

HUMAN TRAFFICKING IN THE BALKANS: AN INSIDE REPORT

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I. Introduction

Human trafficking is not a myth or something that is part of our volatile past. It is not a problem that is targeting isolated parts of the world making only a small number of people its victims. It is our menace today and part of the cruel reality that we are raising our children in. It is a plague that endangers the world community, for no part of the globe is immune. How is it possible then that in this day and age, when the safeguarding of human rights is considered such a priority by many nations, human slavery continues to exist?

It is difficult to imagine, but it is sadly, true. Millions of people around the world suffer in silence in slave-like situations of forced labor and commercial sexual exploitation from which they cannot free themselves.¹ Although the traditional type of slavery, so called “chattel slavery,”² has mostly died away and only persists in a few countries such as Sudan and Mauritania, modern age slavery is quickly becoming its substitute with consequences that are equally profound, if not worse for societies worldwide.

Trafficking in persons is modern-day slavery, involving victims

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¹ Human Trafficking and Modern Day Slavery, <http://www.gvnet.com/humantrafficking/00-HumanTrafficking.htm> (last visited May 13, 2009).

² *Id.*

who are forced, defrauded, or coerced into labor or sexual exploitation. The numbers go from 27 to 200 million people worldwide who live in a slave like conditions (600-800,000 people, predominantly women and children are victims of sex trafficking, not counting millions of people trafficked within the national borders), and the profit gained by organized networks engaged in this type of crime amounts to more than \$20 billion per year.³

According to the International Organization for Migration (the "IOM"), with its headquarters in Geneva, it is estimated that yearly around 120,000 women and children become victims of trafficking in the European Union (the "E.U.") and are mostly trafficked through the Balkan region. Balkan countries including Bulgaria, Romania, Bosnia and Herzegovina, Croatia and Serbia-Montenegro are located in a pivotal zone between poorer countries to the east and the more affluent nations of the E.U., and function as transit points as well as countries of origin and final destinations. By looking at the new figures published by the IOM, around 90 percent of women located in the E.U. are of foreign background working as prostitutes and between 10-15 percent are below the age of 18.⁴

More specifically, "[h]uman trafficking has a devastating impact on individual victims, who often suffer physical and emotional abuse, rape, threats against self and family, passport theft, and even death. But the impact of human trafficking goes beyond individual victims; it undermines the safety and security of all nations it touches."⁵

It is very important to note that there are three fundamental factors at work that encourage trafficking:

1. Within the countries of origin, a seemingly endless supply of victims remains available for exploitation

³ Report by the National Coordinator for Combating Human Trafficking, Belgrade, Nov. 3, 2003; *see also* Metropolitan Learning Center, Human Trafficking Study 2 (2004), http://www.crec.org/magnetschools/schools/met/documents/Human_Trafficking.pdf.

⁴ http://www.balkantimes.com/default3.asp?lang=croatian&page=process_print&article_id=22334, 17.03.2004.

⁵ Metropolitan Learning Center, *supra* note 3.

due to the appalling economic, political and social conditions which is often called the “push factor;”⁶

2. In the countries of destination, there is a continuous demand for the services provided by the victims, the so called “pull factor;”⁷ and

3. Organized criminal networks worldwide analyzed this current condition and have taken control of this economic “supply and demand” situation engaging in trafficking activities and exploitation of trafficked persons in order to gain enormous profits for themselves.

According to the U.S. Department of Health and Human Services, human trafficking is a multi-dimensional threat: it deprives people of their human rights and freedoms, it is a global health risk, and it fuels the growth of organized crime.⁸ And what are the international institutions and individual states doing in order to fight this widespread problem? Very little!

There are a number of international conventions and norms that have been established in order to combat this phenomenon such as the Universal Declaration on Slavery (1926), the Universal Declaration on Human Rights, the U.N. Convention Against International Organized Crime, the so called “Palermo Convention,” and the additional Protocol for preventing, combating and punishing of trafficking in human beings, especially women and children, the Brussels Declaration on prevention and combat of the phenomenon of trafficking of human beings, and Recommendations adopted by the E.U. member states. Significantly, both the U.N. Secretary General and the U.N. High Commissioner for Human Rights have identified trafficking in human beings as one of the grossest

⁶ KEVIN BALES, UNDERSTANDING OF GLOBAL SLAVERY: A READER 155 (Univ. of California Press 2005).

⁷ *Id.*

⁸ U.S. DEP'T OF HEATH & HUMAN SRVS, FACT SHEET PRESS RELEASE, Aug. 15, 2006, <http://www.hhs.gov/news/factsheet/humantrafficking.html>.

violations and challenges of human rights.⁹

The *UNOHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking* establishes human rights as a supreme factor on the world political agenda, stating that:

1. The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims;
2. States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers and to assist and protect trafficked persons;
3. Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, internally displaced persons, refugees and asylum-seekers.¹⁰

Aside from the fact that all these international norms have been laid out to curb this phenomenon decades ago, the efforts and response of the individual states, regional organizations and international organizations is inadequate and insufficient, resulting in the flourishing of this phenomenon globally. Thus, one is encountering scenarios where the number of victims of trafficking is on the rise in Southeastern Europe, but, on the other hand, the number of identified victims and the victims to whom some kind of assistance is provided is rapidly falling. Also, poor implementation of international norms and domestic legislation on this issue, as well as failure to protect human rights represent the crucial obstacles in a successfully fighting human trafficking. Interestingly enough,

⁹ *Id.*

¹⁰ U.N. Econ. & Soc. Council, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*. Addendum to the Report of the U.N.H.C. for Human Rights, ¶ 3, U.N. Doc. E/2002/68/Add.1 (May 2002), available at <http://www.un.org/ga/president/62/ThematicDebates/humantrafficking/N0240168.pdf>.

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according to the UNICEF representative for the region, “the Southeastern European countries have shown that they are much more willing to address the issue than many countries in Western Europe.”¹¹ Although this is the case, there are many more steps that the Balkan countries need to undertake in order to be able to proclaim themselves as the protectors of human rights. They could do this by implementing a human rights approach derived from the international treaties, protocols and covenants.

This is one of the key issues that this paper will try to address primarily focusing on the Balkan region by discussing its uniqueness and the important role it plays in the world trafficking chain. Furthermore, it will look at the fundamental reasons that underpin the occurrence of this phenomenon such as the appalling economic conditions, unstable political climate, corruption present in all spheres of a society, improper education, the failure of the state to implement ratified international codes and already existing domestic legislature, and the lack of opportunities for young people. It will also deal with the systems and mechanisms put in place by the governments, regional organizations, NGOs and grassroots groups in order to curb this phenomenon and suggest some of the methods and procedures that would enable states to be more efficient and successful in the fight against human trafficking.

In addition, in this paper the author will try to give some voice to the victims of these crimes who are actually rarely heard and often silenced. Their testimonies should be major warnings, not only to the governments of the Balkan states, but to the rest of the world about the ferocious and inhuman consequences of this widespread crime. Their stories need to be listened to, not just because all should sympathize with their misfortune and hardship, but because without them and their voices this problem will never be solved, and it will just increase in scale with more serious and fatal consequences for societies worldwide. Additionally, because in between the lines of their testimonies one can underpin the fundamental reasons behind this inhumane crime and also find the most plausible solution for it.

