights of human beings. A person informed about the concept of human rights would probably be opposed to this statement because the protection of human rights was originally intended as the protection of a citizen from the state – i. e. defence against deliberate limitation of rights and freedoms of individuals, among others, by the state. However, states themselves are usually not (aside for certain exceptions) offenders of trafficking in human beings or violation of human rights related thereto. Naturally, this concept seems to be slightly limited at the beginning of the third millennium. It is inconceivable that governments defend their inactivity only referring to the fact that they are not traffickers in human beings and, therefore, they shall not be liable for multiple and serious violations of the human rights of the trafficked persons that occurs within the territories of their states. The state must pay attention not only to the fact that it does not violate human rights of individuals but it must also take adequate actions to guarantee that these rights are available to all people. These actions should include, in particular, the protection from the violation of human rights by private persons – prevention, investigation and punishment of these acts, including the indemnification of victims.

However, the rights and freedoms guaranteed by the Charter of Rights and Freedoms are not sufficient. They are a kind of basic framework that has to be complemented with other measures and thus allow the application of given rights in practice.

## CRIMINAL CODE

Criminal Code<sup>1</sup> deals with the issue of trafficking in human beings mainly in the below areas:

- It stipulates the definition<sup>2</sup> of the crime of trafficking in human beings and the levels of punishments to which an offender can be sentenced for committing it;

- It stipulates the position of a trafficker in human beings as the accused in criminal proceedings;
- It defines the position of a trafficked person in criminal proceedings and their position in the role of a witness if he/she decides to witness against the offender.

Trafficking in human beings is usually connected with other criminal activities. In the process of trafficking, a victim is often exposed to various types of violence. Other crimes that occur in relation thereto are for example: procuring and soliciting prostitution, kidnapping, bodily injury, oppression, and blackmail.

Section 246 of the Criminal Code regulates the issue of trafficking in human beings specifically:

#### **§ 246 Trafficking in human beings for the purpose of sexual intercourse**

- 1) Who induces, recruits or transports another person abroad intending to use him for sexual intercourse with another person will be punished by imprisonment for 1 year up to 5 years.
- 2) An offender will be punished by imprisonment for 3 to 8 years if:
  - a) he commits a crime described in paragraph 1 as a member of an organised group;
  - b) he commits such crime intending to obtain considerable benefit;
  - c) he commits such crime to another person younger than 18 years of age, or
  - d) he commits such crime intending to use another person for prostitution.
- 3) An offender will be punished by imprisonment for 5 to 12 years if:
  - a) he causes, by the act described in paragraph 1, aggravated bodily harm, death or another especially serious consequence, or
  - b) he commits such act intending to obtain considerable benefit.

The definition contained in the Criminal Code has several substantial defects:

- It applies only to cases of trafficking in human beings for the purpose of abuse in the sex industry, i. e. one cannot apply it to other forms of trafficking in human beings;
- The definition includes only cross-border trafficking in human beings;

→ A part of the basic definition is not coercion (e. g. by the abuse of power or vulnerability of a person, threat, various forms of violence, etc.) in the process of trafficking.<sup>3</sup>

The identification of a trafficked person is rather complicated. It is improbable that a trafficked person reports on his/her own to the police that she/he is a victim. Consequently, it happens that traffickers in human beings are prosecuted only for procuring and soliciting prostitution<sup>4</sup> – profiting from the prostitution of other persons. There are cases when victims were not identified as trafficked persons as well as cases of trafficking in human beings within national borders.

Prostitution itself is not regarded as a crime, however at the same time, its practice is not regulated in law. The bill of the act to regulate prostitution was referred to the government of CR, however, it is not sure whether or when it will be adopted. Thus the situation has been continuing so far that prostitution is not punishable de facto, however, its practise is not defined anywhere.

Another significant defect of Czech criminal law is the fact that legal persons (like bars, clubs, agencies) are not criminally liable. These persons, in case they participate in trafficking in human beings, cannot be prosecuted for this crime.<sup>5</sup>

The Criminal Code<sup>6</sup> regulates the position of a trafficked person in criminal proceedings. Victims can feature in a process either as the injured or as witnesses. The injured are entitled, to a limited extent, to participate in proceedings in an active manner, e. g. to propose the supplementation of evidence or to inspect documents. Further, they are entitled to participate in a trial and a trial held in public on an appeal and to express their opinion of a case. Based on their motion, the injured can be adjudicated indemnification for injuries, which they suffered as a consequence of the crime. One can request indemnification in civil proceedings as well.

In practice, the chance to be indemnified is complicated significantly by acts regulating the stay of foreigners in CR.<sup>7</sup> Most trafficked persons who are foreign nationals are repatriated and, therefore, they have not any possibility to apply for indemnification.

If trafficked persons feature as witnesses in criminal proceedings, the issue of their safety is crucial considering the organised character of trafficking in human beings. The general provisions on the protection of witnesses are included in the Criminal Code. They include measures to conceal the identity of a witness in various stages of proceedings. The concealment may be implemented by an exception relating to the disclosure of information about witnesses in documents or the concealment of the identity of witnesses in trials. Besides these provisions, there is a special act to protect witnesses and other persons in criminal proceedings. The act includes provisions on personal protection, the removal of persons within CR and abroad, assistance when searching a suitable job, granting social aid and change of identity. Special protection is awarded at the instance of police, a judge or a prosecuting attorney and shall be approved by the Minister of Interior. This act has not yet been used to protect trafficked persons witnessing against traffickers in human beings. The official justification of this fact is that the disclosure of the offenders of trafficking in human beings consists predominantly of evidence collected by police in the course of investigation, not of information provided by witnesses.<sup>8</sup> The protection of the above-described act is usually awarded only in specific cases. General short-term police protection could thus be more suitable for trafficked persons in case the police concludes in the course of criminal proceedings that the person in question is endangered. Protection could include not only physical protection,

temporary change of stay, but the installation of an alarm as well, for instance, or the monitoring of persons, consultation and preventive actions. The awarding of such type of protection is in the competence of a local police director. Protection is awarded for 60 days, however, it can be extended in justified cases as well. However, the tools to protect are at disposal only to persons that decided to cooperate with police and witness in criminal proceedings. However, police are obligated, pursuant to legislation, to ensure the protection of persons and property, i. e. the protection of trafficked persons who do not want to cooperate with police. In case of such serious crimes like trafficking in human beings, it is obvious that the trafficked persons must be guaranteed certain minimal safety.

## STAY OF TRAFFICKED PERSON WITHIN THE TERRITORY OF THE CZECH REPUBLIC

Acts relating to the stay of foreigners do not contain parts that would be directly relating to trafficking in human beings. However, since most trafficked persons within the territory of CR are foreigners, alien legislation concerning this problem is very relevant. Moreover, the stay of most trafficked foreigners is irregular in a country with regard to the character of trafficking in human beings. Tolerance status is the only provision that can be applied to the legalisation of their stay in the course of criminal proceedings.

Tolerance status is awarded by police at the request of a foreigner if he/she cannot leave CR for reasons independent of his/her will. However, this provision is not used in practice for trafficked persons (except for persons included in a so-called Model to Support and Protect the Victims of Trafficking in Human Beings for the Purpose of Sexual Exploitation in the Czech Republic within the National Strategy on the Fight against Human Trafficking for the Purpose of Sexual Exploitation in the Czech Republic – see below).

Another possibility that trafficked persons can use to legalise their stay temporarily is filing an application for asylum. The Asylum Act contains exact provisions on the rights and liabilities of asylum applicants, asylum procedure and social and financial aid for the applicant. Entering into the asylum procedure can be a better choice in this regard than the unsure possibility of tolerance status. From the point of view of the state, however, such act is an apparent demonstration of the abuse of asylum procedure. It is a question whether the state itself does not force trafficked persons to make this decision because it does not offer them other, particularly long-term, alternatives.

Besides legal provisions, the National Strategy on Fight against Human Trafficking for the Purpose of Sexual Exploitation in the Czech Republic<sup>9</sup> passed by the Government has been valid since September 2003. A part of this document is the Model to Support and Protect the Victims of Trafficking in Human Beings for the Purpose of Sexual Exploitation in the Czech Republic. Pursuant to this model, a trafficked person who is a foreign national is entitled to a so-called “reflection delay” for 40 days. During this period, his/her stay is legalised and he/she is eligible to social aid that is mediated by an aiding NGO. During these 40 days, a trafficked person is to decide whether he/she wants to cooperate with investigative, prosecuting and adjudicating bodies. If he/she decides to cooperate, his/her stay will be extended by three months and it can be extended repeatedly on and on. If a trafficked person decides not to cooperate with investigative, prosecuting and adjudicating bodies, he/she shall leave CR within a voluntary return program. A trafficked person cooperating with investigative, prosecuting and adjudicating bodies will be offered a possibility to participate in a return program after the termination of proceedings as well. In special cases, trafficked persons can be allowed permanent stay for humanitarian reasons.

## SOCIAL SECURITY

The social system of CR remains to be closed for the majority of trafficked persons because they fail to meet criteria to obtain social allowances, for instance. The basic condition of the availability of allowances and services of the social security system is Czech citizenship or permanent stay within the territory of CR. Trafficked persons that fail to obtain social aid offered by organisations fall through the social network and they are endangered by social exclusion<sup>10</sup> as well.

The above-described National Strategy deals with the solution of this problem as well.

## CONCLUSION

Should we confront Czech legislation relating to the issue of trafficking in human beings and everyday problems of trafficked persons and those dealing with the solution of this issue, many defects clearly follow. However, one has to say that the state took many measures to improve the situation in past years, and further changes like amendment, to Criminal Code are on the way. The harmonisation of Czech legislation with Palermo Protocol should be a priority in this respect.

The basic thing that can be rebuked to these measures and their authors is that they are oriented on the criminal aspect of trafficking in human beings too much – on the punishment of offenders. No matter how the punishment of a crime is important, it should be placed on the same level with the assistance and support of the trafficked person. Aid to victims should not be conditioned by their cooperation with investigative, prosecuting and adjudicating bodies. In the opinion of Organisation for Security and Cooperation in Europe,<sup>11</sup> it should be the basis of any national plan for fight with trafficking in human beings. Moreover, the countries of destination should take the first actions towards the prevention of social exclusion of trafficked persons and create space and help trafficked persons to return to normal life again (whether in the country of destination or in the country of origin).

### Remark:

Moreover, the Czech Republic is bound with international conventions on human rights that relate, directly or indirectly, to the issue of trafficking in human beings. For instance as follows: Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (UN 1949), Convention for the Protection of Human Rights and Fundamental Freedoms (UN 1950), Convention on the Elimination of All Forms of Discrimination against Women (UN 1979)

Moreover, Union regulations are of importance after the accession to the EU as well – in particular the Framework Decision on Combating Trafficking in Human Beings of the EU Council of 19 July 2002 and Directive on the Stay of Trafficked Persons within the Territory of the Countries of Destination.

In order to make it simpler, this text was closely focused on national legislation.



## Notes:

<sup>1</sup> Act No. 140/1961 Coll.

<sup>2</sup> The second definition of trafficking in human beings, which has been relevant for the Czech Republic officially only to a limited extent so far, is the definition in the so-called Palermo Protocol – Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the Convention on Transnational Organised Crime (UN, Palermo 2000). The convention was signed by CR, however, it has not yet been ratified (as of September 2004), and therefore, it is not binding for the Czech Republic at the moment.

<sup>3</sup> The government passed the bill of the Criminal Code, which should replace the Criminal Act, and referred it to the Parliament of CR.

Criminal Code will be debated in first reading on 12/10/2004. In particular, it includes Section 146 (2), which extends the punishability to trafficking in human beings for another purpose as well besides the provision of sexual services – letter c) of this part speaks about slavery and letter d) is of importance, which extends the definition of the crime by forced work or “another form of exploitation”. It is of importance too that trafficking in human beings includes activities within the territory of one state (the limitation by words “abroad” and “from abroad” disappears here).

<sup>4</sup> Section 204 of the Criminal Code

<sup>5</sup> The bill of the act to regulate criminal liability of legal entities should be negotiated by the Chamber of Deputies of the Parliament of the Czech Republic in October 2004. It applies to a wide group of crimes, incl. trafficking in human beings. Section 5 of this act is significant, in particular, since it stipulates that it is without prejudice to punishability when one fails to find out who committed the crime – it is of importance that it was committed on behalf of a legal person.

<sup>6</sup> Act No. 141/1961 Coll., to regulate criminal judicial proceedings (Criminal Procedure Code)

<sup>7</sup> Act No. 325/1999 Coll., to regulate asylum; Act No. 326/1999, to regulate the stay of foreigners within the territory of the Czech Republic

<sup>8</sup> Abroad, e. g. in the Netherlands, there are cases when trafficked persons were awarded special protection of a witness, including the change of identity.

<sup>9</sup> See Government Resolution of 3 September 2003, No. 849

<sup>10</sup> Persons who are foreign nationals and that have the tolerance status at disposal are entitled to free health care; however, they are not entitled to social allowances or care.

<sup>11</sup> See National Referral Mechanisms: OSCE/ODIHR, 2004

A map of Europe with the borders of various countries outlined in light gray. The country of Slovakia is highlighted in a solid black color, centered in the Eastern European region.

**SITUATION IN THE AREA OF TRAFFICKING IN HUMAN BEINGS  
IN THE SLOVAK REPUBLIC**

**LEGAL FRAMEWORK OF TRAFFICKING IN HUMAN BEINGS  
IN THE SLOVAK REPUBLIC**

**FROM "WHITE MEAT" TO HUMAN BEINGS**

Reflection of Trafficking in Human Beings in the Slovak Media from January 2003 to August 2004

**TRAFFICKING IN WOMEN IN ROMA COMMUNITIES**

**CONTACTS OF TRAFFICKED WOMEN WITH NGOS  
IN THE SLOVAK REPUBLIC**



## SITUATION IN THE AREA OF TRAFFICKING IN HUMAN BEINGS IN THE SLOVAK REPUBLIC

Our motto in our effort to combat trafficking in human beings:

*If there is just one individual whose rights are violated, the rights of the other's can be violated at any point as well.*

During Socialism in Czechoslovakia, when the law required every adult citizen to be employed, prostitution was banned and prostitutes were punished for freeloading. In 1989, however, after substantial political and economic changes, new social conditions silted the streets with beggars, and prostitution was no longer undercover. The new era has begun. This era, in which phenomena such as homelessness, usury, porn shops, massage salons, unemployment, colossal financial scandals, and millionaires or political combats suddenly emerged.

We caught up with the market economies of developed democracies and the civic society could slowly start to grow.

We discovered **human rights**. The term, which in totalitarian communism represented nothing but a blank, meaningless scramble of letters, could finally gain a meaning. A man began to have a nameable value. At the same point, however, this value was jeopardized from all sides. And therefore, with the growing awareness of the existence of human rights, there was also a growing need for their protection. Thus, from day to day, the number of NGOs was increasing and attention began to be paid to the non-profit, so-called "third sector", which for a short pre-election time even gained a political importance.