¹¹ Imogen Foulkes, *Balkans urged to curb trafficking*, B.B.C. News, Mar. 31, 2005, available at <http://news.bbc.co.uk/2/hi/europe/4397497.stm>.

According to the former United States Secretary of the State, Colin Powell, trafficking in persons is one of the greatest human rights challenges of our time,¹² and I strongly believe that the Balkan countries, including my home country Serbia, are not doing enough to address this challenge. This is why I feel a need to speak out about this modern day “plague” and hope that this will be my contribution in finding a proper cure for it.

II. The Phenomenon of Trafficking of Human Beings in the Balkans

The Balkan region for many years has been one of the main transit areas for human trafficking. Every year, large numbers of people are transferred using this route and then sold and kept in modern “slavery” conditions all around the European countries. Despite all attempts to combat this phenomenon in the territory of South Eastern Europe, the number of victims rapidly increases each year. Existing legislation in many Balkan countries, as well as mechanisms for prevention and combating human trafficking, show that it is not sufficient just to have established legal norms and prescribed penalties for this criminal offence. In order to protect fundamental human rights of the victims of trafficking, the legal norms need to be implemented and respected in every country’s jurisprudence. One of the things that makes the legal mechanisms hard to be implement effectively is the widespread corruption of public officials who are neglecting the crimes and in many cases are personally involved and benefiting from the human trafficking processes themselves. Also, in most European countries, the phenomenon of human trafficking has not been officially recognized as a gross violation of human rights, and the whole issue is mostly treated as an illegal migration or prostitution. Instead of creating one system of victim protection, countries usually fail to acknowledge these violations, and as a result of their ignorance, trafficking criminals who often go through domestic legal procedures without being punished for their criminal conduct or fail to be prosecuted at all.

¹² U.S. STATE DEP’T OF STATE, *Trafficking in Persons Report 6* (June 2003), available at <http://www.state.gov/documents/organization/21555.pdf>.

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Looking through the international legislative history, it is apparent that finding one adequate and globally accepted definition for women trafficking went through so many phases until the adoption of the Convention against Transnational Organized Crime and its Supplemental Protocol: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Trafficking is a complex phenomenon and before the naissance of a universal definition in this international document, it has usually been confounded as a part of illegal immigration and smuggling of people. Therefore, in order to be able to comprehend the phenomenon of human trafficking and to identify it as an entirely separate issue, we need to distinguish it from similar categories of crimes.

Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children states:

“Trafficking of 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, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.¹³

On the other hand, according to the United Nations Convention against Transnational Organized Crime Optional Protocol against the Smuggling of Migrants by Land, Sea and Air¹⁴ is defined this way:

¹³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 55/25, art 3, U.N. Doc. A/45/49 (Nov. 15, 2000), *available at* <http://www2.ohchr.org/english/law/protocoltraffic.htm>.

¹⁴ The Protocol against the Smuggling of Migrants by Land, Sea and Air,

“Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.¹⁵

If we compare those two categories, we can see many different parameters encompassed by the definitions of human trafficking and smuggling of people. Distinguishing those main descriptions which differentiate the two is crucial for the proper implementation of the international instruments on the domestic level and thus the adjustment of all relevant legal norms in each country with the internationally recognized principles of human trafficking. Both human trafficking and smuggling epitomize illegal migration;¹⁶ however, usually trafficking does not involve illegal crossing of the state borders, and most of the trafficked persons have the official entrance clearances for the transit and destination countries.¹⁷ Also, trafficking involves a form of exploitation which means that persons are trafficked in order to be forced to engage in certain types of work. While the main goal of smugglers is to enable people to cross borders illegally, it is not to force them to engage in any type of work. This also implies that smuggling is predominantly a voluntary

Supplementing the U.N. Convention Against Transnational Organized Crime, G.A. Res. 5/25, art 3, U.N. Doc. A/45/49 (Nov. 15, 2000). *available at* <http://www.unhcr.org/refworld/docid/479dee062.html>. *See generally* Rob Boone, *U.N. Conventions against Transnational Organized Crime: Issues and challenges*, Dec. 2001, www.crimeinstitute.ac.za/2ondconf/papers/boone.pdf.

¹⁵ Boone, *supra* note 15.

¹⁶ Robyn Emerton, *Trafficking of Women into Hong Kong for the purpose of Prostitution: Preliminary Research Findings*, Center for Comparative and Public Law (Feb. 2001) (unpublished paper No. 3, on file with the University of Hong Kong).

¹⁷ During the internationally coordinated special police operation called “Mirage” conducted by the Serbian police force from September 7-16, 2002 on the territory of Belgrade, the police captured one Romanian man and five women from Moldova who entered Serbia with valid visas and were supported to be trafficked to Italy with forged Romanian passports. Media Office under the MUP Belgrade issued this statement. *National and International Economic Influences of Trafficking of Human Beings*, Ministry of Interior Affairs of Serbia CD-ROM, Feb. 12, 2003.

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process, and the persons who seek to be smuggled give their consent which is not the case for the victims of trafficking.

Finally, one needs to acknowledge the importance of the role that gender plays in this whole criminal enterprise. This is an issue that this paper will try to analyze and elaborate later on primarily because the most common victims of trafficking tend to be women.¹⁸ Statistics of the Balkan countries highlight and confirm this statement. Every year large numbers of women are trafficked from Eastern European countries such as Ukraine, Moldova, Russia through Serbia, Romania, and Bosnia that are marked as the main transit sections into Western European countries such as Italy, Germany, the Netherlands, and France which are the major destination points.

In order to understand the phenomenon of trafficking, one needs to look at the reasons behind its occurrence and the conditions which coerce a person to engage in or become a victim of this crime. One of the most important conditions which is representative of all the Balkan countries is the appalling condition of the states' economies and their political systems. Looking back just to the most recent years, one can realize that the most of the Eastern European countries are in the process of transition which implies many systematic and structural changes of their political, economical and social systems. This is a vital point that needs to be raised and underlines the main reasons behind the majority of criminal activities and the human trafficking that agitate the entire region. If one focuses on any of the Balkan countries, it becomes clear that the transitional process that the country is going through require drastic changes and modifications of the norms that have been guiding the states for decades and are deeply entrenched into the society as a whole. Amending and revising of any sphere of a state establishment calls for and requires changes in all the realms which cause pandemonium and crisis in a country affecting the society and its population the most.

¹⁸ Jacqueline Bhabha, *Trafficking, Smuggling, and Human Rights*, MIGRATION INFORMATION SOURCE, Mar. 1, 2005, <http://www.migrationinformation.org/feature/display.cfm?ID=294>.

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Political and economic changes that the Balkan countries are expected to execute are often harsh and drastically degrade the living conditions of almost every person. For example, the economies are often called upon to apply very harsh structural adjustment programs that call among other things for the privatization of the national economies (bear in mind that most of the countries in the region were embracing communist or socialist forms of economy) and employing of the new economic principles, which directly results in a drastic rise of unemployment rates and loss of jobs.¹⁹

These measures are devastating for the entire population but are particularly severely damaging for the women because they are an extremely sensitive and vulnerable group and are mostly in an inferior position in most of the culturally traditional Balkan countries. Therefore, it does not come as a surprise that the Committee on the Elimination of Discrimination against Women in General Recommendation No. 19 acknowledged this trend in Article 6 that “poverty and unemployment increase opportunities for trafficking in women.”²⁰

The other reasons which leave the female population particularly vulnerable to become the victims of trafficking are of a social and cultural nature. Bear in mind that the majority of trafficked women in the Balkans come from families with no or very little education because of very low financial standing and thus are looking for a better life promised to them in Western countries by the traffickers.²¹ Owing to the lack of their education, they tend not to

¹⁹ The unemployment rate in Yugoslavia rose from 17% at the beginning of the 1990's to 30 % (officially) and 50% (unofficial estimates) between 2004 and 2005. In October 2002, there were about 500,000 people unemployed, and at the end of 2005, there were 895,697 registered unemployed persons. *See generally* Marija Obradovic, *The socio-historical consequences of privatization in Serbia*, 10 *SOUTH-EAST EUROPE REV. LABOUR & SOC. AFF.* 39 (2007), available at http://www.boeckler.de/pdf/seer_2007_1_obradovic.pdf.

²⁰ Convention on the Elimination of All Forms of Discrimination against Women, Violence against Women, 11th Sess., Gen. Recomm. No. 19, 29/01/92, art 6, U.N. Doc. A/47/38, (1992).

²¹ In order to combat this phenomenon local governments in the cooperation with the E.U. agencies are establishing programs for the economical empowerment of women from rural areas. *See generally* Commission of the European

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be skilled enough to find proper jobs in their home countries with devastating economies, so the only way to improve their living standards is to go to some wealthy Western European country looking for a job and a better life.²² According to the Coordinator for Human Trafficking in Serbia, the factors of pushing in the countries of origin and the factors that attract victims in Western Europe are of an economic nature.²³

Also, transitional processes that the Balkan countries are currently going through shrink the already existing middle class, lowering their living standards, leaving them vulnerable targets for the trafficking networks. In many cases, women who are the victims of domestic violence and are escaping an inhumane treatment by their parents, husbands, and boyfriends tend to become very appealing to the criminal groups engaged in this kind of crime. It is very important to note that due to the cultural norms adopted in most of the South-Eastern European countries, women are treated and looked at as sexual objects, as goods that can be sold and purchased totally ignoring their own will. This widespread attitude has its base and supporting means in the educational systems, historical culture and even in the domestic legal systems of the state.

Trafficking of women is one of the most profitable and thus among organized crime networks, the most prevalent activity. According to the reports published by the Serbian Ministry of Foreign Affairs, the profit coming from this criminal activity worldwide is counted in billions and ranges from \$4 to \$18 billion per year.²⁴ Thus, the most worrying fact is that in most of the Balkan countries, this activity is not considered a criminal offence and is not punishable by any legal code, nor is there any kind of protection available to the victims.

Community, Gender Equality and Women Empowerment in Development Cooperation, COM (2007) 100 final (Aug. 3, 2007), *available at* http://ec.europa.eu/development/icenter/repository/SEC_2007_332_EN_DOCUM_ENTDETRAVAIL_en.pdf.

²² *Supra* note 18.

²³ Statement by the National Coordinator against THB in Serbia, Feb. 12, 2003. (Special Court for Organized Crime, Belgrade CD-ROM).

²⁴ *Supra* note 18.

Summarizing all the things mentioned beforehand, one needs to remember that appalling living standards, vast unemployment, lack of education, widespread gender discrimination, domestic violence, conservative surroundings, cultural norms and traditions, lack of proper domestic legislation addressing this offence, deficit of prevention and protection mechanisms for the victims and other vulnerable groups of society represent the most crucial factors that bring about this extensive phenomenon that is not prevalent just in the region of South-Eastern Europe but has risen to a problem on the global scale.

III. Countries of Origin, Transit and Destination

When trying to analyze the phenomenon of human trafficking it is of a great importance to distinguish between countries of so called origin, transit and destination. “The Balkan route is one of the best known routes used by organized crime and human traffickers where victims are sold to brothels and on markets, and moved on to Albania, through Slovenia, Hungary and into the European Union.”²⁵ During the 1990’s, civil war ravaged the republics of the former Yugoslavia creating a region of failed states, countries with no proper border control, no adequate police force or the army to enforce a rule of law, with corrupted officials and court officers, unstable governments and destroyed economies. These events greatly destabilized not just the countries directly engaged in this war but the whole region, creating a climate convenient for the networks of organized crime to use it for the flourishing of human trafficking in the region. Without existing legal norms to address the human trafficking as a criminal offence, lack of border control and widespread corruption of the state system and its officials allowed many women from Ukraine, Moldova, Latvia, Russia to be trafficked through the former Yugoslav republics, but also via Romania, Bulgaria, Albania and Hungary into the destination countries of

²⁵ Helga Konrad, *Trafficking in Human Beings –The Ugly Face of Europe*, Sept. 18-20, 2002, European Conference on Preventing and Combating Trafficking in Human Beings, 13 HELSINKI MONITOR 260 (2002).

Western Europe.²⁶

The IOM in its report on human trafficking in the Balkans states that this phenomenon has been significantly increasing, especially “affecting a growing number of women” and that some big steps forward need to be taken in order to address this human rights agenda.²⁷ Furthermore, it is also highlighted that there is a big lack of state cooperation on the domestic and regional level and deficit of mechanisms for sharing the relevant information among the states’ governments. This report most importantly directly implies that the Balkan countries are still not ready to fight this phenomenon, and as a result of the states’ inefficiency, there is inadequate or no legislation put in place to combat the trafficking on the domestic level. Furthermore, this problem becomes even more exacerbated because of the fact that there is no proper and efficient implementation of the already existing international norms and instruments that are usually ratified by most of the Balkan states. This IOM report also finds that in recent years countries of destination and transit had changed, and now one can encounter Kosovo and Bosnia and Herzegovina as destination countries and Albania, Moldova, Romania, Serbia and Bulgaria as countries of origin and that strict line between origin, transit and destination countries has been significantly changing over the past years. Women from Moldova are marked as the most vulnerable category for the trafficking groups transferring them into Western European countries. On their way to Western Europe they have been held in the territories of Kosovo, Serbia and Bosnia, and Herzegovina which are already known as the main transit points. Also the report notes

²⁶ The major destination countries for trafficking in women within the OSCE region are: the Netherlands, Belgium, Germany, Austria, Switzerland, Italy, Spain, Greece, Turkey, the United Kingdom, and Canada. Other destination countries include Bosnia and Herzegovina, Sweden, Cyprus, Denmark, Finland and Norway. *See generally* Organization for Security and Co-operation in Europe Review Conference, *Trafficking in Human Beings: Implications for OSCE*, Sept. 1999, http://www.osce.org/documents/odhr/1999/09/1503_en.html; *see also* E.U. London conference, Dec. 2002 (Ministry of Interior Affairs of Serbia, CD-ROM).

²⁷ UNDP.org, Human Trafficking in the Balkans, Jan. 26, 2002, <http://www.undpi.org/News-from-other-NGOs/Human-trafficking-in-the-Balkans.html>.