In this confusion of feverish changes, human trafficking was taking its steps to flourish. Undoubtedly, at the point where the first indications of human trafficking leaked out and when the first messages about the cases of human trafficking reached the public, this type of organized crime was already well established and stabilized. Undoubtedly in Slovakia, just like anywhere else in the world, from the entire spectrum of organized crime human trafficking is the most profitable. And undoubtedly, these profits outnumber gains from weapons, drugs, or car trafficking.

It also involves the lowest risk, requires the least expenses and traffics "recyclable" goods that can be re-sold repeatedly. It leaves behind no evidence and no witnesses. Operating in the accordance with its very basic principal of suppressing and negating human value, it liquidates virtually anything that stands in its way. Therefore, in the attempts to combat trafficking finding a witness is the hardest part.

This organized crime is considered to be the worst imaginable violation of human rights that has in the 21st century outdone historically open slavery. If it is, at least to some extent, possible to compare the forms of slavery, we shall not forget to take into account the imaginativeness and inventiveness in human trafficking in terms of using the newest scientific discoveries and modern technologies in order to change human beings into machines without soul and mere pieces of well-formed piece of flesh.

In the very beginning, it is substantial to remark that the trafficking in human beings in Slovakia is proportionally rather low. In the statistics from the past 5 years, human trafficking represented merely 1 % of all the criminal prosecutions.

There are, however, two important pieces of information that need to be pinpointed out when working with these statistics:

1. Just as everywhere else in the world, this number represents only the tip of the iceberg of human trafficking.
2. Regardless of the numbers (whether these correspond with the reality or not), human trafficking is an extremely serious criminal offence.

The Slovak legal system is presently increasingly cautious about the issue of human trafficking. Recently, coming to force on June 1, 2002, there was set a special police unit, which is supposed to disclose secret trafficking in humans along with cases of sexual exploitation (Police Force Headquarter Organized Crime Bureau – Department of TIHB). The unit with the nation-wide sphere of activity consists of six employees. In a specialized newly built workplace, they are responsible for documenting and dealing with cases of organized trafficking in human beings and cases of sexual exploitation.

The criminal trials on human trafficking are under the supervision of a separate unit of Attorney General's office, namely the General's Attorney Special Department.

Slovakia has accepted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Women and Children (known as Palermo Protocol), and had it incorporated into the legislation (621/2003 Z. z.).

The American government's 2004 evaluation of Slovakia states as follows: "The Government of the Slovak Republic does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government made significant strides in 2003 to include reorganizing parts of the Ministry of Interior and amending the criminal code. These efforts will improve internal communication and improve the investigation efforts aimed at fighting trafficking in persons."

The USA report also alerts that: "But the Slovak population continues to demonstrate a low awareness of trafficking in persons issues, and the country lacks essential victim support such as shelters, health services, and legal assistance."

This seems to be true, since in Slovakia there were only several isolated instances of actions related to human trafficking. One of them, a seminar promoted by Dafné organization from Žilina was implemented for the invited organizations working predominantly in the North of Slovakia. Another, noticeable prevention-focused campaign was directed by an international organization IOM. It consisted of an exceptional television clip, a prevention-based education in high schools, and a seminar for children-orphanage-workers and police. Also, within the campaign, in order to provide the information needed, a phone line was placed in the office of an organization Pomoc obetiam násilia in Bratislava, which has branches in all regions of Slovakia. The Pomoc obetiam násilia organizations have eventually proved to be willing to work with the victims of trafficking in human beings as well.

Last but not least, since our organization Aliancia žien Slovenska (Alliance of Women in Slovakia) for more than 10 years actively and systematically deals with human rights both in theory and practice, the issue of trafficking in human beings logically fits into the spectrum of our activities. Thus, our organization releases publications, promotes education, initiates campaigns, runs a hotline and has its own Crisis Center. Aliancia žien Slovenska does not, however, it has a shelter at its disposal.

Under the terms of "Prevention of Traffic in Women in Central and Eastern Europe" project, the outcome of which is also this "Current Situation in Slovakia" analysis, we have conducted a global survey on the issue of trafficking in human beings in Slovakia. The issue was considered in legal, social and institutional terms. Also, the possibilities of service for victims of trafficking, as well as the evaluation of Roma as an at-risk group, were considered.

The survey consisted of studies of official data and available statistics, as well as of meetings with the representatives of relevant governmental organizations and institutions, NGOs and international organizations from all over the country. Also, as a part of the survey a systematic blanket training of specialists was conducted and the following documents were promoted:

1. The analysis of media and the evaluation of the media response to the notorious case on trafficking in human beings (Agentúra Eli) From "White Meat" to Human Beings, Reflection of Trafficking in Human Beings in the Slovak Media from January 2003 to August 2004
2. The analysis of the group at risk "Trafficking in Women in Roma Communities"
3. The analysis "Contacts of trafficked women with NGOs in Slovakia"

Throughout the year, we have met with the representatives of:

#### **NGOS:**

Mymamy – Prešov, Avelana – Michalovce, Dafné – Žilina, Pomoc obetiam násilia – pobočky Bratislava, Banská Bystrica a Prešov, Slovenská humanitárna rada – Bratislava, Prima – Bratislava, Labyrint – Bratislava, Fenestra – Košice, ProFamilia – Humenné, Odysseus – Bratislava, Združenie mladých Rómov na Slovensku – Banská Bystrica, Pomoc rodine – Michalovce, Heuréka – Banská Bystrica, Nádej – Prešov, Krízové centrum Dotyk – Beckov, Nadácia Mi-

ana Šimečku – Bratislava, Lucia – Košice, Informačné a poradenské centrum Rómov – Michalovce, Romano Nevo Líl – Komunitné centrum Hermanovce, RiP – Rómsky informačný projekt, Asociácia terénnych sociálnych pracovníkov, PDCS – Partners for Democratic Change – Bratislava, Inštitút pre verejné otázky, Nadácia otvorenej spoločnosti OSF, Pedagogicko-psychologická poradňa Bratislava Petržalka, Asociácia rómskych žien – Prešov, Návrat – Prešov, Maják nádeje – Bratislava, Áno pre život – Rajecké Teplice.

## **GOVERNMENTAL INSTITUTIONS:**

The Ministry of Interior, Presidium of the Police Forces – Police Force Headquarter Organized Crime Bureau – Department of TIHB, The Ministry of Interior, Presidium of the Police Forces – Prevention Department, Attorney General’s office, Migration Office, Office of Border and Foreigner Police, Diagnostické centrum a centrum výchovnej a psychologickkej prevencie and Reedukačné detské domovy Lietavská lúčka, Trnava (Institutional care for children), Red Cross Bratislava

## **INTERNATIONAL ORGANIZATIONS:**

UNHCR (United Nations High Commissioner for Refugees), UNDP (United Nations Development Programme), IOM (International Organization for Migration)

## **RESULTS OF THE SURVEY**

The survey showed that in the majority of cases of the human trafficking, Slovakia is a transit state or the country of origin of the crime. The target countries are Austria, Germany, the Netherlands, Spain, Italy, Czech Republic, as well as the United Arab Emirates, Japan, and others.

Also Bulgaria appeared on the list of the West and South European target countries. The at-risk groups in human trafficking seemed to be young women (often Roma women), female asylum applicants, and foreigners with illegal residence in Slovak Republic (transiting through Slovak Republic). Eastern Slovakia (esp. the Prešov region and the Košice region) and South Slovakia were identified as the areas at risk.

The survey showed that the leading causes of trafficking in human beings are high unemployment rates and weak social situations in these regions.

The Slovak society does not perceive human trafficking as a common criminal activity and the police statistics seem to support this attitude: in 2003 in Slovakia, there were conducted 28 investigations of human-trafficking associated crimes, 16 of which were resolved (source: Ministry of Interior of Slovak Republic). In 2004 (at the point when this analysis was concluded, the 2004 statistics were yet to be made), however, after the disclosure of so-called Modeling Agency Eli case, the number of victims dramatically increased by another 230 women. This significant increase illus-

trates that the data commonly at hand represent mere tip of the iceberg. The substantial part of the problem remains to be disclosed.

In 2003, Slovak NGOs provided social service to 31 women (both Slovak women that became victims of trafficking abroad and foreigners that became victims of trafficking on the area of Slovak Republic (Source: NGO workers). It is very likely, however, that this data is incomplete. All the persons contacted stated that due to the fact that a substantial number of victims do not contact the police or the NGOs, the actual number of victims could be significantly higher. None of the addressed organizations stated any case of trafficking in males or children, but neither of them claimed that such cases could be ruled out definitely.

Under the terms of “**Prevention of Traffic in Women in Central and Eastern Europe**” project, the outcome of which is also this analysis, we have conducted a global survey on the issue of trafficking in human beings in Slovakia. And since our organization is to initiate programmes to combat trafficking and on providing assistance to the victims of trafficking, apart from mapping of the situation in Slovakia, the survey has also had another meaning for us.

**There are two particular circumstances we were concerned with:**

**Which organizations** could contribute to the development of national programme to combat trafficking in human beings and how they could contribute.

**Which organizations** could/would be willing to provide social assistance and become engaged in prevention-programmes, and how they would implement these programmes (which organizations have already had practical experience with trafficked women).

Seeing the outcome, especially the concerning second point, we sobered up. Even though the frankness of the personal interest, motivation and enthusiasm of the people in charge of the organizations was unquestionable, it remains the fact that the organizations were interested in providing only partial assistance. And out of all the organizations, only six of them had an opportunity to work with a trafficked woman. All the cases followed a similar pattern: victims usually contacted the NGOs by themselves or via organizations abroad, and only in isolated instances through the police (a young woman exiled from the Czech Republic got into a correctional educational youth facility). All the women were seeking safety and shelter. Organizations were able to provide them with food, shelter, social and psychological assistance and doctors. In one particular case of a pregnant woman, they were even able to provide her with a permanent accommodation.

Neither of the organizations, however, was interested in systematic dealing solely with human trafficking and in providing social assistance and counseling, as well as social and legal assistance for the victims of trafficking, lobbying and prevention of the crime.

Newly emerging subsidiary organization of the Alliance of Women in Slovakia will thus be unique in this sphere of activity. (There is a naming contest running.) It will deal with the issue of trafficking in human beings in terms of violation



of human rights. The organization will systematically advocate rights of trafficked persons; will work with the trafficked persons; and will attempt to draw the attention of both state and public to the cases of trafficking in human beings.

The establishment of the new organization, which will carry on with the work started by the Alliance of Women in Slovakia aptly illustrates the situation in Slovakia. Therefore, we will shortly describe it.

The Alliance of Women in Slovakia was established as a non-governmental organization dealing with Human Rights, especially Women's Human Rights. It monitored whether the international documents and treaties concerning women's human rights are implemented sufficiently. Examining the extent to which women's human rights are respected (or violated) has logically lead us to the issue of domestic violence, a problem which we began to actively and systematically deal with. We founded a Crisis Center and a SOS line; together with another 6 organizations we initiated two campaigns "Every Fifth Woman"; and have also released two publications "Violence against Women" and "Domestic violence: brief answers to frequently asked questions."

What we regard for our greatest success, however, is formulating the amendments to the laws on domestic violence and lobbying for these amendments to be passed. The amendments passed in 2002 and in 2003 have significantly widened the possibilities to prosecute criminals.

Another issue we concentrated on was that of human trafficking – having according to various sources up to 80–96% female victims – as it represents the most serious violation of Women's Human Rights.

In 1997, we carried out an international project of series of seminars on women's human rights for a group of chosen lawyers (AdvoCats); we prepared an analysis of relevant legislation on trafficking in women (later on, this analysis became the basis for the amendment to the law on women trafficking § 246); we organized an international conference "Views on Traffic on Women in Central and Eastern Europe" (2000) and prepared a homonymous publication; we have set an SOS line for women in crisis situation and prepared a publication "Outcomes of the 23rd Special Session of the UN General Assembly, June 5–9, 2000, New York; Beijing +5 Review", where particular space was given to trafficking in women, migration of women, and feminization of poverty; in 2001 in Sienica, we have organized an educational seminar on women trafficking for policemen from the entire Slovak Republic (using the examples of Austria, Germany and the Netherlands, we have demonstrated how non-governmental organizations and police forces can cooperate); in autumn 2001, we have finished elaboration on legislative amendments on domestic violence and amendments to the laws on women trafficking (this is how the change in legislation occurred, since the trafficking in women was reformulated, and according to the United Nations Convention against Transnational Organised Crime the term trafficking in human beings was introduced instead).

Simultaneously, despite the fact that we had no financial resources allocated for this activity, we took care of our clients – the women trafficking victims. We were communicating with both La Strada in Prague and Warsaw and home street work organizations Odysseus and Prima, which while working on the streets also work with prostitutes. Mostly via media, we were invited to participate in various (to smaller or greater extent specialized) discussions on trafficking or prostitution (as a form of activity women are usually sold to). Due to the fact that trafficking in human beings is often mixed up with prostitution, and due to the frequent discussions on whether apart from coerced also voluntarily prostitution exists, we started to deal with the issue of prostitution.

Already during the seminar for policemen in Sielnica (2001), we were introduced to the Dutch model on dealing with prostitution. According to this model prostitutes conduct a licensed trade, pay the taxes and the insurance etc. The Dutch model presupposes that prostitution can also be done voluntarily. The model does not consider neither the reasons for which it is done nor the consequences this policy would have for all the other women.

During our 2002 visit to Brussels, where the European Women's Lobby invited us, we were confronted with the aims of this organization to recommend the Swedish model to the rest of Europe. Swedish model works on the assumption that if there is no demand, there is no supply. The model identifies social and economic lacking as the main cause of the trafficking in human beings, and toleration of prostitution as the main cause of further discrimination towards women. In the long run, however, this model helps to increase the awareness of women's human rights, equal status of women in the society, equality of chances, and elimination of discrimination and violence on women.

Since we are particularly interested in human rights, when considering Dutch and Swedish models, our primary focus was given on the status of women in prostitution, regardless of whether or not it is performed voluntarily.

Already in our publication "Views on Traffic in Women in Central and Eastern Europe", we have stated that regardless of how the interference with "free market of sex-service" is performed, the final outcome is deterioration of prostitutes' situation.

Since the very first project of the Alliance of Women in Slovakia was pioneering a sociological survey on women's status in the society in Slovakia and Czech Republic, we are also interested in studying possible causes of prostitution and the motives for which prostitutes perform it. In accordance with the Constitution of Slovak Republic, we respect every man's right to decide freely upon his/her lifestyle. We agree with the assumption that some individuals may voluntarily decide to choose prostitution as their way of living. On the other hand, however, we know enough about various forms, consequences and causes of violence to consider the reasons for which individuals decide on such a risky way of life that drastically threatens their physical and psychological integrity.

Moreover, neither the Dutch, nor the Swedish model deals with the status of prostitutes and in the end both models suppress the "sex-service" into illegality. Thus, they directly menace the prostitutes whose lives are given solely into the hands of pimps and who are thus isolated from support and assistance of street workers.

So far, we did not come up with a definite conclusion as to which model to adopt, and most probably, finding a satisfactory solution will be a long-term process.

We shall by no means forget that the willingness and the possibility to testify against the traffickers (namely the possibility to combat trafficking) highly depends on the assistance we are able to provide to the trafficked women.

We feel that what is important in dealing with this issue is acquiring a complex approach.