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that the Albanian women in this trafficking chain are usually transported and sold in Italy, Greece, Great Britain, and Holland. Girls from Bulgaria and Romania on their way to Austria, Germany are transferred through Serbia, particularly the territory belonging to the southern province of Kosovo and Bosnia and Herzegovina. In the cases when trafficked women are coming from Ukraine, they tend to be first transferred to Hungary, Serbia, or Bosnia and then predominantly they remain there for some period of time. When convenient for the traffickers, they tend to continue this trafficking path toward the countries of destination such as Italy, Germany, France.²⁸

According to the Organization for Security and Cooperation (OSCE), after the conference on human trafficking in November 2002 around 200,000 women in the Balkan countries have been victims of trafficking and that number is rapidly increasing every year.²⁹

Traffickers are not a homogeneous group, and several types can be identified. One group consists of members of organized, often international, criminal groups who are involved in various types of criminal activity. They organize trafficking in the same way as the smuggling of goods and gain profits from the sexual exploitation of trafficked women in the bars/brothels owned by them or their acquaintances. The second group consists of pimps, small crooks, and local persons from the places where the victims are recruited. In this group some members are women who were trafficked themselves but have started to cooperate with the criminals and work for them as middlepersons. The third group includes businessmen, policemen and politicians who cooperate with organized crime and gain profits from trafficking. In some cases, they own bars or help to run them.³⁰

²⁸ *Id.*

²⁹ See generally Institute for War and Peace Reporting, *Trafficking of Women: The Balkan Red Road* (2003), www.terrelibere.org/terrediconfine/index.php?x=completa&riga=0474.

³⁰ See generally Barbara Limanowska, *Trafficking in Human Beings in South Eastern Europe*, 2004 (reporting on the current situation and responses to trafficking in human beings in Albania, Bosnia and Herzegovina, Bulgaria,

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What is interesting is that, no matter which Balkan country one takes to analyze, the recruitment strategies of those women tend to be very similar or completely identical. Groups engaged in this criminal activity use several different methods and techniques in order to attract the attention of the vulnerable population, which, as concluded beforehand, tend to be women. One of the methods they use is publishing advertisements for various jobs located in Western European countries in the local newspapers. Usually, they offer well paid jobs in a country of destination, covered travel expenses, visas, and accommodation: everything that seems attractive for young girls who are dreaming of having a better life.³¹ Many of those advertisements offer a contact with private agencies established by the criminal groups themselves that are used as a direct and only link between the victim and the traffickers. In many rural areas of countries of origin, girls and their families do not do a proper background check of those agencies and have no feedback on whether these jobs are legal and truly exist. Also, in most of those countries there are no legal remedies in preventing and punishing agencies for publishing these kinds of advertisements. In many cases, the victims of trafficking testified that they have been offered a job from some relative or close friend, and they did not check whether that job really exists.³² Most often the scenario is that many women victims of trafficking could never have imagined when applying for these kinds of jobs that they would be betrayed by becoming a part of the trafficking chain. Those are the examples where uneducated and uninformed women become deceived by the traffickers and enter a vicious circle from which there is no going back. These instances confirm the already mentioned point that the women are the most vulnerable group in a society and are at the highest risk of becoming locked in the trafficking chain.

Croatia, the Federal republic of Yugoslavia, the former Yugoslav Republic of Macedonia, Moldova and Romania), <http://www.unicef.org/ceecis/Trafficking.Report.2005.pdf>.

³¹ *Id.*

³² *See generally* Trgovina Ljudima, IOM Counter-Trafficking Service, Changing Patterns & Trends of Trafficking in Persons in the Balkan Region, July 2004, http://www.atc.org.yu/data/File/Trgovina%20ljudima/Balkans_webResearch.2004.pdf.

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There are also other forms of recruitment strategies which are used, that include kidnapping and other violent forms of conscription. The following is a scenario that is often used by the traffickers and it was told by one of the trafficked victims from Kosovo: "I was going back home. I heard the car stop, four men jumped out. One of them held a gun to my back as they dragged me into the car. Then everything went black. All the time I was frightened how will they kill me? Only later I realized that they wanted me alive"³³

Also, in some cases poor families which usually reside in rural areas, decide to sell a child, most often a girl, in order to acquire some financial gain so they can provide a decent living for the rest of the family for some period of time. Furthermore, in some instances there are reported cases of orphaned female children being sold.³⁴

A. *Bulgaria*

The geographical position of Bulgaria allows this country to be classified as a country of origin as well as a transit area for a great number of women trafficked into the Balkans.³⁵ The United States State Department has reported that women from Moldova, Russia, Ukraine, Romania, and Armenia are trafficked through Bulgaria into Macedonia, Greece, Turkey, Kosovo, Bosnia and into Western Europe.³⁶ In recent years, the number of trafficked women from and passing through Bulgaria has increased rapidly, and this made the Bulgarian Government greatly aware of the problem, motivating it to increase its efforts to combat this phenomenon. A crucial problem in this process is the weak control of Bulgarian borders since there are

³³ Trafficking and Prostitution Investigation Unit, Presentation on Kosovo, CD-ROM.

³⁴ Ljudima, *supra* note 34.

³⁵ Susan Phillips, *Bulgaria Traffic in Women: Violence against Women a Western Problem?* Z Magazine, June 2002, <http://www.zmag.org/ZMag/articles/jun02phillips.html>.

³⁶ *See generally* U.S. STATE DEP'T OF STATE, *Trafficking in Persons Report* (June 2005), available at <http://www.state.gov/documents/organization/47255.pdf>.

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no visa requirements with many neighboring countries.³⁷ Also, as in most of the post-Communist countries, including Bulgaria, widespread corruption in the government, its institutions and its judicial systems persists. Thus, it is very common that state officials “close their eyes” and ignore the present charges and the issue of trafficking as a whole. That goes by the principle, if one does not see a problem, the problem does not exist.

As mentioned beforehand, the most popular way for traffickers to attract women in other countries and in Bulgaria also is through newspaper advertisements which publicize the employment opportunities for young women to undertake the job positions as nannies or secretaries in Western countries. The measures and mechanisms of control and monitoring of those employment agencies essentially do not exist, and as a result, many of them are operating illegally. According to the statistics of the Bulgarian NGO “Animus,” most of the women who are victims of trafficking in Bulgaria are between the ages of 15 and 21; most of them are coming from rural areas, poor families and are very often the victims of domestic violence.³⁸ Also, one of the key factors is the growing wage gap between men and women and a higher unemployment rate for young women.³⁹

It is very important to emphasize that in the Bulgarian legislative system, the penal code has improved in terms of trafficking in recent years. However, still there is no prosecution of traffickers while there are no mechanisms established to empower the trafficked women who are frightened to directly accuse and confront their traffickers. In 2003, the Law on Countering

³⁷ Nadia Kozhouharova, Animus Assoc. Found., *Trafficking in Women in Bulgaria: The Starting Point of La Strada Bulgaria* 13, <http://www.animusassociation.org/Trafficking%20in%20women-Q&A.pdf>.

³⁸ Mileva Stateva, Animus Assoc. Found., *Case Studies on Trafficking in Women in Bulgaria* 50, www.animusassociation.org/Trafficking%20in%20women-Q&A.pdf.

³⁹ Jana Gueron, *Women and Young People in the Bulgarian Labour Market* (May 2005) (unpublished Paper No.22 on file with the National Statistical Institute of Bulgaria), available at <http://www.unece.org/stats/documents/2005/05/labour/wp.22.e.pdf>.