Therefore, if we want to provide social assistance, we need to specify an alternative that the prostitutes could be offered.

We perceive the issue of human trafficking or trafficking of women as a global and complex problem. It can be effectively dealt with only by a holistic approach that would incorporate cooperation of a wide spectrum of professionals working not only in Slovakia, but also (due to international character of the problem itself) abroad. We came to understand that since the issue of human trafficking requires focused attention, the need for an organization dealing exclusively with this issue is self-evident. Therefore we have established the new organization, whose name will be announced soon after the naming contest closes.

Our closing seminar of the "Prevention of Traffic in Women in Central and Eastern Europe" project was named "Joining Forces to Plan Strategies for the Fight against Trafficking in Human Beings in Slovakia."

We continue to keep addressing relevant governmental and non-governmental organizations and including them in the programme.

The final phase of the seminar is hoped to provide us with a suitable strategy to combat trafficking in human beings for Slovakia. It will also be accessible on the web site [www.alianciazien.sk](http://www.alianciazien.sk) with a link to the newly emerged organization.

# LEGAL FRAMEWORK OF TRAFFICKING IN HUMAN BEINGS IN THE SLOVAK REPUBLIC

Criminal activity related to human trafficking is a worldwide, supranational issue concerning Slovakia too. The Slovak Republic is mostly a source country, but its favourable location also makes it a transit and destination country, mainly for the purpose of sexual abuse of women. For the fourth time, the US Department of State has released a Report on Human Trafficking. Slovakia is listed in the report as a Tier 2 country, i.e. the Slovak government does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.

## SLOVAK CONSTITUTION

Under **Article 7(5)** of the Constitution *International treaties on human rights and fundamental freedoms, international treaties whose executions does not require an act and international treaties which directly establish rights or obligations of natural persons or juridical persons and which were ratified and promulgated as required by law shall take precedence over the laws.*

Natural justice principles are clearly demonstrated in the constitutional regulation of basic rights and freedoms under **Article 12 (1) and (2)**. Under 12(1) *People are free and equal in dignity and their rights. Basic rights and freedoms are inviolable, inalienable, secured by law, and unchallengeable.*

Under paragraph 2 of the same Article *Basic rights and freedoms on the territory of the Slovak Republic are guaranteed to everyone regardless of sex, race, colour of skin, language, creed and religion, political or other beliefs, national or social origin, affiliation to a nation or ethnic group, property, descent, or another status. No one must be harmed, preferred, or discriminated against on these grounds.*

**Article 16 (2)** stating *No one must be tortured or subjected to cruel, inhuman, or humiliating treatment or punishment,* is a constitutional guarantee of physical and mental integrity of persons from physical or mental attacks. Forced labour or services are prohibited under **Article 18 (1)**. Freedom of movement and of abode is guaranteed under **Article 23 (1)**.

## CRIMINAL LAW

Prior to 1 September 2002, **Section §246** of the Criminal Code the commission of the offence of “trafficking in women” was defined as follows: *if [the perpetrator] has induced, hired or transported a woman to another country with the intention of her use for a sexual intercourse with another.*

A sentence for a perpetrator of that offence was an imprisonment from one to five years.

The 421/2002 Act of the Slovak National Council became effective as of 1 September 2002, implementing in the Criminal Code a **new regulation** for sentencing this kind of criminal activity. From the point of view of the criminal law, the new law **guarantees** equality of genders as it is presumed under Article 12 of the Slovak Constitution and Article 14 of the Convention for the protection of human rights and fundamental freedoms as amended by later protocols, signed at Rome on 4 November 1950.

**Under Article 14 of the Convention**, the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The new 421/2002 Act has brought about a **significant change in the legal definition of the criminal offence, especially aggravating circumstances constituting the objective part of the offence and the scope of the punishment to a perpetrator having committed the offence under those circumstances.**

The current Criminal Code in its **§ 246** included the criminal offence named as **“trafficking in human beings”**.

Currently the effective sentencing of this kind of criminal offence corresponds with the 403/2004 Act (having come into force on 1 August 2004) ensuring the application in the Slovak legal system of the Council of European Union Framework Decision of 19 July 2002 on combating trafficking in human beings and of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children (the ‘Palermo Protocol’ supplementing the United Nations Convention against Transnational Organised Crime; the convention was adopted on the 15 of November 2000 in New York and came into force in the Slovak Republic from 2 January 2004).

Under this law, the offence of trafficking in persons is committed by whoever, *by means of fraudulent conduct, trick, restriction of personal freedom, violence, threat of violence, threat of another gross harm or other form of force, by accepting or providing a payment or other benefits to achieve the consent of a person on which another person is dependant, or by abusing his own position or abusing another person’s helpless or otherwise vulnerable position, lures, holds, delivers or receives another person, including with the person’s consent, for the purpose of the person’s prostitution or other form of sexual exploitation including pornography, for the purpose of forced labour or forced service, slavery or practices similar to slavery, servitude, illegal taking of organs or tissues or other forms of exploitation.*

A perpetrator of this offence may be sentenced to imprisonment from three to **ten** years.

The same punishment is applicable to a perpetrator who *lures, transports, delivers or receives a person under 18 years, including with the person’s consent, for the purpose of the person’s prostitution or other form of sexual exploitation including pornography, for the purpose of forced labour or forced services, slavery or practices similar to slavery, servitude, taking of organs or tissues or other forms of exploitation.*

*Whoever has committed such forms of offence against the will of another, or on a person under 15 years, or as a member of an organised group, or through such forms of criminal offence has gained for himself or another a substantial benefit, may be sentenced to imprisonment from five to twelve years under the Criminal Code.*

*A perpetrator who has caused by such forms of crime a gross bodily harm, death or another especially grave consequence, or has gained for himself or another an extensive benefit, or has committed such forms of crime in relation with an organised group operating in several countries, may be punished by imprisonment from eight to fifteen years under the Criminal Code.*

*Whoever has committed such forms of crime as a member of a criminal group or has caused through such crime death of several persons, may be punished by imprisonment from twelve to fifteen years or by the exceptional sentence.*

All of the unlawful conduct of perpetrators – whether direct perpetrators or participants in criminal activity (organisers, persons soliciting offence, helpers) – is focused on achieving the goal set beforehand and a masking, or blurring, the traces possibly leading to their identification.

Under the definition set forth in §89 (26) of the Criminal Code, *an organised group is a conspiracy of at least persons to commit a criminal offence that is characteristic of the division, planning and coordination of tasks between the group members.*

The current legislative regulation of this legal term corresponding with the 403/2004 Act on the European arrest warrant that came into force on 1 August 2004 is a result of the approximation of the provision of the Criminal Code with the provisions of the United Nations Convention against Transnational Organised Crime adopted in New York on 15 November 2000 (effective in the Slovak Republic from 2 January 2004) and the 21 December 1998 **Joint Measure of the Council of the European Union.**

Under the currently effective provision of § 89 (27) of the Criminal Code, *a criminal group is a structured group of at least three persons that exists over a certain period of time and proceeds in a coordinated way with the purpose to commit one or more criminal offences that are subject to maximum imprisonment of at least five years, or to commit any of the corruption offences under § 160 to § 162 of the Criminal Code with the aim of directly or indirectly gaining a financial or other material benefit, for the purpose of infiltrating a public authority with the aim to take control over it or exert the group's influence to conceal or legalise the group's criminal activity or proceeds therefrom, or for the purpose of infiltrating an entrepreneurial or non-entrepreneurial entity with the aim of getting control over it or exert the group's influence in it to conceal or legalise the group's criminal activity or proceeds therefrom.*

From the point of view of content the offence is determined not only by circumstances defined in other provisions of the Criminal Code, but also by circumstances that are interpreted as legal terms taking into account individual features of every single criminal case.

**Such circumstance include, among others:**

**Luring another.** This legal term must be interpreted as primarily using attractive promises or money to make another person (female or male) to leave for abroad or to come to Slovakia from abroad.

The legal term **hiring another** shall be understood as concluding a contract (written, oral, implied, valid or invalid) with another, the content of such contract being the hired person's departure for abroad or arrival from abroad to the Slovak Republic.

**Transportation of another** is a lawful or unlawful relocation of another by various forms and ways abroad, or from abroad to the Slovak Republic, while a relocation of a person across the country's border is sufficient to qualify for the offence, i.e. relocation of a person to the destination country is not necessary.

**Holding another** is a legal or illegal holding of a person for the purpose set forth in a law for an undefined period of time.

The purpose (goal) of illegal conduct is mainly engaging in **prostitution, sexual intercourse, slavery, servitude, forced labour or forced service** by another person **regardless of the person's sex, age or citizenship.**

The term **prostitution** is understood as providing sexual intercourse or other sexual services for a reward.

According to available investigator information there are four forms of prostitution existing in the Slovak Republic.

Prostitution of women with their own clients (women engaging in prostitution in their own flats; the women are often educated, with language skills and exclusive appearance, able to **represent** their clients in business or other meetings); prostitutes in hotels and bars (prostitutes are working or studying women engaging in prostitution sporadically, based on economic and time possibilities); prostitution in massage parlours (prostitution going beyond the legally allowed massage services); the most frequent form of prostitution, i.e. prostitutes in the street (this form of prostitution is provided mainly by women from lower classes, often mentally and socially disadvantaged). Here it must be added that prostitution is not prohibited in the criminal law.

**Sexual intercourse** as a legal term may be defined as any manner of satisfying the sexual drive on the body of a person of another or identical sex through a union of sexual organs, oral or anal sex, or the so-called erotic massage of sexual organs (including by using erotic aids).

**Slavery and servitude** are forms of exploitation based on the existence of mutual dependence and subordination of persons. Slavery and servitude are prohibited based on Article 4 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms as amended by later protocols, signed in Rome on 4 November 1950.

**Forced labour and forced services** are activities performed by a person based on no legal ground.

Forced labour and forced services are prohibited based on Article 18 (1) of the Slovak Constitution and Article 4 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms as amended by later protocols, signed in Rome on 4 November 1950.<sup>1</sup>

The occurrence of trafficking in persons under § 246 of the Criminal Code has been mostly rising slightly, according to the following information, from 2000 to 2003.

Offences detected/solved	2000	2001	2002	2003
Procuring for prostitution	11/7	9/8	23/20	13/9
Trafficking in persons (in women until 2001)	16/13	6/5	17/16	28/16

Although the total number of persons prosecuted in relation to this type of crime rose by 15 in 2003 compared to 2002, the share of this crime in the total crime in Slovakia did not change significantly in 2003 compared to 2002. Just for the illustration, the share of this crime in the total crime in the Slovak Republic was 0.094% in 2003 and 0,090% in 2002.

The largest occurrence of this crime in 2003 was recorded within the territory of jurisdiction of the Regional Prosecution Office in Košice prosecuting 19 persons. The Regional Prosecution Offices in Nitra and Banská Bystrica prosecuted 14 persons.

In 2003 charges were brought against 34 persons in total, which is an increase by 11 persons compared to the year before. It is a natural result of the rising number of prosecuted persons.

In both 2003 and 2002 five persons were sentenced.

The recorded cases of trafficking in persons show that the perpetrators sent (transported) their **victims** mainly to EU countries. Destination countries were above all the Czech Republic, Germany, Switzerland and France and less frequently Italy, Austria and Holland. No trafficking in persons was recorded with Sweden as a destination country.

Demographically, **victims** of this crime were **mainly women** between 18 and 25 years.

The women were unemployed, coming from weaker social classes, entrapped by tricks of the perpetrators tempting them with the prospect of good income in catering establishments. Only in some cases women voluntarily seeking to “work as a prostitute” fell victims to the crime, although any voluntarism in relation to prostitution is considered relative by experts.

Perpetrators of the offence of trafficking in persons are both **men and women**.



In cases of engagement of an organised group of perpetrators in the offence there was evidence proving cooperation of the group with the owners of bars and establishments providing erotic services into which the victims were sold.

There are other institutes of procedural law that increasingly require a more efficient application by law enforcement authorities in combating organised crime including trafficking in persons. These are **concealment of witness identity, witness/accused/defendant protection**, and the so-called **crown witness**.

**Concealment of witness** identity as an institute of procedural law is regulated under § 101 (3) and (4) of the Code of Criminal Procedure. Its application must be approved in writing by the prosecutor within the pre-trial proceeding, and the judge presiding the senate at the competent court in the proceeding before the court.

The so-called **crown witness** as an institute declaring the principle of legality and the ex-officio principle, was incorporated in the Code of Criminal Procedure by the 457/2003 Act, effective from 1 December 2003.

Legal requirements for the application of this institute based on the decision of the prosecutor are regulated under § 162a, § 172 (3), § 173 (2), § 186 c), § 188 (3) and § 224 (3) of the Code of Criminal Procedure.

Conditions for the provision of **the protection to the witness, accused or defendant** are regulated by the provisions of the 256/2003 Act on Witness Protection, as later amended.

The Government has no mechanisms for protecting **victims** of trafficking. The victims may be detained, accused from related crimes and deported. There is **witness protection** available, which indeed was applied last year when witnesses were protected and helped with the police investigation. Lack of trust in the police, however, often prevents potential witnesses from cooperating with the police.

## CRIMINAL PROCEDURE

According to the effective Code of Criminal Procedure the primary responsibility for initiating criminal prosecution lies with the law enforcement authorities, based on the principle of legality and the ex-officio principle. Requirements concerning the rights and protection of women are included in the provisions of the Code of Criminal Procedure regulating the status of the injured in the criminal proceeding.

Under § 43 of the Code of Criminal Procedure the injured is a person that has suffered, as a consequence of a criminal offence, a bodily harm, property, moral or other damage, or the person's legally guaranteed rights or freedoms have been violated or threatened. An injured party that is a woman that has become a victim of violence must be advised of her rights by the law enforcement authorities in a duly and timely manner.

The injured party in the criminal proceeding has the right to express consent with the criminal proceeding, propose evidence, inspect files, take notes and excerpts from the files, ask the examined questions, testify in their mother tongue, take part in the trial and give the closing speech. Moreover, the injured party has the right to be represented

in court, claim reimbursement by the defendant of damages caused by the offence and appeal from the judgement due to incorrect statement of the court specifying damages.

In spite of the above rights, the status of the injured party in the criminal proceeding is weaker than that of the accused. The most significant difference is the possibility of the defendant to file for remedy against procedural decisions issued in the pre-trial proceeding by the prosecutor, investigator or police organ.

That is, the injured party's role is only kind of an observer.

Women that were the target of violence in trafficking cases have the same possibility, and also an obligation, to testify before the court as other witnesses, and their testimony has the same authority of evidence.

It should be noted in the end that there are no model procedures at the law enforcement level that would make it easier for women that are victims of violence or a criminal offence to go through the execution of actions within criminal proceedings.

## **IMMIGRATION AND ALIENS LAW**

Under the 48/2002 Act on residency of aliens, as later amended, an alien is any person that is not a citizen of the Slovak Republic.

Aliens enjoy in the Slovak Republic basic human rights and freedoms guaranteed by the Slovak Constitution, unless these are expressly granted only to citizens.

The Government is obliged to allow an alien access to courts and authorities, the right to usual representation or counsel. When defending their rights in the foreign countries, aliens may turn to the diplomatic service and consulate of their country. The scope of authority of such foreign-based organs in international dealings is regulated in international conventions, such as the 1961 Vienna Convention on Diplomatic Relations, and the 1963 Vienna Convention on Consular Relations. Under § 3, an alien may enter the Slovak Republic only with a valid passport and the Slovak visa, or a passport and a residence permit. The visa is not required if so stipulated in an international treaty binding to the Slovak Republic, or if so decided by the Slovak Government; such decision is published in the Slovak Collection of Laws. Entry is allowed in through a border crossing designed for international traffic.

The Act on residency of aliens allows three types of residency of aliens in the Slovak Republic: temporary (§ 17–33), permanent (§ 34–42) and tolerated (§ 43–44).

Tolerated residency is a new institute in the Slovak legal system and could prove useful in cases of women, either victims of trafficking in persons or witnesses of such trafficking. The police unit grants the tolerated residency upon an alien's request for a maximum of 180 days, based on the found circumstances. The police unit may extend the tolerated residence repeatedly, while it is obliged to examine whether the reasons for which the alien has been granted

the tolerated residency continue. For this purpose it may request the alien prove the continuance of the obstacle for leaving the country.

## DEPORTATION OF ALIENS

Two types of deportation are recognised under the Slovak legal system: deportation under the Criminal Code and administrative deportation under the Act on residency of aliens in the Slovak Republic.

Deportation under the Criminal Code (§ 57) is understood as a punishment imposed by the court on the perpetrator as a single punishment or along with another punishment. The deportation serves mainly the interest of the society if so required by safety of persons or property or any other general interest.

Administrative deportation is a police decision to terminate the residency of an alien stating the deadline for the alien's departure from the country and the period of prohibited entry. Mass deportation of aliens based on one decision is inadmissible.

Deportation shall not be carried out if the alien should be deported to a country where the alien's life would be in danger due to the alien's race, nationality, religion, affiliation with a social group or political beliefs, or where there is a threat of torture, cruel, inhuman or humiliating treatment, or punishment. Also, an alien may not be deported to a country where a capital punishment has been imposed on the alien or it may be assumed that the capital punishment may be imposed in the pending criminal proceeding.

From the point of solving trafficking in persons cases this legal regulation complicates the possibility for trafficked women – aliens who resided in the Slovak Republic illegally, to take part in the criminal proceeding as an injured party, or witness. Therefore, it would be desired to provide for a temporary residence for the purpose of being a witness in criminal proceedings for the time of duration of the criminal proceeding.

## ASYLUM LAW

Under Article 53 of the Slovak Constitution the Slovak Republic grants asylum to foreign nationals persecuted for upholding political rights and freedoms. Asylum may be denied only to those who acted at variance with basic human rights and freedoms

More detailed regulation of this issue is provided in the 480/2002 Asylum Law regulating:

- asylum proceedings,
- procedure for providing for a temporary shelter,

- rights and obligations of asylum seekers, holders of asylum, aliens applying for a temporary shelter, refugees,
- jurisdiction of public authorities concerning asylum and temporary shelter,
- integration of asylum holders in society, regulation of their stay in asylum facilities.

Proceeding on granting refugee status (hereinafter only “asylum procedure”) is a two-level administrative procedure. The decision issued in the administrative procedure may be reviewed in a court proceeding.

The central authority in charge of asylum procedure is the Slovak Ministry of the Interior that, in its 63/1993 Direction of 1 November 1993, founded the Slovak Migration Office.

Apart from the Slovak Migration Office, integration of asylum holders in society is facilitated also by non-governmental organisations and UNHCR.

## SOCIAL SECURITY

Under the 461/2003 Act on Social Insurance any natural person older than 16 years with a permanent residency, temporary residency permit or permanent residency permit in the Slovak Republic may become a voluntary payer of health care insurance, pension insurance and voluntary payer of unemployment insurance.

Under §23 of the act the above claims arise on the day of subscription for the insurance, and no sooner than on the day of filing the application, and terminate on the day of unsubscription from the insurance, no sooner than on the day of filing an application for unsubscription.

Voluntary payment of health care, pension and unemployment insurance was not recognized under the previously applicable act.

### Notes:

- <sup>1</sup> These are the International Convention for the Suppression of Trafficking in Girls (signed on 4 May 1910 in Paris), Geneva International Convention for the Suppression of the Traffic in Women and Children (signed in Geneva on 30 September 1921), the Geneva Convention for the Suppression of the Traffic in Women of Full Age (signed in Geneva on 11 October 1933) and the Convention and Final Protocol for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others (signed in New York on 21 March 1950).



## FROM “WHITE MEAT” TO HUMAN BEINGS

Reflection of Trafficking in Human Beings in the Slovak Media from January 2003 to August 2004

This paper is the result of media analyses from January 2003 to August 2004. The research aims to find out the way media have portrayed the subject of trafficking in humans and also how sensitive Slovak society is as far as this problem is concerned. As trafficking in humans concerns mostly women who are sold for the purpose of prostitution, I focused on this group of trafficked people.<sup>1</sup>

Examples of media attitude analyses towards the subject of trafficking in human beings – women trafficking ring uncovered.

### ELI AGENCY, JUNE 2004

I chose a successful police campaign as an example that led to uncovering group trafficking in human beings/women. The campaign was international. The information about the case was broadcast in major news blocks, in all newspapers, on the radio and TV stations. Information about the successful campaign could be found in the media from 22 June to 28 June 2004. It started with a Police Department press conference, followed by articles in the newspapers, extensive commentaries in magazines and interviews with owners of other modelling agencies (*Earthquake in Modelling* [magazine Formát, 28 June 2004]).

Not only the “exclusivity” of the business focusing on higher social classes was surprising (including foreign guests), but also the extent (230 trafficked women, 70 out of them in the Czech Republic), business duration (4 years in Slovakia and about 2 years in the Czech Republic), employees of the company (known as members of “Slovak high society” in the past). The public was confronted with the regional closeness of the business chain that consisted of a modelling agency in Nitra, Bratislava and later a branch in Prague with a net of customers from all over the world (*The Public Is Filled with Indignation* [Večerník newspaper]). The case was also surprising due to its slyness and new opportunities of trafficking in humans, e.g. internet abuse, sex business disguised as modelling (although modelling that involves 14–15 year old girls is also a way of selling the female body, it is used for propagation, advertisement; it is often on the verge of nakedness but it is not connected with providing sex-services).

The operation was the result of cooperation between the Czech and Slovak forces revealing organized crime and fighting against it. We can only assume that the case has had a positive influence on the public as it was a successful intervention against organized crime (in Slovakia the popularity of the chief of police Mr J. Spišiak has been growing

and the support for the fight against organized crime as well. The competent police force's nickname is the "Spišiak group").

During the prepared intervention (6 private houses and 16 non-housing premises) the police broke up a group of people trafficking in women. The group was operating in Slovakia and in the Czech Republic (the branch consisted of 10 members, 2 of whom were Slovaks). Seven out of fifteen people were arrested (the press informed about 10 to 15 and on 28 June there were already 20 arrested members of the group). The police suggests proceeding against the perpetrators while they are in custody.

The owners of the agency provided the services under a label of the modelling/hostess agency Eli. The agency Eli was established in Nitra and Bratislava in the year 2000. In 2002 a new branch in Prague was opened. The agency offered women by means of web pages in Japan, the USA, Denmark, Great Britain, Switzerland, Austria, Germany, Italy, Egypt, and United Arab Emirates. The clients paid the woman's travel costs and the woman had to hand over her income cash to the owners of the agency. In the Czech Republic women could keep 30% per cent of their income. The trafficked women were put at the client's disposal for at least 6 hours up to 1 week (the weekly income was 360.000 SKK). The agency's monthly income fluctuated between 11 and 30 million SKK. In the Czech Republic the agency had 70 women at its disposal and the agency's income was almost 99 million CZK since its establishment. There were about 230 women working for the agency.

The girls were recruited through interviews, castings, acquaintances from modelling business. Their pictures (in underwear or naked) were issued on web pages and published in a book. These photos were taken by professional image makers and photographers (belonging to the group of so called "Slovak high society", Martin Fridner was the one whose name was publicised). Except for the photographs the woman's description included information about her size, description of sexual services she could/had to provide. The initial costs including the image and photographs were about 50.000 SKK per woman. The woman had to pay back these costs to the agency in case she did not like the idea suggested by the agency's owners to provide sexual services to clients. She was informed about the whole business only after all the changes of her image and the photographs had been made. At that moment she already owed money to the agency (the basic amount for blackmail). The girls and women were forced into prostitution under pressure (they were blackmailed for fictitious debts – for pictures taken, services provided or under threat of the pictures being published.)

The investigation was made more difficult as some of the women were not willing to testify. (The media considered this unwillingness to be due to their "wish to be" prostitutes.) The Nitra agency was owned by Igor P., who was a former hockey player from Zvolen. He owned a casino, Disco Club and he sold computers as well. He cooperated with a boxer from Nitra, Martin Č. and Ivan Z., who used to cooperate in financial transactions of the Association of Mutual Help.

The businessmen and co-operators will be prosecuted while in custody and their sentences might be heavy (imprisonment for 12 years) for planning an organized group and trafficking in humans plus other crimes. The list of arrested people includes the photographers Adolf Zika, Martin F., Fedor N., an economist and two married couples who were the owners of the agency.

The agency activities do carry all the signs of trafficking in people:<sup>2</sup>

- obtaining women by fraudulent means or lies,
- not keeping to the contract, breaking the agreement,
- restrictions of personal freedom,
- blackmail (especially financial or by photographs),
- transferring people across borders,
- keeping the financial income.

## ATTITUDE OF THE MEDIA

Some of the media added complementary information to the basic information that was presented during the press conference (for example the tabloids press tried to find out the names of the owners of the agency). There were some exceptions as well – some individual journalists who were interested in the subject asked sophisticated questions about the legal framework surrounding the issue, about human rights, and the information they published provided more details than the usual “journalistic stereotype” about naive trafficked women. In general there was an absence of interest in the essence of the problem of trafficking in people. Traffickers, clients, labour and legal relations or human rights were not mentioned in the media. As far as the content is concerned the media had an opportunity to break some stereotypes and to show that the problem of trafficking in humans is a real problem that should raise concern in the country. Trafficking was related to modelling which was a field never linked with trafficking before. The media could have drawn attention to various forms of organized crime networks and to help to discover the means traffickers use. They could raise increase preventive information for example by describing the ways in which traffickers operate (for recruitment, transfer, blackmail and so on). The media mentioned some of the basic attributes of trafficking but without explaining why criminals do business such as trafficking in humans. The violation of human rights and the system of owing money was not emphasised adequately and the “volunteer character” of working for the agency was not challenged enough. The journalists did not focus on explaining the basis of the trafficking network. It is not clear whether these facts were unknown to them or whether they did not consider them to be important.<sup>3</sup>

It is important to realize the way journalists are used to present information, the strength of words and formulation. The texts are arranged by journalists and the language reflects the individual (and indirectly the social) sensitivity towards the problem. It is interesting that the presentation of the subject depends not only on the media presenting the text but also on the personality of the journalist. Even an opinion-forming media can publish a simplified or even a gutter version of an incident in case it is written by a journalist who is non-qualified and non-sensitive to the problem of violating human rights. The power of journalists is great as far as we are concerned about strengthening or challenging bad stereotypes that contribute to the ignorance or devaluation of human rights, for example trafficking in humans. This is the reason why we have chosen to analyze the language and the style of the texts.



## PRINCIPLES OF MEDIA WORK

### MARGINALIZATION OF THE SUBJECT

The subject of trafficking in humans does not appear frequently in society and it is not presented altogether with violation human rights. It is presented (often “scandalised”) in connection with individual “warning” cases, it is a subject for the gutter press or short news stories from the police department press conferences on revealing organized crime. The negative attitude and the neglect of the subject are influenced by the following facts: 1. the trafficked humans usually come from poor countries of the world and as a result of stereotypes (for example ethnic) they are considered to be less valuable 2. Women are the usual subject of trafficking. According to gender analyses their social status is lower in the majority of societies. 3. The women who become subjects of trafficking are involved in the sex business which is viewed negatively by society. 4. If we take into consideration illegal migration as well, the humans who have become subjects of trafficking do not get nearly as much attention from society and they are often classified as criminal elements.

### IGNORING THE CULTURAL AND SOCIAL BACKGROUND

The media do not really mention the factors that directly support trafficking of people. The most visible and at the same time the most discussed are the economic/social problems of society but even these factors do not get enough attention. There is no discussion about other important factors such as the feminization of poverty (on global scale women are in danger because in case of a global economic depression they are the first ones who lose their jobs massively, their salaries are lower and they are not paid for their work at home) or the feminization of migration (to solve their bad economic situation women more often leave for other countries to find a job and they are more willing to take any unqualified jobs to be able to support their families.) If these reasons are not discussed in society, the social reflection loses a serious explanation why women are in danger and can become victims of being trafficked.

Some reasons are hidden behind cultural patterns and stereotypes that influence relations in the society and are kept in silence or stay unnoticed (for example the authoritative and conservative education of girls, ignorance of sexual education and so on). The reproduction of discriminatory stereotypes happens unconsciously, the stereotypes are often labelled as “natural”, which makes it harder to discover and easier to doubt them (for example the woman should follow her husband, girls should always listen and so on). These stereotypes are the part of the way women are brought up and they are spread by the means of media as well. If the factors mentioned above are ignored, the cause and the consequence of the phenomenon are separated from each other. The media spend their time describing the consequences (the destiny of trafficked women) and they are wrong when listing secondary causes as the main causes, “easily grasped” arguments (the most used ones are “wrong” education or the behaviour of women). This false causality helps to strengthen stereotypes and hides the main reasons why women are the main article of trafficking.

### CREATING STEREOTYPE IMAGES ABOUT TRAFFICKING IN HUMANS

Stereotypes about trafficking are created or their reinforcement is caused if important and new information is ignored about the fact how the trafficking of humans functions (debt mechanism, the text of the law on trafficking in humans)

and if other information about causes and consequences of trafficking in humans are ignored. Strict and unsuitable information selection has a very negative effect especially if it occurs with a tendency to repeat the basic stereotype patterns (such as only those young girls are the subject of the trafficking who “were caught by” the advertisement). If information is interpreted this way, it can cause the public to become indifferent with regard to this information.

One-sided presentation of information reinforces the negative gender stereotypes which say that the woman’s behaviour is the reason (she is naive, obedient and so on) why she is guilty of all the violence that is perpetrated against her. Society supports gender violence this way: not the trafficker is the guilty one but “the guilt” is on the side of the victims.

## **PAYING ATTENTION ONLY TO WOMEN WHO ARE SUBJECT TO TRAFFICKING**

The fact that attention is paid only to those women who have been trafficked (“guilty”) hides the nature of the crime. The crime consists of creating a network with the purpose of business, abusing other people and so on. This kind of crime is also called “trafficking in common women or women of easy virtue.” This is another stereotype that automatically links trafficking in humans with (voluntary) prostitution and simplifies the whole problem of trafficking in humans. Social norms declass this class of women (not the clients/men) and ignore what is going on in this field including the violence taking place there.