Trafficking in Human Beings was adopted, and this phenomenon was made a criminal offence in the Bulgarian Penal Code.⁴⁰ Further, in January, 2005 the National Program in Combating Human Trafficking was accepted which showed that the Bulgarian Government started engaged in the process of combating and curbing this kind of crime.⁴¹ However, there is still a lack of full implementation of those rules and although the relevant legislative instruments exist they are not yet used in practice. In order to make this happen, the Government of Bulgaria needs to take some direct steps to fulfill its responsibilities. Until then, the biggest effort in preventing and combating women trafficking in Bulgaria has been made by grassroots organizations and NGOs who are “refusing to be silent and keep talking and publishing articles” on this issue, opening shelters for the victims of trafficking and helping them go through this traumatic experience and integrating them back into the society.⁴²

B. Macedonia

The Republic of Macedonia is located in South-Eastern Europe surrounded by the neighboring countries of Serbia on the north, Bulgaria on the east, Greece on the south and Albania on the west. Macedonia is a country of origin, transit and destination for women recruited for the purpose of sexual exploitation.⁴³ There are a number of Macedonian women who are mainly internally trafficked but most of the victims come from Moldova and Albania, and in smaller numbers from Romania and Bulgaria.⁴⁴ When they reach the territory of Macedonia, they continue their travel towards Kosovo, Serbia, and Albania to the Western European countries.⁴⁵

⁴⁰ See Limanowska, *supra* note 31, at 213-16.

⁴¹ See generally Stop Violence against Women, Bulgaria, <http://www.stopvaw.org/Bulgaria2.html> (last visited May 14, 2009).

⁴² *Id.*

⁴³ See generally U.S. STATE DEP'T OF STATE, *Trafficking in Persons Report* (June 2006), available at <http://www.state.gov/documents/organization/66086.pdf>.

⁴⁴ *Id.*

⁴⁵ *Id.*

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Macedonian non-governmental organizations recently pointed out the increasing problem of internally trafficked Macedonian women but the government denies that.⁴⁶ The La Strada Foundation is a network of independent NGOs and is present in Belarus, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Macedonia, Poland, Moldova, and Ukraine.⁴⁷ In 2003, it received information about 12 women internally trafficked within Macedonia which is the only official record.⁴⁸

As in other Balkan countries, lack of finances, the unstable economic situation, the high rate of unemployment (of which 36 percent represent unemployed women⁴⁹), the presence of international troops, and internal conflict make the country convenient for many illegal activities which in recent years include women trafficking. Even though Macedonia has ratified international treaties regarding trafficking in human beings, still there is no effective synchronization of these conventions with domestic legislature. Just recently in 2006, the government adopted the National Action Plan and Strategy to combat trafficking in persons and witness protection system.⁵⁰ Although victims and witnesses enjoy lawful protection, they are often subject to secondary victimization during the trial proceeding. In most cases the presiding judges are neither well informed nor well trained to handle human trafficking trials. Their judgment is often the result of a public opinion, cultural prejudice and tradition, and therefore, not objective. They don't see a trafficked victim as "the victim" but rather as "the perpetrator."

In 2005, the Macedonian government drastically increased the number of prosecution cases for trafficking in women. It is noted that during 2005 there were 35 cases with 80 defendants, which is 13

⁴⁶ Limanowska, *supra* note 31, at 110.

⁴⁷ *Id.* at 5.

⁴⁸ *Id.* at 44.

⁴⁹ *See generally* Stop Violence against Women, The Former Yugoslav Republic of Macedonia, <http://www.stopvaw.org/Macedonia.html> (last visited May 14, 2009).

⁵⁰ *See* U.S. STATE DEP'T OF STATE, *supra* note 45.

cases more than registered in 2004.⁵¹ Judgments were brought against 22 traffickers, and they have been sentenced from three to nine years of imprisonment, and eight prosecution cases finished with acquittals. Like in other countries in the region, the big problem in the legal system of Macedonia is the corruption of judges and prosecutors who try to delay trials in order to protect traffickers and other members of the organized crime network including politicians in the highest governmental positions. Corruption is equally present in police enforcement and border patrols which resulted in two convictions of former police officers who were involved in the women trafficking chain in Macedonia as well as a police chief on border patrol in Gevgelija.⁵²

Today, there are two shelters registered for the victims of trafficking. One is supported by the Macedonian government and run by the International Organization for Migration. It provides assistance mostly for foreign victims and it has been secured by police enforcement squads. This is the first example of government-run shelter in the Balkan region. The other one is supported by a local NGO and provides assistance to Macedonian women. It is stated that during 2005, both shelters provided assistance to 12 victims and more importantly, 15 victims assisted by this NGO returned to Macedonia to testify in trial after they have been repatriated in their countries of residence.⁵³

What differentiates Macedonia from many Balkan countries is the following: Macedonian law gives the opportunity to trafficking women to apply for asylum or refugee status.⁵⁴ If the victim fulfills conditions set forth in the Law on Asylum and Temporary Protection, she could be granted protected status which allows her to stay in Macedonia for an indefinite period of time. That way, she is provided better protection since she is not obliged to go back to her country of residence where her life could be subject to revenge by the traffickers. This type of protection should be implemented in the

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Official Gazette, No. 49, July 2003. Entered into force on August 4, 2003.

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legislation of other Balkan countries instead of granting the victim a limited time to stay after which she is forced to leave the country.

Macedonia has signed, but never ratified the Palermo Trafficking Protocol. Trafficking as a criminal act has been codified in Article 418 (a) of the Macedonian Criminal Code, which entered into force on January 25, 2002.⁵⁵ The definition of trafficking is in accordance with the Palermo Trafficking Protocol definition, and the punishment of perpetrators is at least four years imprisonment.⁵⁶ In July 2003, the Serbian and Macedonian Governments signed the agreement to combat trafficking people.⁵⁷ In October 2003, Macedonia signed the agreement regarding trafficking with Albanian Ministry of Public Order and the UN Interim Administration in Kosovo.⁵⁸

The Macedonian city of Velesta has been a synonym for forced prostitution and one of the most dangerous places in Europe when it comes to women trafficking.⁵⁹ The majority of the trafficked women located in Velesta are coming from the former Soviet Union. They try to escape difficult situations in their home countries and in advertisements for jobs abroad published in the local newspapers they find salvation and an escape route. But once they reach the destination place or even as soon as they cross the border of their country, the truth they encounter is very different from what they imagined. In Velesta, they are locked into dark and cold rooms of some bar or restaurant, are provided with very little or no food, and they are forced to work as domestic slaves during the day. At night, they are forced to prostitute themselves finding clients mostly in

⁵⁵ Barbara Limanowska, *Trafficking in South Eastern Europe*, http://www.osce.org/documents/odhr/2003/12/1645_en.pdf.

⁵⁶ *Id.*

⁵⁷ Ministry of Foreign Affairs of Serbia and Montenegro, Macedonia and Serbia signed Memorandum on Police Cooperation, Daily Survey Bulletin, July 27, 2003, http://www.mfa.gov.yu/Bilteni/Engleski/b270703_e.html.

⁵⁸ Global News Wire-Asia-Africa-Intelligence Wire, Regional Agreement on Fight Against Organized Crime Signed in Montenegro. October 31, 2003.