Cultural norms and gender stereotypes support violence committed against women by the fact, that rape is considered to be “natural.” Public opinion is influenced by continuing gender stereotypes about male and female behaviour. For example women are said to be irresolute (if she says “no” she means “may be”, she cannot express her opinion, she lets others to command her and she is ready to serve others). There are other female characteristics (women are naive) that negatively influence public opinion. Negative influence comes from some so called “traditional” requirements of what society expects of women (a woman should be nice, smiling, malleable, understanding, obedient “chambermaid”, and “good company”); women need to learn these “female” characteristics while they are brought up so that at the end they are “female” enough. On the other hand these stereotypical “characteristics” make it easy to manipulate women (a woman does not say no, she helps, she is trusting and she is dependent on others). At the same time these are the characteristics that women are expected to have and they are the essence of their “guilt”.

Another factor is the traditional cultural norm saying that woman is a “saleable article” among men (for example it was the man/father who decided about her marriage, her behaviour and good name/virginity have been protected by the male members of her family). We come across this image in fairy tales for children (the princess is a reward for the knight, they are passively waiting until somebody comes and saves them = wins them). The required and learnt passivity of women can be considered as one of the main factors that support easy manipulation of women...

This cultural norm shows the woman as a “person for somebody else” and this fact is reflected in everyday life of the woman who has to act, behave and express herself in a way that everybody likes her. She checks her movements, speech and posture more often than a man. Society brings pressure to bear on women (their appearance and behaviour) so they would be able to “sell themselves.” There are many examples about them (the mother) and the media as well. Women take care of their manners and appearance according to a view from outside that is the most influential

for them (for example they wear uncomfortable “femalish” shoes or clothes that restrict free movement). Their existence is built on the fact that “the others have to like me”, “I deserve their attention.”

## **IGNORING THE TRAFFICKERS, THE STATE OF THE FACTS OF THE CRIME**

Guilt is transferred to women (“she has got what she wanted to”) and this is a very common view. It is more common than to blame the group that planned the whole business and by fraudulent means obtained, possessed, blackmailed and sold other people. This is demonstrated by the lack of information about the traffickers and by the lack of clarity of the facts of the case—fraud, deception, duress, blackmailing, transport of people for financial benefit and so on. The attention of the public is not drawn to the basis underlying the crime that is the violation of the law and human rights. On the contrary, disinformation is added to the deeply rooted valuation criteria for women. It strengthens the stereotype and the basis for the trafficking. Discussions about the relationships between trafficking, prostitution and human rights are repressed.

## **IGNORING CLIENTS**

The media show weak interest in the traffickers and completely ignore the clients. This gives signals about the rooted social norms. There is an unequal relation between the prostitutes and their clients but only the prostitutes are declassified. Society considers the woman’s body/sex to be something that cannot/must not be trafficked. In the case of prostitution society punishes only the woman for breaking the norms. The punishment may differ from social condemnation to ignoring the woman’s human rights (acceptance of violence).

The clients stay anonymous and they are not sanctioned socially. Their behaviour is tolerated and excused (for example a stereotype about high sexual activity). Prostitution is the so called “oldest profession” which is “natural” and “eternal.” In some historical eras it was one of the privileges that a man of a higher social rank could have his own mistress. The vocabulary used nowadays is adjusted directly proportional to that as well (in the period when sex was a taboo, prostitutes were called mercenaries of love, priestesses of love, prostitution was called “dirty love” and so on).

The woman who is selling herself is actually bought (or rather a woman who is sold is bought) and she has the attribute “dirty.” The same attribute belongs to her morals, lifestyle, children and relatives. These women belong to the lowest social rank (although their clients often represent the highest levels). These women’s issues are marginalised and their human rights are rarely mentioned, there are no analyses of their health/life threatening risks, increased violence and social background that forces the woman into prostitution. Their very risky profession is viewed through male eyes (they enjoy sex). This view brought a new expression into life – “easy job”. The majority of the prostitutes would not say that their job brings them joy as they think about the social welfare for their families (they often support their partners, children, parents and siblings) and themselves (including spending money on addictive drugs).

The fact that trafficking in humans is automatically connected to prostitution also obscures its criminal nature. As prostitution is viewed negatively by society even the interest in human rights related to prostitution and trafficking in humans is diminished.

## UNDERESTIMATING THE SIGNIFICANCE OF THE CRIME

Information sequencing starts with a brief note about the police intervention, recruitment of women, financial benefits. The other parts of the case (human rights, breaking the law, organizing crime groups) are minimised. The way of selecting information is the cause that the whole case is vulgarised. There is more space for financial and economic advantages of trafficking than for the principles of the trafficking (debt, blackmailing or prevention). Additional materials are rarely found and they are available in the tabloids (they provide some additional information such as the names of people or their financial benefits). Even opinion forming media are satisfied with torso information and their weak interest in human rights is visible as well. They often use stereotype ways of informing the public about the problem. They sometimes mention prevention after "scandalising the subject" ("the public is indignant").<sup>4</sup>

## THE JOURNALIST'S VOCABULARY

### CRIME GROUP

If we want to indicate the perpetrators (usually using the male gender) we prefer to withhold/mask the perpetrator/actor behind other expressions ("the girls were attracted by financial benefits", "the advertisements looked very innocent"). It is never about a concrete individual but it is usually an anonymous group of people. The indications usually associate male perpetrators although women or married couples can be involved as well. The crime is indicated as "coordination" (*230 women were coordinated, abused and trafficked...* [radio Lumen]) but the word "trafficking" is more often used. There is no attention paid to the clients, they are indicated as the "purchasers."

The same identification of trafficking in humans and prostitution is reflected in terminology that is used (often archaic); (*A gang of ten businessmen trafficking in white meat were caught by a police task force* [TV Prima]; *Policemen dispersed a pandering gang*). The perpetrators are often described by a disapproving mention of their official job description "A so called modelling agency", "Slovak businessmen". Some new expressions have been used under the influence of police terminology and text of the law, such as "organizing a crime group", "trafficking in humans". (*An international crime group trafficking women...* [TV Markíza]; *An international crime group was dispersed by police earlier today* [radio Naj]). Economic terminology is sometimes used to express the relations between the traffickers, clients and the victims, such as supplier/purchaser/items which uncovers and exactly identifies the principle of the business but on the other hand it also identifies a human with an accessible object.

### THE CRIME OF ENTICEMENT AND FRAUD

If we are looking for the motives of an act, one usually finds them at the beginning of the text and they usually focus on women ("girls") who were the subject of the trafficking and not on nature of the crime (enticement, fraud, transport and trafficking). These are the most typical headlines: *Easy earnings, travelling all around the world, these are the glittering and enticing promises* [Radio Express]; *...they were enticed by a vision of earning 120 thousand* [TV JOJ]; *230 women from all around Slovakia were enticed by a fictitious hostess agency. The agency enticed women and girls over 18 to a lucrative contract for the position of hostess* [The Slovak Radio]; *Some women were enticed by an offer of a lucrative job* [Nový čas newspaper]; *Everything started with an enticing and at the first glance innocent offer in the news-*

*papers and on the internet. Women were promised to earn money easily and to travel exclusively all around the world [TV Markíza]. This attitude puts the women into the centre of attention so the crime does not have a name; there is no planned and organized action of the crime group. If the media focus on credulous and naive women, they express an opinion saying that it is the women who are actually the guilty ones. The texts are not formulated this way "traffickers enticed women to..." but it works vice versa "They believed all the promises... they were enticed by a vision." This journalistic jargon does not mention the traffickers at all and they are hiding behind the expression "vision of a good salary", their recruitment is called "enticed by a vision." The activities of the crime are belittled and refined.*

Other arguments that undervalue the traffickers' guilt say that it was the woman's choice to work as a prostitute (*Despite the fact that it was the girl's choice to sell her body to the clients, the traffickers are accused of trafficking in humans and organising a crime gang [ČT1]; It is important to say that some of the women did not have any problems with it [newspaper Pravda].* There is much more attention paid to the women who did not act "properly" (for example the comments saying "to be enticed by high salary"). We get the impression that it is the "naivety" and "enticing" that are worth the guilt and not the fact somebody was trafficking in humans.

## THE TARGET GROUP OF WOMEN

If we use words like "the girl", "so called hostesses" it implies naivety and thoughtlessness and it disowns the status of women as trafficked subjects and helps to excuse the activities provided by the traffickers/criminals. The women are called many names (*hostesses, exclusive Slovak prostitutes [TV JOJ]; luxurious prostitutes, the exclusive hostesses became prostitutes [TV Prima]*) and this fact masks the principle, the unfair business relations that came from fraud, and lying to the other side. Some formulations try to find guilt on the side of women without any logic although they are describing the illegal activities of the agency (*The illegal activities were hidden behind the opportunity to earn money in a short period of time and to travel all around the world [The Slovak Radio]*). The media contributed to the victimisation of women ("prostitutes instead of hostesses", "trafficking prostitutes").

One of the discussed subjects was the fact whether the women worked for the company of their "free will." *It is a case of a quite huge number of women from all over Slovakia... Most of them did not do it of their free will, actually they were deceived... we do not want society to consider you to be an easy woman just because you worked there [J. Spišiak, Slovak Radio].* J. Spišiak tried to indicate a differentiated approach to the victims or to the trafficked women already during the press conference. He supposed or rather he knew what was the attitude of the public towards such issues. If the fact that some of the women decided to work for the agency of their free will would be mentioned (*The proving of this fact would be very complicated because we would just find the one who enjoyed her job [J. Spišiak, Markíza]*) all the other women would be considered to be prostitutes of their free will. If the fact of working voluntarily was emphasised, the fact of blackmail, compulsion to prostitution due to a fictitious debt would be hidden.

Charging trafficked women of guilt is in accordance with the cultural stereotype of the woman's status in society. She is the guilty one, or it is her parents, family (family's shame), morals and education of girls and women. The perpetrator is not considered to be guilty and the media lose their interest shortly after publicising the case. Much attention is paid to the "guilt of the girls" and it is more accepted by society because the real perpetrators were already known: "Do the girls follow the example of their mothers?" According to L. there is an important fact that has not been mentioned on purpose and that has a very important role in modelling and it is the education and the morals of the girls.

*The parents should know their daughter. If they trust her, they let her live on her own. If they are not sure about her morals, they cannot be surprised. L. does not believe that the girls working for the agency did not know what was going on in the agency before they started to work there... I know what girls are able to do. It is a global trend – if the girl sees her mother's wrinkled hands from carrying shopping bags she would do anything to utilize her beauty. But the reality is different. Girls and women tell lies to their friends and family and they do not say the truth about what they do [Formát, an interview with owners of modelling agencies, June 28, 2004].*

Even in this case the journalists paid attention especially to the women's behaviour and to their motivation ("they wanted to earn money fast", "they did not want to testify because prostitution suited them") and especially to the economic benefits of the agency. The most discussed subject was the monthly income of the agency (30 million SKK a month) and there was less discussion about the financial benefits for the women (30% of the final income). When the media focus on the word luxury or financial benefits ("luxurious prostitutes"), they create an image that the girls earned lots of money and that it was an adequate explanation for the public why the girls stayed in the agency and at the same time it "excused" the crime.

## THE CRIME, A REASON TO ARREST

As the law was quoted at the press conference and according to it the group was to be arrested, the media sometimes mentioned its text (*Women were trafficked... 17 Slovaks and Czechs were charged with organizing, planning and supporting a criminal group and with trafficking in humans [Radio Lumen]; ...charged them with crime of trafficking in humans and organising a criminal gang, the charge will be extended for other facts of the case [radio Naj]*).

Despite the quoted law on criminal prosecution of traffickers in women, the cultural stereotype of the woman's guilt and her will to work as a prostitute were transferred into many articles (*...despite the fact that the girls sold themselves to rich clients of their free will, the detained traffickers are charged for trafficking in humans and for organising a criminal group [ČT 1]*). Only the newspaper SME published what J. Spišiak said during the press conference when he explained in detail the nature of the criminal act of trafficking in humans. *It was usually a violent act and if it was not, there should not be any trafficking in people, says Spišiak. There are many agencies in the world where girls serve as hostesses for rich people. Is it criminal? To send people abroad is considered to be trafficking in humans if the purpose of this act is providing sexual services, so it is a criminal act.*

Thanks to the press conference there were only few vulgar expression about the issue that occurred (*Trafficking in white meat [newspaper Pravda]; Trafficking in white meat [newspaper Nový čas, Právo and others as well]; They were offered for sex, they were sold all around the world [newspaper Pravda]*).

## TRANSFER

Using inappropriate words and expressions belittles the importance of the criminal act of organising a criminal group and trafficking in humans. The transfer of trafficked women was qualified as "trips." The trafficking of women was described disrespectfully as "distribution" and the passive form was used ("they were distributed") so they became "things", trafficked goods (*The prostitutes were distributed according to the wishes of their clients either to hotels or abroad by plane [ČT 1]*).

The fact that the women were forced to prostitute themselves was described in an archaic way (“To fulfil sexual requirements of any kind...”). Marketing of the sexual exploitation of women was described by the media as for example “being offered for sex” (Pravda). It was even doubted whether the women were compelled by the agency (“supposedly they were compelled to provide sexual service according to the customer’s wishes” – Večerník). The words abused, violated, blackmailed, tortured are rarely mentioned although they express exactly the facts of this kind of criminal act.

## THE DEBT MECHANISM

J. Spišiak pointed out that the functioning of the debt mechanism was not mentioned in detail in the media and it was not presented clearly enough so the public could understand the importance of this kind of compulsion. *The woman did not have any opportunity to leave. There was no possibility for the woman to stop working for the agency* [J. Spišiak, press conference]; *In case the recruited woman did not agree with this kind of work she was forced to do so in many ways* [TV Prima]; *They had to use their own bodies* [Slovak Radio]; *The girls always owed money to the agency. There was always an excuse. If they wanted to pay it back, they had to travel all around the world* [Slovak Radio]; *If they were forced to pay back all the costs for travelling, documents and visas they ended up... as prostitutes* [Nový čas].

At the same time they were blackmailed with their photographs and videos. The perpetrators calculated with the negative connotation of prostitution in public opinion. The importance of blackmail was explained as one of the methods: *When they refused, the agency asked them to pay back all the costs or the agency threatened them with the publication of their not really innocent photos without clothes* [radio station Naj].

## CONSEQUENCES OF THE ONE-SIDED INTERPRETATION OF FACTS, RE/PRODUCTION OF STEREOTYPES

The public must be informed about trafficking policy mechanisms, ways of recruitment, search for victims, blackmail etc. The media cannot re/produce stereotypes any more. If the problems are presented in a stereotypical way and the principles are not explained, society will accept a once-sided image of trafficking and other ways of presenting the facts will escape attention. At the same time the negative gender (and ethnic) stereotypes (for example “only she is to blame”) will be strengthened without studying the nature of the unequal relationship between the trafficked woman and the trafficker. The problem will be pushed aside and it will not be considered as violating human rights. The unclear terminology (exaggerated, literary and vulgar) and vague facts will make it impossible to call the reality by its own name, so the public will not get relevant information (how to recognize, identify, and help). The public does not even realize the importance of the crime and the necessity to fight it. The impression is strengthened in society that this is an issue of the lower social classes, or of other groups of people (this is often connected with ethnic discrimination). Inappropriate information can confuse the public (the disinformation that suppresses suppressing trafficking in people is at the same time suppresses prostitution is a common phenomenon). Relevant and thoughtful information connected with trafficking is missing and there are no comments about the traumas of the trafficked person, which come from a pathologic dependence on the trafficker, the ways of recruitment, blackmail, constraint etc.

Ignoring the problem supports trafficking in humans and at the same time the sensitivity and the interest of the public are some very good means to suppress it. If we keep repeating the cliché re/producing the stereotypes, accusing the victims of the trafficking, not providing information about the mechanisms and their structures, it means that trafficking in people will be a very “distant” and “unreal” problem for the public despite the fact that it can take place in the neighbouring city or in the neighbourhood.

## CONCLUSION

Working-out of the subject in the media (the form of working-out, information selection, automatisisation, cliché, subject marginalisation, orientation towards trafficked individuals, minimalisation of the interest in traffickers) reflects the low sensibility of society to human rights issues, particularly if there is a connection with gender, ethnic and social discrimination (expressions such as “white meat”, “clients paid for the girl’s excursions”, “the girls are willing to do anything not to have wrinkled hands from shopping bags such as their mothers” and so on).

The stereotypical way of informing supports the gender blindness of society. Different social status and opportunities for women and men are not recognized. If the media spread stereotypical opinions and attitudes they will support violence committed against a group of people. The creation of new stereotypes (only young and attractive women are trafficked) makes it harder to understand the problem.

Trafficking of people is not presented in the media in the context of human rights, or cultural and social background. The media do not link the phenomenon of trafficking of people with feminisation of poverty, feminisation of migration and they do not mention the stereotypes (gender, ethnic etc.). On the contrary, it is the woman who is judged guilty (arguments say that she is naïve and has a vision of easy earnings).

Information is spread in waves created by one single act (police intervention, change of law, revelation of a murder, revelation of an organised criminal group, targeted campaign of an international organisation, etc.). Attention is paid to the trafficked people – “victims”, there is no long-term interest in the traffickers, clients; it means at the other side of the business, either there is no systematic prevention of the trafficking or it is minimal. Individual stories of trafficked women rarely are published in magazines for women, and they usually offer the stereotype image of a trafficked woman who is mostly young and attractive. Trafficking in humans is almost automatically presented in the media as trafficking in women for prostitution.



## Notes:

### <sup>1</sup> Monitored media:

**Dailies:** Národná obroda, Pravda, SME, Nový deň, Hospodárske noviny, Hospodársky denník, Nový čas, Večerník, Új Szó

**Regional:** Košický Korzár, Prešovský korzár, Žilinský večerník, Novohradské noviny, Ružinovské Echo

**Czech dailies:** Právo, Hospodářské noviny, MF Dnes, Lidové noviny

**Magazines:** Súvislosti, Mosty, Plus 7 dní, Expres, Život, Slovo, Formát, Markíza, Trend, Slovenka

**Czech weeklies:** Týden

**Radio stations:** Twist, Slovenský rozhlas, Rádio Regina, Expres, Okey, Lumen, Hviezda FM, Slobodná Európa, Österreich Radio Station

**Television:** STV1, STV2, Markíza, JOJ, TA3

**Czech TV stations:** ČT1, ČT2, Prima

- <sup>2</sup> Under the so-called Palermo Protocol “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation including pornography, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; the consent of a victim of trafficking in persons to the intended exploitation set forth above shall be irrelevant where any of the means set forth above have been used.
- <sup>3</sup> It must be pointed out, though, that the media very often confuse facts and the journalists by mistake interpret the police information on trafficking in persons as the fight against prostitution (*Suppressing prostitution in Slovakia complicated due to current legislation* [11. 10. 2003, Television channel STV 1, STV News at 7.30 pm]. *The Slovak Police... is rather seeking to eliminate suspected groups of perpetrators – organisers of trafficking. The actual suppression of prostitution, however, is made difficult by the current legislation*). Recipients of such information are misinformed and do not understand the difference between two different offences.
- <sup>4</sup> Documents published in cooperation with experts, international organisations are an exception. However, mistaken information is often included in there, too: *They will help the victims of flesh trade* [10 June 2003, Národná obroda newspaper, p. 3], which proves a lower level of media sensitivity to this issue.

# TRAFFICKING IN WOMEN IN ROMA COMMUNITIES

## INTRODUCTION

Over the past two decades trafficking in women in Europe has developed from a marginal affair into a very serious societal problem taking on an international dimension. The Slovak Republic could not steer clear from this issue. Since 1989 this form of criminal activity has been rising, with the largest increase recorded from 1998 to 1999. Yet the Slovak Republic may still be considered a country of origin of the trafficked women rather than a destination country.<sup>1</sup>

Several analyses and research studies point to the fact that a great deal of the Slovak women trafficked abroad is of Roma origin.<sup>2</sup> What are the main causes of this? Is it the extreme poverty in Roma settlements that makes women want to help improve living standards of their families even in this way? Or is organised crime penetrating Roma communities to such an extent that young Roma women become an easy 'article of commerce'? These are also among the questions this study seeks to answer. However, many of the answers will be of hypothetical nature and will open new aspects that have not been subjected to sufficient research yet.

## THE ROMA COMMUNITY IN SLOVAKIA: BASIC INFORMATION

According to the findings of the **Sociographic mapping of Roma communities** ordered by the Office of the Plenipotentiary of the Slovak Government for Roma Communities and carried out by the Institution for Public Affairs and the S. P. A. C. E. civic association in 2003 and 2004,<sup>3</sup> there are about 320,000 Roma people living in Slovakia. More than a half of this population lives scattered among the majority population.

The other half live concentrated in the streets or neighbourhoods in towns, in settlements in the periphery of towns and villages, or in communities situated away from the town or separated by a barrier. The research identified 787 communities that had been defined as Roma by the majority population of the town.

The level of territorial and social integration, or segregation, is one of the most determining factors underlying the way of life in the community, its living standards, behaviour patterns, life strategies, culture, etc. It can be presumed that the potential of marketability of Roma women depends significantly on the level of segregation, or integration, of the particular community.<sup>4</sup>

An assumption may be made at this point to the effect that the more integrated a community, the lower potential and probability that young Roma women from the community will be trafficked and marketable. But this relation is not entirely so obvious. Communities suffering the highest level of segregation lose this potential, because their exclusion is

so high that it is not within possibilities and capabilities of their members to develop any active living strategies. And trafficking in women, no matter how paradoxically it may sound, may be considered an active living strategy to the effect of improving living standards of the families or individuals.

In the following text we will try to analyse the social situation in Roma communities, and based on that, estimate the factors that contribute to the increasing abuse of Roma women. However, the analysis will not include the integrated Roma communities, based on the presumption that their potential for the rise of this crime is not very different from that in the majority society.

## **SOCIAL SITUATION IN ROMA COMMUNITIES**

Presently, Roma communities in Slovakia may be ranked, without doubt, among the poorest groups of the population. Their poverty is very specific and cannot be described by any terminology applicable for analysis of poverty of the majority society.

For several reasons it was exactly the Roma who have suffered most from the process of transition from a command to a free market economy. The Roma are worse off than any other group in terms of any social indicator including education, health conditions, living conditions and access to the labour market. The accumulation of these disadvantages causes the communities to not be able to get out of this situation using their own capabilities and resources.

About a half of the Roma population has managed to absorb the social change and adjust to life in the majority society at least to a certain extent. The remainder has ended up on the bottom of the stratification ladder after the transformation of the society. Several processes may be enumerated that have contributed to the Roma population becoming poor over the past 15 years. Due to their complexity and limited space available in this study we will not deal with them in any more detail.

From the point of view of the purpose of this study it is important to describe the phenomenon that, according to several experts, is becoming to appear in the Roma communities and gives rise, to a large extent, to the potential for trafficking in persons, i.e. the rise of the culture of poverty.<sup>5</sup>

Most communities that we describe, the so-called colonies and town ghettos, are homogenous by ethnicity and more or less segregated from the majority population. Characteristic for them is their exclusion from the labour market, which is demonstrated in a high unemployment rate (sometimes 80–100%), cultural exclusion<sup>6</sup>, exclusion from the public life or the life of the village, and verbal rejection by the majority population. Such environment gives rise to the feeling of desperation and degradation, the feeling of marginality. Moreover, in an isolated, closed community such feeling may further reproduce, because there is no other alternative available for improving this.

Poverty is becoming a norm and may get institutionalised as the rational pattern of behaviour, as the only possible way of an effective adaptation to the existing situation. The culture of poverty is demonstrated by social dependence, relying on the help “from outside” without abilities or willingness to activate one’s own capacity or resources, apathy, passivity or even aggression.

The creation of the culture of poverty accompanied by the feeling of being endangered may encourage the growing lack of trust in the majority society and indifference to its morale and values, the loss of respect for formal authorities, increasing aggression, crime, which may result in a total disorganization of the communities and the rise of an anomic (absence of law) environment.

Many experts are now thinking about whether this culture of poverty may gradually be ousting the original Roma culture that had long existed mainly in rural, closed and isolated communities.<sup>7</sup>

## **STATUS OF THE YOUNG ROMA WOMAN IN THE FAMILY AND COMMUNITY**

The Roma family has recently undergone a considerable change, mainly due to political, economic, social and cultural processes in society. On one hand, the family tries to adapt itself to the changed circumstances, on the other hand it is resistant to many of the changes and responds to external impulses selectively. Moreover, the Roma family has been directly exposed to institutional actions that have, more or less sensitively, intentionally or unwillingly, interfered with it, changing the traditional behaviour patterns of the Roma.

While the Roma family in an integrated environment has become, more or less, modernised, in a segregated and closed environment of the colonies and ghettos it is possible to find still today some of the characteristic features of traditional Roma families. It is exactly the relationships between genders and within the family, relatives and wider family that still play very important social and other roles in the traditional Roma communities (such as customary law, economic, educational, controlling or identification roles).<sup>8</sup>

The traditional Roma family has been, and still is, a wider family of more generations, consisting of nuclear families; a nuclear family, however, is not as important as the wider family. In terms of authority, the traditional Roma family has always been patriarchal, with a considerable authority in the hands of the man (father, husband, son, brother). Also, the birth of boys was preferred over girls and the family status was increasing significantly as they were growing up.

Girls were brought up to be ready to get married at the age of 14–15, and they had their first child at the age of 16–17. That being said, there is an evident synchronisation in time between the reaching of sexual maturity and having a spousal relationship, as an expression of recognition by the community of social adulthood of the individual. This process skips the stage of training for a career, acquiring of social competencies at adolescent age, as well as the period of looking for a partner by means of several, relatively non-committal relationships.<sup>9</sup>

Spousal cohabitation, often without marriage, was always lasting in traditional families. The whole big family had a very strong sense of solidarity, keeping the tradition, strong and constant relations with the relatives and the internal family relations. A couple would never leave the house to start their own family, but became part of the big family instead. Every member of the family had a precisely defined place within the family, with his/her specific rights and obligations. The hierarchy was determined by a combination of gender, age and affinity.<sup>10</sup>

The level of respect and esteem shown to a woman grew proportionally with the number of children she had given birth to. A traditional Roma family treasured children; therefore, if a woman could not have children, the man could

leave her. The main role of women in the family was to bring up children (in most cases, fathers took over the upbringing of boys of 5–6 years of age) and run the household. Practically, the whole weight of bringing up children and doing the housework rested on the mother's shoulders. She decided not only on the household matters but also economic issues. The role of the man was to provide for the family. If the man had no steady job, the woman became responsible also for providing for the family's keep.

The wide family was the fundamental platform ruled by mechanisms of social control preventing the individual from discrediting the family. Every minute of his/her life, the individual was reminded by various formalised cultural ways to behave in accordance with the *romipen*, i.e. Roma tradition and ethics.<sup>11</sup> That is, the family implemented acts related to the social control all members of the community were subject to. Behaviour of a mother was subject to the same social control. If she did not look after the children and household, she laid herself open to public slander. The pressure of public opinion was great. If any member of the family did anything contradictory to good manners, the shame for his acts fell on all members of the family. For example, if an adolescent girl was seen in a public place without an escort, or if the rumour was spread that she was seeing boys, the shame for her behaviour hit all relatives.

Female adultery was extremely harshly condemned. An "easy" woman (*lubňi*) was verbally defamed, and her beating by her man was also acceptable. She could even be driven out of home. One of the sanctions for adultery was cropping her hair short as a sign of degradation. Prostitution as such was absolutely inadmissible under the traditional Roma values; a prostituting woman would be an unthinkable shame for both the family and the woman herself.

Male adultery was more or less tolerated, especially if committed with a non-Roma woman. A traditional community even partially tolerated violence against women. However, if the abuse went beyond the tolerated limit, the community responded, for example through a slandering song. The woman could leave the man and return to her parents for some time, which was a shame for the man and his family.<sup>12</sup>

The current scientific knowledge of the Roma society does not allow to estimate to what extent these traditional characteristics of a Roma family have been maintained. It probably varies from one community to another, being influenced by a number of circumstances, such as the level of proliferation of the culture of poverty within the community, since the culture of poverty significantly modifies and deforms the traditional features of the Roma family.

Analysing the current status of women in the traditional Roma family and community is very deceptive, because it is hard to see what impact the mixing of traditional features with the features of the culture of poverty has on the family behaviour patterns.

However, if we presume that certain features of the patriarchal establishment have been maintained, then it can be concluded that young Roma women are the weakest part of the family and community. Perhaps except for old women, Roma women (mainly those without children) do not enjoy the same respect as men in the community, ever since they are born. Moreover, if the man is jobless, the entire responsibility for upbringing of children and the household, including providing for the family, lies with the woman. As such, the woman is under a great social pressure.

Life in the family and community is formed considerably also by new problems their members have to face. Among the most serious problems is a high rate of unemployment, having a significant impact mainly on the Roma youth. Some

of the values, norms and behaviour standards typical of the culture of poverty have probably already been passed on to the current Roma youths. A prevailing majority of the young people have never had any job; having completed the mandatory school attendance, they went straight to the labour office to get registered as unemployed. This gives rise to preconditions for a development of a subculture of the unemployed Roma youths who consider unemployment normal, and are likely to look for sources of their living elsewhere than in the formal labour market.

Roma women may thus be considered to suffer multiple disadvantages also within the community. They are disadvantaged for being Roma and poor, and disadvantaged even for being women.

## **FACTORS INCREASING POTENTIAL OF MARKETABILITY OF ROMA WOMEN**

To conclude this study, we would like to present a series of factors that might have an impact on the increasing number of Roma women from Slovakia trafficked abroad. Because this is a very delicate topic that is very hard to research, these factors will remain only hypothetical still for a long time.

### **GENERAL SUPPORT CONDITIONS:**

**Traditional features of the Roma family:** it is very hard to assess how important it is. Whether voluntary or forced, prostitution would be most contradictory to the traditional Roma values and standards. But the different attitude to women's rights, the dominant position of men in the family and community, or a higher level of tolerance of domestic violence probably have a certain influence on the fact that women are inclined to subordinate themselves to men even in such matters as prostitution. And if we also take into account early maturity and a premature start of sexual activity, the different perception of the body and sensuality, orientation on the presence and inclination to spontaneous decision-making, we are led to presume that certain traditional features of the Roma family have at least a secondary influence on the higher potential of marketability of Roma women. A thought might be given also to the possibility that the huge responsibility felt traditionally by the Roma woman toward her family, or children, might actually drive her to such extreme situations as selling her own body.