⁵⁹ A Special Report from MSNBC.com, March 3, 2004, www.humantrafficking.com.

NATO peacekeeping soldiers in Macedonia and Kosovo.⁶⁰ Thus, even though they are surrounded by police and military personnel, there are just a few cases of saving girls from the traffickers. On many occasions, raids are unsuccessful because owners of the bars get informed by their people spying for them at the local police stations about the time when the raids would take place. This situation makes a victim's position more difficult without any hope for escape.

C. Bosnia and Herzegovina

According to Human Rights Watch, Bosnia and Herzegovina has, in recent years, become a country of destination and transit for trafficked women from Moldova, Romania, Ukraine, Russia, Belarus, and Bulgaria.⁶¹ In Bosnia, the well known scenario of recruitment of victims repeats itself: the traffickers promise the victims well-paid jobs in Bosnia or some other Western country, but when the girl arrives in the "promised land," she is usually sold to bar owners becoming their property, and she is kept there in order to engage in prostitution. It is very important to mention that Bosnia is a country severely devastated by the civil war that wrecked the country for more than ten years in the 1990's, and some parts of the country, excluding the Republic of Srpska, are still under the protectorate of the United Nations.⁶²

However, even with the presence of the international community, the phenomenon of trafficking is still widespread and improperly controlled. Thus, in order to aptly combat this criminal activity, there should be good cooperation internally between the Bosnian Government and law enforcement authorities on the domestic and international level. Furthermore, there needs to be an extensive collaboration and information sharing among Bosnia and other neighboring countries in the region.

⁶⁰ *Id.*

⁶¹ Human Rights Watch, *Testimony on Trafficking of Women and Girls to Bosnia and Herzegovina*, April 2002, at 2.

⁶² *Id.*

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However, in Bosnia like, in other countries of the region, there is a high percentage of police officials who are directly involved in human trafficking.⁶³ Hence, women tend to be usually frightened that if they even try to escape they would be unable to do so because of the police protection that bar owners have.⁶⁴ As long as this close link between the criminal networks and police force is present this problem will continue to affect the country and “infect” the society as a whole.

These presumptions are supported by the most recent statistics put forward by the international organizations. According to the 2005 Country Report on Human Rights Practices in Bosnia and Herzegovina,⁶⁵ published by the Helsinki Committee for Human Rights in Bosnia and Herzegovina, trafficking in women is a rising problem. During 2005, IOM assisted 38 victims while NGO's assisted 88 trafficked victims in Bosnia.⁶⁶ Human trafficking is a state recognized crime in Bosnia and Herzegovina today. The Criminal Code of 2003 prescribes trafficking in person as a criminal offence and set a penalty of one to ten years imprisonment for persons convicted of this crime.⁶⁷ The 2000 Criminal Code of the Republic of Srpska also, in its Article 188, acknowledges trafficking as a severe criminal act.⁶⁸ Furthermore, the Criminal Code of the Federation of BH does not explicitly address the trafficking as an issue, but by analyzing its articles, it can be concluded that elements that are part of the trafficking process have been strictly prohibited and punished.⁶⁹ The National Coordinator for Combating of Trafficking in Human Beings and Illegal Immigration established a two-year plan in 2005 that should improve legislative conditions and

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Helsinki Committee for Human Rights in Bosnia and Herzegovina, *Report on the Status of Human Rights in Bosnia and Herzegovina*, <http://www.bh-hrcr.org/Reports/reportHR2005.htm>.

⁶⁶ Bosnia and Herzegovina Monitor for the National VAW Monitor Program, http://www.stopvaw.org/bosnia_and_herzegovina.html.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

implement strategies for increasing awareness of this trend.

D. Serbia (including Kosovo)

Kosovo is a southern province of the Republic of Serbia that was a focus of diplomatic dispute and military offensive. After the NATO bombing in 1999, more than 40,000 KFOR troops had been stationed in Kosovo (and are still present on its territory), and this unstable political situation, made Kosovo one of the main areas used by the criminal networks for drugs, weapons, and women trafficking.⁷⁰ Kosovo has been recognized as a transit and destination region. Interestingly, the newest reports are conveying a rise in a new trend which includes a movement of victims inside the borders of Kosovo, thus, there is a growing number of internally trafficked women who are coming from local populations.⁷¹

In 1999, a contingent of the international military forces of 40,000 was stationed in the territory of Kosovo.⁷² Presence of the international peace forces in Kosovo exacerbated the sexual exploitation of women and intensified human trafficking. Furthermore, it was reported that members of the U.N and NATO troops use women and young girls for sex and they are often involved in trafficking themselves.⁷³ Many of these women are often tortured, raped, and intimidated. This report submitted by Anika Flensburg, Women's Human Rights Activist, Sweden, states that it was published at this particular moment because it is noticeable that this represents a wide-scale breach of the human rights agenda and also in order to raise the awareness about KFOR's awareness of this problem and their inaction in order to combat it. It goes on to say

⁷⁰ Amnesty International, *Serbia and Montenegro (Kosovo): The Legacy of Past Human Rights Abuses*, <http://web.amnesty.org/library/index/engneur70009> 2004.

⁷¹ Amnesty International, *Kosovo (Serbia and Montenegro): Protecting the human rights of women and girls trafficked for forced prostitution in Kosovo*, <http://web.amnesty.org/library/Index/ENGEUR700102004>.

⁷² Donna Hughes, *Report of IWPR on Balkan Crisis*, No 355, Dignity, Lideo, August 2, 2002.

⁷³ *Id.*

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that this is a strategically crucial moment because NATO and the U.N. adopted adamant attitudes and strategies to combat human trafficking worldwide.⁷⁴ Today in Kosovo there are 266 brothels that conduct their business on a daily basis, and sex trafficking is the most profitable business in the area.⁷⁵

Like many other Balkan countries with unstable political situations, widespread corruption, and a weak border control system, Kosovo represents a very good transit section between Eastern and Western European countries. It is very often the case that women by the time of reaching the territory of Kosovo change several “patrons.”⁷⁶ Many of them admit that they are aware of the fact that crossing the border is an illegal activity, but by the time they realize the situation in which they find themselves, they have already been trafficked and moved to another place.⁷⁷ According to the IOM repatriation program 48 percent of victims located in Kosovo are coming from Moldova, 21 percent from Romania, 14 percent from Ukraine, 6 percent from Bulgaria, 3 percent from Albania and the rest are tend to be of Russian and Serbian background.⁷⁸ The IOM report also acknowledges that 57 percent of trafficked women have just basic primary education, 24 percent of them have secondary education, 15 percent have been educated by the age of 18 and 4 percent have a university degree.⁷⁹ The majority of women come from very poor families, with aggregate monthly incomes of \$30.00, and their interests when engaging in this criminal activity if voluntarily are primarily economic in nature.⁸⁰ When they find themselves in Kosovo, they are usually employed as waitresses in bars and restaurants, and they are also forced into prostitution by the

⁷⁴ *Id.*

⁷⁵ See generally <http://www.revijad.cg.yu/dan>, March 16, 2004.

⁷⁶ Amnesty International, *supra* note 73.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Organization for Security and Co-operation in Europe, *Combating Trafficking in Kosovo Background Report*, 2001, http://www.osce.org/documents/mik/2001/06/986_en.pdf.