**Culture of poverty** – it is not entirely possible to clearly distinguish between behaviour patterns implemented in the community as a result of the traditional life of the Roma and those that are already side effects of the creation of the culture of poverty. The disintegration of the solidarity-based family and community relationships, occurrence of anomic elements, rejection of the morale and values of the majority of society probably have nothing in common with the traditional Roma culture. They arise where a certain group of people find themselves in extreme poverty and social exclusion. Therefore it seems it is exactly these typical features of the culture of poverty that create an environment suitable for the rise of such extreme strategies as the sale, or voluntary departure, of women for the purpose of prostitution.

### **RISK FACTORS**

**Absolute poverty** – as said above, the majority of young Roma women living in territorially and socially segregated colonies have never been employed and the prospect of finding a job in the formal labour market in the near future is insignificant.<sup>13</sup> It is therefore easy to imagine that absolute poverty and material need, even deepened as a consequence of the social system reform, force Roma women, or their families, to increase their income also through prostitution.

**Illegal work** – since a great part of the Roma population cannot find employment in the formal labour market, they often look for ways of making their living in the informal, so-called grey or black economy. The proceeds from such activity become a norm in some communities and they are not considered to be something in contradiction to the normative framework of society. This de-stigmatisation of illegal work increases the inclination of Roma women to accept job offers without a contract that may bring them as far as the sexual industry, and the risk of them becoming a victim of trafficking rises significantly.<sup>14</sup>

**Usury** – usury in Roma communities has assumed enormous proportions, causing social need of Roma families already in social need.<sup>15</sup> For the Roma from communities with almost a 100% rate of unemployment, a loan from a usurer is often the only way of getting money, often needed for exceptional occasions such as weddings or funerals; there is no money within the family to be lent and the only resort left is a usurer. However, the very first loan is the start of the vicious cycle and it is almost impossible for the indebted individuals and their families to free themselves from it. Usury deepens the poverty and causes desperation, helplessness and fear. If the Roma who are in debt are unable to repay the loan, other family members get involuntarily involved in the repaying. Usurers take advantage of the Roma mentality and their relationship with their family. Methods of recovering the payments are often drastic, with the usurer being backed up by his entire family. Although never proved, according to the report of the Office of the Slovak Government *The Analysis of the Crime of Usury in Slovakia and the Proposed Solution*, usurer clans were behind the mass departure of the Roma abroad.<sup>16</sup> It can be assumed that in many communities usurer clans organise also the sale of young girls abroad as a certain form of repayment of high debts.

**Drug and alcohol abuse-addiction, whether to drugs, alcohol or game machines**, is extremely costly for the addict. Drug addiction is very often a cause why young girls become prostitutes. In some cases, it is the addiction of parents that drives the daughter to prostitution. In recent years, organisations dealing with prevention and treatment of drug addiction have noticed an increase in the number of drug abusers in Roma communities. Hopeless life in Roma ghettos is also one of the factors contributing to the spreading of drug addiction.<sup>17</sup>

**Low education, legal awareness and information** – characteristic for Roma communities in Slovakia is the low level of education of their members. Basic education as the highest degree of attained education is not rare even among young people. Apart from education, young Roma women lack also information on basic human rights and the legal system. Their information on possible risks related to departure for work abroad or prostitution is also minimal. Getting information to the women and their families is very difficult, which is also a great problem. Citizens from socially excluded locations have worse access to information. At the same time, some Roma communities have a lack of trust in information provided by the majority population.<sup>18</sup>

**Migration waves** – a considerable number of young Roma women cross the borders as part of the migration waves of the Roma that could have been observed lately. This increases the risk that Roma women or their families will be more inclined to prostitution in a foreign, unfamiliar environment, and at the same time it reduces their possibility to effectively resist it.

**Exoticness** – in relation to trafficking in persons, an expert study named *The Status of Roma Women in Europe* draws attention to the fact that Roma women increasingly become 'an exotic article of commerce' for potential customers.<sup>19</sup>

The list of the above factors increasing the risk of young Roma women becoming an object of illegal sale has no ambition to be exhaustive. Many of the factors are only hypothetical; more extensive research would be required to prove them.

Nevertheless, we are not too mistaken if we say that the risk factors accumulate in segregated, closed Roma communities in which the elements of the culture of poverty start becoming evident. That is why young women from these communities are among social categories mostly endangered by the trafficking in persons.

This situation of so many Roma women in the Roma settlements may even lead to some of them voluntarily deciding to remain working in the sexual industry that exorbitantly increases the risk of threat. It seems they are even apt to submit to certain forms of violence against them. Such life strategy probably seems more acceptable to them than life in extreme poverty and exclusion, with no prospect of extricating themselves from such living conditions.

Therefore, the fight against trafficking in persons cannot be successful if it is a fight against organised crime only. Unless the society offers the Roma a chance to become part of it, unless it opens its doors, it can expect a total indifference of the Roma to the moral and normative framework of this society and its values. And then, prostitution and trafficking in persons will be only one of many ways of manifestation of this indifference.

## Notes:

- <sup>1</sup> The Information Campaign for the Prevention of Trafficking of Women. Final Research Report. Bratislava: IOM, 1999–2000
- <sup>2</sup> Such as: Trafficking in Women in Roma Communities. Final Report from the project Human Rights in Practice: Prevention of Trafficking in Women in Roma Communities. Prague: La Strada, 2003
- <sup>3</sup> The publication with the results of the research is expected to come out in December 2004.
- <sup>4</sup> We realise this is a simplified statement, however, the limited scope of this study does not allow for tackling this complex issue in more detail. For more detailed information see, e. g. Radičová, I.: *Hic Sunt Romales*. Bratislava: S. P. A. C. E., 2001, or Vašečka, M. (ed.): *Čačipen pal o Roma. The Summary Report on the Roma in Slovakia*, part 'Social situation and poverty of the Roma.' Bratislava: The Institute for Public Affairs, 2002
- <sup>5</sup> The founder of this theoretical concept is Oscar Lewis.
- <sup>6</sup> Demonstrated by a disadvantaged status in the educational system, for example.



- <sup>7</sup> For more detail see, e. g. Džambazovič, R. – Jurásková, M.: *Social Exclusion of the Roma in Slovakia*. In: Vašečka, M. (ed.): *Čačipen pal o Roma. The Summary Report on the Roma in Slovakia*. Bratislava: The Institute for Public Affairs, 2002, or Radičová, I.: *Hic Sunt Romales*. Bratislava: S. P. A. C. E., 2001
- <sup>8</sup> Kumanová, Z. – Džambazovič, R.: *The Roma Family: On the edge between traditionality and modernity*. In: Vašečka, M. (ed.): *Čačipen pal o Roma. The Summary Report on the Roma in Slovakia*. Bratislava: The Institute for Public Affairs, 2002
- <sup>9</sup> Ibid.
- <sup>10</sup> Hübschmannová, M.: *What does the traditional couples' matching ceremony say about the Roma family*. *Romano džaniben*, 1996, No. 1–2
- <sup>11</sup> Ibid.
- <sup>12</sup> Kumanová, Z. – Džambazovič, R.: *The Roma family: On the edge between traditionality and modernity*. in: Vašečka, M. (ed.): *Čačipen pal o Roma. The Summary Report on the Roma in Slovakia*. Bratislava: The Institute for Public Affairs, 2002
- <sup>13</sup> Clarifying the causes of the long-term Roma unemployment is a task requiring a study of its own. We can perhaps emphasise that most Roma face such barriers in the labour market that they are not able to overcome on their own. The barriers include low education, high rate of discrimination by employers, or marginalisation of some regions resulting in the real lack of jobs. Laziness and unreliability of the Roma so often brought forward by the media, public and even some politicians appear to be a really peripheral cause of the high unemployment.
- <sup>14</sup> *Trafficking in Women in Roma Communities. The Final Report from the project Human Rights in Practice: Prevention of Trafficking in Women in Roma Communities*. Prague: La Strada, 2003
- <sup>15</sup> *The Analysis of the Crime of Usury in Slovakia and Proposed Solution*. Material for submission to the Slovak Government session. 22 September 2004
- <sup>16</sup> There is information of cases of usurers convincing the Roma to give their flats or houses as a guarantee for their loans. In this way usurers often acquired real estate as a payment for the debt. The Roma person then depended on the usurer's good will to decide whether he could stay in the flat or become a homeless. Usurers also acquired real estate by promising to sell it for the Roma so they could leave for abroad and have a small amount of money to start a new life there. Usurers only abused naivety of the Roma, promising a better life to them (*The Analysis of the Crime of Usury in Slovakia and Proposed Solutions*).
- <sup>17</sup> *Trafficking in Women in Roma Communities. The Final Report from the project Human Rights in Practice: Prevention of Trafficking in Women in Roma Communities*. Prague: La Strada, 2003
- <sup>18</sup> Ibid.
- <sup>19</sup> Bitu, N.: *Report The Situation of Roma/Gypsy Women in Europe*. Roma Center for social Intervention and Studies. [www.roma-womwn.org/network/reports.php](http://www.roma-womwn.org/network/reports.php) (8. 11. 2002)

## CONTACTS OF TRAFFICKED WOMEN WITH NGOS IN THE SLOVAK REPUBLIC

Under the terms of “Prevention of Traffic in Women in Central and Eastern Europe” project, the outcome of which is also this “Contacts of trafficked women with NGOs in Slovakia” analysis, we have conducted a global survey on the issue of trafficking in human beings in Slovakia. The issue was considered in legal, social and institutional terms. Also, the possibilities of service for victims of trafficking, as well as the evaluation of Roma as the group at risk, were considered.

The survey consisted of studies of official data and available statistics, as well as of meetings with the representatives of relevant governmental organizations and institutions, NGOs and international organizations from all over the country.

For the purpose of the analysis on the contact of trafficked women with the NGOs, visits to selected NGOs from all over the Slovak republic and discussions with their representatives were of the main importance.

Throughout the year, we have met with the representatives of:

NGOs:

*Mymamy* – Prešov, *Avelana* – Michalovce, *Dafné* – Žilina, *Pomoc obetiam násilia* – pobočky Bratislava, Banská Bystrica a Prešov, *Slovenská humanitárna rada* – Bratislava, *Prima* – Bratislava, *Labyrint* – Bratislava, *Fenestra* – Košice, *ProFamilia* – Humenné, *Odyseus* – Bratislava, *Združenie mladých Rómov na Slovensku* – Banská Bystrica, *Pomoc rodine* – Michalovce, *Heuréka* – Banská Bystrica, *Nádej* – Prešov, *Krizové centrum Dotyk* – Beckov, *Nadácia Milana Šimečku* – Bratislava, *Lucia* – Košice, *Informačné a poradenské centrum Rómov* – Michalovce, *Romano Nevo Ľil* – Komunitné centrum Hermanovce, *RiP* – Rómsky informačný projekt, *Asociácia terénnych sociálnych pracovníkov*, *PDCS* – Partners for Democratic Change – Bratislava, *Inštitút pre verejné otázky*, *Nadácia otvorenej spoločnosti OSF*, *Pedagogicko-psychologická poradňa Bratislava Petržalka*, *Asociácia rómskych žien* – Prešov, *Návrat* – Prešov, *Maják nádeje* – Bratislava, *Áno pre život* – Rajecké Teplice.

Out of all these NGOs only 6 were identified as social services providers to survivors of trafficking in human beings: *Pomoc obetiam násilia*, *Aliancia žien*, *Krizové centrum Dotyk*, *Áno pre život*, *Dafné*, *Maják nádeje*. All of them were assisting at least one trafficked woman as a client, several provided assistance to even more clients.

Among all the organizations only 3 of them could provide the trafficked women with the accommodation in their own shelters: *Krizové centrum Dotyk*, *Áno pre život*, *Maják nádeje*.

All the NGOs claimed several problems, especially due to lack of finances: The clients are obliged to pay for the accommodation. Foreigners and most of the returning Slovak women have no social and health insurance. Thus, especially for the organizations that only start to seek for the social fees and for the foreigners, this is a considerable obstacle. None of the organizations can finance or provide return programmes.

The most important problem, however, is that these organizations provide crises intervention generally to women – victims of violence. They have some experience in working with survivors of trafficking in human beings. The basic problem of these NGOs is that they don't profile themselves as organizations which provide services to survivors of trafficking in human beings. A consequence of this is the fact that public, (potential) survivors and professionals are not informed about their services for these types of clients. Another problem that these NGOs are facing is that their services are also open to mothers with children. Due to this fact, basic safety rules are not sufficient. Last, but not least these two organizations are not experts on the issue of trafficking in human beings.

Additionally, prevention and public relation work are not within their activities.

The other organizations concentrate solely on legal and social counseling, which varies in quality. Especially the Alliance of Women in Slovakia provides very professional legal and psychosocial counseling in Bratislava, due to its long lasting series of special training with Vienna Interventions Stelle, Wave (Women Against Violence Europe), LEFÖ and long cooperation with La Strada and others.

The Alliance of Women in Slovakia does a lot of public relations activities, education, publication, campaigning, and even elaboration of amendments of laws. Its further quality is that as the only women's organization in Slovakia, it deals with the issue of trafficking from the point of view of the abuse of human rights. Also it established a new subsidiary organization, which will deal only with TIHB and will profile itself publicly as an anti-trafficking organization.

A rather young organization, Pomoc obetiam násilia (PON), has an advantage of having branches working in all regions of Slovakia. During a campaign of IOM (2003), an information-line for the public was placed in this organization, which was specially designed to provide basic prevention information. Creating this line was one of the main aims of the first anti-trafficking campaign in Slovakia coordinated by IOM SR. Mediation of following psycho-social assistance and counseling (crisis help, shelter etc.) to survivors of trafficking in human beings is problematic, since PON cannot provide these services.

All these organizations claimed insufficient financial resources as a major problem. Its direct consequence is the incapability of the organizations to cover attorney expenses and provide social support to uninsured clients and foreigners. There is lacking 24-hour crisis assistance, return programs and shelters with a long-term psychotherapeutic care. Also, there is a long-lasting training of specialists lacking, especially of social workers, lawyers, psychologists, and psychotherapists. Also, absent financial resources account for insufficient cooperation with foreign organizations and lack of a global and holistic approach to the issue of human trafficking.

The monitored organizations reported 31 women as clients.

Among them, there are those who firstly contacted some of the non-shelter organizations and were finally recommended to some of the shelters. This means that the global number of assisted clients might be lower. None of the addressed organizations stated any case of trafficking in males or children, but neither of them claimed that such cases could be ruled out definitely.

This analysis showed that trafficked women who became clients of the Slovak NGOs were provided with proper assistance only if they contacted (or were passed further to) several organizations. Their basic needs were covered – shelter, meal, social and legal counseling, but social fees and benefits as well as a paid lawyer were problematic to get. As far as we are concerned none of the trafficked women stayed long enough to get proper results of psychotherapeutic treatment or a provide us with feed-back. None of the women was accompanied to a trial proceeding.