⁸⁰ *Id.*

owner.⁸¹

Before 2001, trafficking as a criminal offence was addressed under the Criminal Code of the Former Yugoslavia and the Serbian Criminal Code, Article 251 of the Serbian Criminal Code for “Intermediation in the exercise of prostitution,” and under Article 18 (8) of the Kosovo Law on Public Peace and Order. In November 2000, the Trafficking and Investigation Unit was established within United Nations Mission for Kosovo, the so called UNMIK police.⁸² In January, 2001, the Special Representative of the Secretary General of the U.N. promulgated Regulation 2001/4 “On the Prohibition of Trafficking in Person in Kosovo.” He laid out a concrete basis for combating this criminal activity.⁸³ Even though over 200 charges are brought against traffickers in front of the domestic courts, just a few of them were convicted and sentenced to the minimum prison sentence. Consequently, it is obvious that implementation of the existing norms regulating this phenomenon is a very slow process that needs effective mechanisms whose creation requires time and a strong state. Thus, today in Kosovo, as a result of these new legal procedures that are inadequately implemented, the improper education of judges and domestic court officials engaged in proceedings against trafficking offenders, the lack of a victims’ protection system (this is the reason why trafficked women are too frightened to testify against traffickers either during the investigation or in the court), porous borders, the absence of mechanisms for the prevention and reintegration of women, a lack of a proper educational system, a vacuum is created in which most of the court cases which are dealing with this phenomenon cannot be properly adjudicated, and as a consequence, the problem of trafficking continues to wreck the nation, its entire population, and the Balkan region as a whole.

⁸¹ *A New Commodity in Kosovo*, <http://www.rapeis.org/activism/sextrade/kosovo.html>.

⁸² UNMIK, *Combating Human Trafficking in Kosovo, Strategy and Commitment*, May 2004, http://www.unmikonline.org/misc/UNMIK_Whit_paper_on_trafficking.pdf.

⁸³ United Nations Interim Administration Mission in Kosovo, Regulation 2001/4 of January 2001, on the Prohibition on Trafficking in Persons in Kosovo.

The situation in the rest of the Balkan countries not analyzed in this section is very similar to the ones put forward here. It is very important to note that all the countries lack a strong state that can deal with this serious issue which severely destabilizes the whole region and, consequently, the rest of the Europe. This paper will in its next section try to look more deeply into the current practice and legislative measures that countries take in order to combat this phenomenon.

1. Serbia: An In-Depth Analysis

Until today, the phenomenon of women trafficking in Serbia has stayed reasonably disguised under the veil of secrecy. Knowledge and information shared on this problem is mostly incomplete and consisted of evidence coming from the isolated cases where victims successfully escaped this inhumane treatment usually with the help of local NGOs and with no or very little active involvement of the state organs.

In order to understand the issue of trafficking in Serbia, one needs to be aware of the region's recent history of violence and instability. Today, one can still feel the consequences of this turbulent period which results in poor economic development and an unstable political situation which is especially difficult for women as a marginalized group in a society. Corruption, porous borders, militarization of the region, poverty, unemployment, transitional processes, and gender-based violence are some of the main factors that create a suitable climate for women trafficking in Serbia to flourish. Serbia is in the process of transition and economic development, and it is estimated that around 800,000 people are unemployed, and 70 percent of them are women as the most affected by this transitional processes.⁸⁴

According to the Regional Clear Point Country Report, the Republic of Serbia is primarily a transit country but also a temporary

⁸⁴ MUP R Serbia, National Co-ordinator for Trafficking in Human Beings: Nacionalni i medjunarodni uticaji na trgovinu ljudima (National and international influences on human trafficking), Belgrade 02.12.2003.CD ROM.

destination and country of origin for trafficked women in the Balkans.⁸⁵ 48 percent of the trafficked victims in Serbia come from Moldova, 30 percent from Romania, 16 percent from Ukraine, and 10 percent from Serbia.⁸⁶ The trafficking chain begins in the Eastern European countries of Ukraine and Moldova and goes through Romania, Bulgaria and in some cases through Hungary.⁸⁷ After entering the territory of Serbia, there are two routes that traffickers tend to take: the route east to west where after entering Serbia one continues through Belgrade towards the Republic of Srpska or Croatia, with a slight possibility of heading north towards Hungary; the route north to the south where after crossing the Serbian border, one goes towards Kosovo, Macedonia or Albania, or Montenegro to Kosovo, and then Italy as a final destination or a temporary one with the goal of entering some other country of Western Europe.

The exact number of trafficked women in Serbia is not officially documented, and most of the victims are first identified during the police raids. Very few of them seek police assistance or protection because they are often frightened of corrupt police officers and inefficient courts but also because they are intimidated by their macros. In 2001, the International Organization for Migration (the "IOM") started to provide assistance to the trafficked victims in Serbia⁸⁸. According to their reports, in the first year 36 victims the IOM has assisted have been repatriated back to their home countries. In 2002 there were 63 women identified as victims of trafficking. Only during the first six months in 2003, 38 victims have been registered which represents 60 percent of the total number of trafficked women in 2002.

The majority of Serbian and foreign trafficked women are between the ages of 18 to 24.⁸⁹ Around half of the victims registered tend to have elementary and/or secondary education, but in recent

⁸⁵ Regional Clear Point, Country Report-Serbia, p.189.

⁸⁶ *Id.*

⁸⁷ Vesna Nikolic-Ristanovic et al., *Trafficking in People in Serbia, Belgrade*, at 63, 2004, http://www.osce.org/documents/fry/2004/07/3290_en.pdf.

⁸⁸ Regional Clear Point, Country Report-Serbia, p.194.

⁸⁹ *Id.* at 198.

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years the number of highly educated trafficked women has been increasing.⁹⁰ Like in other Balkan countries, most of the women are recruited through job offers such as waitresses, hostesses, dancers, through false marriages, or they are kidnapped, abducted, or in certain cases even sold by a member of family, boyfriend, or a third party.⁹¹ Very popular ways of recruiting are also false advertisements or travel schemes for foreign countries.⁹² In the majority of the cases, the role of recruiter is played by persons known and trusted by the victim. Often that role is fulfilled by a woman (a friend, acquaintance, former prostitutes, women who are already in the trafficking chain), but also married couples, agencies (fashion, photo model, tourist agencies), sports clubs, and some private companies.⁹³ Just recently in Serbia, a movie has been released which shows the elements of torture and sexual exploitation of the girls who have been part of the trafficked chain. It shows the connection with organized crime and cooperation between recruiters, people who transport the girls, but also exposes the corruption inside the state organizations and the system and its officials.⁹⁴

Trafficked women usually come to Serbia crossing its borders illegally, avoiding the “green line” in the official border control, the so called checkpoint. In some cases, they come to the border checkpoint carrying forged documents and identifying themselves falsely (which represents a criminal offence under Article 355 of the Criminal Code of the Republic of Serbia). Traffickers have well-organized connections with the border police and an efficient cooperation network inside the customs patrol. Due to the bad financial standings of these officers, they tend to be ready to assist the traffickers, and they let girls cross the borders during their shifts

⁹⁰ Regional Clear Point, Country Report-Serbia, p.199.