In the analysis, we have paid special attention to the Roma communities, since various sources determined Roma women as a group at high risk.

We have contacted both Roma and non-Roma organizations that deal with Roma issues especially those specialized in fieldwork (such as Organization of Field Social Workers), as well as the Plenipotentiary for Roma Issues.

We have visited the Institute for Public Affairs (IVO), which has cooperated on the so far most complex study on Roma Situation in Slovakia (“Socio-graphic Survey on Roma Communities in Slovakia”, 2004). Martina Jurásková, who has later cooperated with us on the analysis “Trafficking in Women in Roma Communities”, has also worked on the IVO survey.

Originally, we have searched for information on: trafficked women, the attitude of Roma communities towards the issue of trafficking; we attempted to find out what are the ways of recruitment of Roma women, etc. We were particularly interested in the cases of trafficked women, in the process of hiring, transportation and living in the place where women were transported. We were trying to determine any possible causal link between the crime and so-called “slavery due to indebtedness.” We also attempted to identify the extent of awareness of human trafficking issues in the Roma communities. Here, this topic turned out to be a taboo and we did not acquire any information, since we were confronted with what could be literally called a “wall of silence.”

Conversant with the prior failure, we prepared a number of questions for the field workers, so that they could sensitively and successfully deal with the issue while interviewing members of Roma communities. (Here are some sample questions used in the interviews: Are you aware of any case of women working abroad? Would a Roma woman leave to work abroad solely on herself (for a specific work/for a non-specified work)? Would you leave without your family? Do you know any woman currently working abroad? What is she doing there? How did she get the job? Does she have the permit/work there illegally? Do you know anybody who offers work abroad for women? What happens when a woman replies to the offer? What kind of work are women offered? What is the reality after the women come to the place where the work is to be carried out? How do they get to that place? Who covers the travel expenses? Are the usurers involved in the process? How much of the earned money goes to the usurers? Who travels abroad – women or men? What kind of work do they do there?)

We have also concentrated on the phenomenon of "getting married abroad" that could be related to the cases of trafficking. While looking for specific cases of trafficking-related marriages, we attempted to clarify who are the potential husbands (what nationality are they? Do they predominantly come from Roma communities abroad? Which countries do they come from?). We also tried to determine the way in which the Roma women come into contact with men from outside of the Roma communities (whether someone mediates the marriage; under what conditions; etc.).

After systematic fieldwork, we could conclude that in the cases where it is virtually impossible to find the answers to our questions, determining the reasons for which this is not possible is essential. As a result, we decided to carry out a systematic analysis of the life situations of women in Roma communities (for the first time in Slovakia). The outcome of the research is the analysis "Trafficking in Women in Roma Communities."

**In the analysis we have stated that the key features of the "culture of poverty", which negate the entire traditional Roman normative framework, are social dependence, excessive reliance on external help, apathy, passivity, aggression and the occurrence of anomic (law-lacking) environment.**

Were it not for the specific attitude towards women's rights, dominant role of men in Roma communities, and higher level of tolerance of domestic violence, both voluntary and forced prostitution would dramatically contradict traditional Roman values and norms. The above named factors, however, seem to account for the fact that, in issues such as prostitution, women tend to subordinate to men. Also, if we consider phenomena such as early maturity and a premature start of sexual activity, the different perception of the body and sensuality, orientation on the presence and tendency to spontaneous decision-making, it leads us to the assumption that certain traditional features of the Roma family have at least a secondary influence on the higher potential of trafficking in Roma women.

In the attempts to identify the causes of trafficking in women, another hypothesis might also emphasize the huge amount of normative responsibility that the Roma women feel for their children.

At the same time, it may be assumed that in many of the Roma communities, usury clans initiate trafficking in young women as a quid pro quo for heavy debts.

Also, drug addiction could be considered to be one of the leading causes of young women's prostitution. It should be noted, however, that there are cases where the young woman's parent's addiction is the cause of her becoming a prostitute.

Consequently, what needs to be pointed out is the fact that there are several levels in which the Roma women get disadvantaged: race (Roma nationality), social status (socially weak class) and sex (women).

We pay heightened attention to the Roma women, since they represent the majority of our clients. These were, in the vast majority of cases, young girls from orphanages whom no one really missed. They had no perspective and they lacked education that could ensure them a decent life. They had no information on traveling abroad, no sexual education, no education on spouse-relationships or preparation for individual existence and a family life.

The case study of our very first client Julka may serve as an example:

*When Julka was 3 years old, her mother gave her into the orphanage house. As Julka found out later on, the reason for which her mother decided to place her into the orphanage (all the other Julka's siblings were raised by their mother) was that she "did not eat properly." At the age of 18, Julka left the orphanage just as all the inmates who turn legal age.*

*She had nowhere to go, she spent some time in the lodging house for socially weak classes – along with drug addicts and homeless people.*

*Later on, she managed to find a job as a helping cook. The money she earned did not, however, even cover her living costs. That was when she decided to "get married in Austria". Thus she left to Vienna, where she began to work in a nightclub. With this particular period of life, Julka associates positive memories: "They were nice to me, they talked to me, I went to sauna, visited Prater, the doctor prescribed me eye drops..." She never talked about the prostitution she had to practice in the club; she merely shrugged her shoulders – the way we usually respond to inevitable evil that we can hardly do anything about. Since Julka did not have the work permit, she was arrested when the police raided the club, and put into jail in Vienna for preliminary hearing. The Austrian NGO LEFŮ, which contacted her in the prison, informed the Alliance of Women in Slovakia organization and we took her at the Austrian-Slovak boarder. Due to the fact that Julka was penniless, none of the shelters in Bratislava could accommodate her. Moreover, one of the social workers "spread the word" that Julka was exiled as an illegal prostitute. And since she could receive social support only in the place of her permanent residence, she had to return back home – with an unwanted social label "prostitute".*

*Our so far last client, Mária, grew up in an orphanage house as well. Unlike Julka, however, she decided to leave it before she would find herself on the street. She accepted the offer of one of her acquaintances, introduced him as her family relative so that she could leave the orphanage house and left with him to Austria. There she rather voluntarily worked as a prostitute. She objected only to the number of her customers – more than 10 of them a day. "If there is no other way to earn money, one gets used to this kind of life as well," Mária recalls her work in Austria. "But that much?!"*

*She was arrested by the police and through the LEFŮ and Alliance of Women in Slovakia Organization, Mária got back to Slovakia. She was suffering from a sexually transmitted disease and she was pregnant.*

*Alliance of Women in Slovakia contacted another three organizations, in the cooperation with which they managed to transfer Mária to a safe place. Mária recovered from the disease and she decided to keep the baby. The organizations also managed to get her social support sent to a new secret address. After seven months, when everything seemed to be working well, Mária left the shelter and has not contacted any of the organization members since then.*

*There are several questions concerning both Julka's and Mária's case that remain to be answered. What can we really offer to women like Julka? And in the cases of Máriás, who are the culprits in fact? Alliance of Women in Slovakia and the other organizations are daily hunted by these and tens of similar questions...*



**SITUATION IN THE AREA OF TRAFFICKING IN HUMAN BEINGS  
IN POLAND**

**LEGAL FRAMEWORK OF TRAFFICKING IN HUMAN BEINGS  
IN POLAND**







# **SITUATION IN THE AREA OF TRAFFICKING IN HUMAN BEINGS IN POLAND**

## **THE NATIONAL PROGRAM FOR SUPPRESSING AND PREVENTING HUMAN TRAFFICKING**

The initiative to develop the Program is the result of the Round Table Meeting on suppressing human trafficking, which was held thanks to La Strada in spring 2003.

The National Program for Suppressing and Preventing Human Trafficking is a document prepared by the Ministry of Internal Affairs and Administration and accepted by the Council of Ministers on 16 September 2003.

The tasks specified in the Program should be carried out within 1.5 years from the date on which the Program was accepted.

### **Proposals included in the Program may be divided into 4 categories.**

**The first group concerns the establishment of a cooperation system.** On 5 March of this year, the intersectoral Team for Suppressing and Preventing Human Trafficking was appointed by an ordinance of the President of the Council of Ministers (which team will be composed of the representatives of the Ministry of Internal Affairs and Administration, the Main Police Headquarters, the Main Border Guards' Headquarters, the Office for Repatriation and Foreigners, the Ministry of Justice, including the public prosecutor's office and courts, the Government's Representative for Equal Status of Women and Men, the Ministry of National Education and Sports, the Ministry of Economy, Labor and Social Policy, Ministry of Foreign Affairs, Ministry of Health, the Office of the Committee for European Integration). The Team's work will focus on coordination and evaluation of the status of Program realization and on preparation of proposals for further actions. The creation of the Team to which extra-governmental organizations will also be invited should facilitate the exchange of information between institutions dealing with the human trafficking issues, as well as gathering statistical data, initiating research concerning this issue or mass media campaigns.

**The second group comprises proposed amendments to the legislation.** It concerns, above all, the introduction to the Criminal Code of the definition of human trafficking included in the Protocol supplementing the United Nations Convention Against Organized Crime and EU Council Framework Decision on Combating Trafficking in Human Beings. Other envisaged projects include amending the Act on Foreigners and introducing a residence visa for the victims of

trafficking in persons cooperating with the relevant authorities, as well as ratifying the facultative Protocol supplementing the United Nations Convention on the Rights of the Child, concerning trafficking of children, children's prostitution and pornography.

The third, most extensive group, includes proposals intended to increase the efficiency of activities. It includes the necessity to introduce issues related to human trafficking to the basic training for police officers and organize specialist training courses for law practitioners involved in suppressing human trafficking. It is envisaged to appoint a special unit of the Main Police Headquarters responsible for coordination of activities connected with suppressing human trafficking and to create relevant teams or jobs at police headquarters on the lower level. In order to intensify international cooperation in this respect it is planned to systematically organize meetings of experts from the countries of origin, transit countries and countries of destination of the victims, for purposes of exchanging information on the upcoming changes.

The last group of proposals is connected with the issue that is most important in view of human dignity and human rights, namely the intensification of the protection of victims and witnesses.

In this part of the Program the need was identified to create a list of organizations and centers that are able and authorized to help the victims of human trafficking, train social service employees, and prepare and implement programs of social reintegration of the victims. However, it was emphasized that above all there is a need to develop a support system for the victims combining the efforts of the governmental administration and extra-governmental organizations, and having a permanent source of financing.

Presently, some of the tasks listed in the Program have already been completed and others are under way. Each of the institutions involved in implementing the Program acts within the scope of its tasks and authority and using its own financial means.

## **MAIN REASONS FOR THE UNWILLINGNESS TO DEPOSE ON THE PART OF THE VICTIMS OF HUMAN TRAFFICKING**

### **psychological, social, institutional, informational**

- psychological effects of confinement – e. g. post-traumatic stress disorder<sup>1</sup>, hostage syndrome<sup>2</sup>,
- feeling of helplessness due to isolation (lack of language skills, illegal residential status, limitation of social contacts),
- fear of the offenders' revenge,
- fear of secondary victimization during the court proceedings,
- feeling of shame preventing them from telling their family/local society that they have practiced prostitution,

- decision to stay in the sex business,
- fear of criminal liability,
- opinion that prosecution bodies are ineffective,
- limited access to the consular services assistance,
- (alleged) corruption of state institutions,
- errors made by state officers,
- lack of proper treatment of victims during the investigation and court procedure,
- unawareness of the fact that one is a victim of an offence,
- lack of knowledge about the functions of particular institutions and their authority,
- lack of information about their rights as a victim.

### **Notes:**

- <sup>1</sup> **Post-traumatic stress disorder** – is characterized above all by re-experiencing of a traumatic event (e. g. in the form of recurrent and intrusive daytime recollections, flashbacks, repetitive horrid dreams), avoiding the stimulus associated with the traumatic event, general emotional numbness and inadequate emotional arousal (e. g. sleep disorder, increased mental alertness, inadequate fight reactions).
- <sup>2</sup> **Hostage syndrome, called the Stockholm Syndrome** – consists of the formation of a specific positive relationship between the victim and the offender. During a long contact, on the basis of the crippling feeling of helplessness and the lack of help the symptoms of the syndrome may appear in three areas: the victim's positive feelings to the offender, the victim's negative feelings about authorities (persons from whom the victim expects help) and sometimes positive feelings of the offender to the victim.



# LEGAL FRAMEWORK OF TRAFFICKING IN HUMAN BEINGS IN POLAND

Phenomena such as trafficking in human beings, slavery and trading in slaves have existed since antiquity until contemporary times. Presently, such dealings are classified as so-called international (conventional) crimes that are subject to prosecution and punishment in particular countries – parties of international agreements.

Poland is a signatory of numerous international agreements and conventions intended to protect human rights. From the practical viewpoint, the most important international treaty concerning trafficking in human beings is the **United Nations Convention against Transnational Organized Crime (2000)** together with the **Supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**.

**Article 3 of the above Protocol defines trafficking in persons as:**

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

The consent of a victim of trafficking in persons to the intended exploitation set forth in section a) of this article shall be irrelevant where any of the means set forth in section (a) have been used against such victim of trafficking.

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if it does not involve any of the means set forth in section (a).

“Child” shall be any person under the age of eighteen.

As follows from the above definition, treating trafficking in persons as the equivalent of prostitution is wrong and it limits the scope of the term “trafficking in persons” since it does not account for forced labor or removal of organs.

The crime of trafficking in persons is specified by the Polish legislation in article 253 § 1 of the Criminal Code. The subjects of such trade transactions are human beings treated by the offenders as commodities. The consent of a victim is irrelevant for the offender’s liability.

In Art. 8 of the introductory provisions to the Criminal Code, liability for a crime consisting of causing another person's entering slavery or of trading in slaves, was specified. Both crimes are subject to the penalty of imprisonment for the period not shorter than 3 years.

Real concurrence of crimes exists between the two.

A significant role in suppressing the above-mentioned dealings is also played by the **Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others**, adopted by the United Nations on 2 November 1949 and ratified by Poland in 1952. By ratifying this convention Poland consented to making accountable each person who:

- procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person,
- exploits the prostitution of another person,
- keeps or manages, or knowingly finances or takes part in the financing of a brothel.

The legislator did not include prostitution in the scope of criminal law, but instead introduced penalization of the following practices:

- inducing another person to practice prostitution, i.e. prostitution procurement (art. 204 § 1 sentence 1 of the Criminal Code),
- facilitating prostitution, i.e. pandering (art. 204 § 1 sentence 2 of the Criminal Code),
- profiting from the prostitution of others, i.e. pimping (art. 204 § 2 of the Criminal Code),
- inducing minors into prostitution, facilitating prostitution and profiting from the prostitution of minors (art. 204 § 3 of the Criminal Code),
- enticing or abducting another person for purposes of practicing prostitution abroad (art. 204 § 4 of the Criminal Code).

All of the above-mentioned types of crimes are committed by an offender in order to obtain financial gain. However, in art. 203 of the Criminal Code the legislator penalizes the act of leading another person to practicing prostitution when the offender uses force, illegal threat or deceit, or takes advantage of a relationship of subordination or a critical situation of that person. It is a crime subject to the penalty of imprisonment for one year to 10 years.





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