⁹¹ Kelly, L. *Journeys of Jeopardy: A Review of Research on Trafficking in Women and Children in Europe*. Child and Women Abuse Studies Unit, University of North London, UK, 2002 p.6.

⁹² V. Nikolic-Ristanovic, *Trafficking in Women in Serbia and Surrounding Countries: Scope, Characteristics and Sources*, Belgrade; Temida 2002 p.6.

⁹³ Victimology Society (VDS) and OSCE, *Trafficking in People in Serbia*, Belgrade, 2004, p.75.

⁹⁴ Mirjana Nikic, *Politika: Iz škole u ropstvo (From school into slavery)*, Belgrade 4.4.2007, found on http://www.politika.co.yu/detaljno_arhiva/php.

in exchange for some monetary compensation.

In some cases, victims cross the border legally carrying regular documentation, but according to the Border Police Administration for Foreigners and Administrative Affairs, as soon as women cross the checkpoint, traffickers take their documents. As a result of this, victims stay in Serbia even after their visa expires, and because they are not registered with the police their residence is treated as illegal. Statistics that have been obtained in the Shelter for Women-Victims of Trafficking show that between February 14, 2003 and March 24, 2003, out of 41 women, 24 entered Serbia illegally, 11 legally, and for 6 of them, there are no records of entries.⁹⁵ Since 2001, border police have started to take anti-trafficking measures and increased the control procedures for young women coming from Moldova and Romania. The citizens of Ukraine, Russia and other Eastern European countries are required to present a letter of invitation from a citizen or a permanent resident to enter the territory of Republic of Serbia. Moldova citizens since 2002 cannot enter the country without valid visas.

2. Institutions for Combating Trafficking in Serbia

The Yugoslav Team for Combating Trafficking in Human Beings was formed in May 2001 as a response to the international obligation that country undertook by ratifying the United Nations Convention against Transnational Organized Crime and its three supplemental protocols which include the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children.⁹⁶ After certain constitutional changes that took place in 2002, jurisdiction over the trafficking cases has been changed from

⁹⁵ V. Nikolic-Ristanovic, N. Mrvic-Petrovic, M. Skaldic & S. Copic, *New Model of Legislation on Trafficking in People 80* (2004) (unpublished comment on file by Belgrade: Victimology Society of Serbia).

⁹⁶ Jasminka Friscik, Cécile Trochu-Grasso & Orlane Varesano, *Shadow Report: U.N. Committee Against Torture, Implementation of the U.N. Convention Against Torture, The former Yugoslav Republic of Macedonia*, ¶ 3 OMCT SOS-Torture Network (May 2008), http://www.omct.org/pdf/UNTB/2008/shadow_report_omct_macedonia_women_children.pdf.

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the Federal to Republican level, and the National Coordinator was appointed the same year. Since then, this National Coordinator continues to work in Serbia within the scope of a National Team for Combating Trafficking in Human Beings. This team consists of four working groups: the Working Group for Combating Trafficking in Children, chaired by the domestic non-governmental organization "Beosupport;" the Working Group for Prevention and Education, chaired by the domestic non-governmental organization "Astra;" the Working Group for Assistance and Protection of Victims, chaired by the Ministry of Labor, Employment and Social Policy; and the Working Group for Prosecution, chaired by the Ministry of Justice

The National Team also formed the Advisory Group that consists of four coordinators for each working group including representatives of the international organizations. Its main goal is to give advisory opinions and to help in developing strategies for combating human trafficking. Forming the National Team was a direct result of the raised awareness of the Serbian Government that the phenomenon of human trafficking has been blossoming within the Serbian borders for years. Furthermore, the need was recognized to establish proper institutions which would be proficient enough to help in preventing this criminal activity to take place and also for protecting the society and its most vulnerable groups. Over the years, the National Team developed a National Referral Mechanism as a very important part of victim's identification and implementation procedures in the services for which the trafficked women are fully entitled⁹⁷. The next step undertaken by the Serbian government was the establishment of the Agency for the Coordination and Referral of Human Trafficking Victims, whose main goal is to locate and identify whether a woman falls under the category of a trafficking victim and if it finds that she is, to assist her in any way admissible.⁹⁸ This frequently implies informing proper

⁹⁷ Jelena Djordjevic, *Belgrade: Countering Trafficking in Women-Lessons on Maximising Effectiveness, the case of Serbia and Montenegro* 4, Sussex University and Anti Trafficking Center, May 6, 2005.

⁹⁸ Combating Trafficking in Human Beings in Serbia, Organization for Security and Co-operation in Europe (2001), http://www.osce.org/documents/srb/2009/04/24545_en.pdf.

institutions about the victim and her case after which they would provide her/him with accommodation, health care and legal counseling.⁹⁹

Parallel with the work of the National Team since October 2004, a Counseling Board for Combating Trafficking in Human Beings was formed by the Serbian government due to the increasing number of trafficked victims, of whom the majority were women.¹⁰⁰ The main duties of the Board are to maintain effective cooperation between national and regional anti-trafficking institutions and also to analyze and prepare recommendations of the necessary measures that need to be implemented in Serbian legislature. This is to be achieved by close and well-organized work between the Serbian Ministry of Interior, the Ministry of Education and Sports, the Ministry of Finance, the Ministry of Labor and Social Policy, the Ministry of Health, and the Ministry of Justice.

3. Legal Framework

The Republic of Serbia does not have a specific law that regulates trafficking in human beings. However, the Criminal Code of the Republic of Serbia, the Criminal Procedure Code, the Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, the Law on Movement and Residence of Foreigners, and the Law on Misdemeanors include provisions that in different ways prohibit this activity.

Criminal prosecution and punishment of the traffickers is regulated in the Criminal Code of the Republic of Serbia¹⁰¹ and the Basic Criminal Code.¹⁰² The Criminal Code of the Republic of Serbia in Article 111b gives a basic definition of trafficking in

⁹⁹ *Id.*

¹⁰⁰ *Supra* note 100.

¹⁰¹ Official Bulletin of SRS, Nos. 26/77; 28/77; 43/77; 20/79; 24/84; 39/86; 51/87; 6/89; 42/89; 21/90; Official Bulletin of RS, Nos. 16/90; 26/91; 75/91; 9/92; 49/92; 51/92; 23/93; 67/93; 47/94; 17/95; 44/98; 10/02; 11/02; 80/02; 30/03.

¹⁰² Official Gazette of SFRY, Nos. 44/76; 36/77; 34/84; 74/87; 57/89; 3/90; 38/90; 45/90; 54/90; Official Gazette of FRY, Nos. 35/92; 16/93; 31/93; 37/93; 24/94; 61/01; Official Bulletin of RS, No. 39/03.

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persons and the penalties for such conduct. The Basic Criminal Code regulates punishment for perpetrators in the form of property confiscation without compensation when a perpetrator is punished by imprisonment of at least four years. Until 2003 in Serbia, no specific law or provisions existed regarding trafficking of people, and the traffickers could be punished only for some other offences that consisted of elements of trafficking, such as illicit crossing of state borders,¹⁰³ intermediation in the exercise of prostitution,¹⁰⁴ or the conception of establishing of slavery and the transport of people in slavery.¹⁰⁵ While trafficking represents a criminal offence by itself, all those provisions were insufficient in combating this phenomenon. Also, there was a severe lack of implementation of those rules in the practice, so in April 2003, the amendment to the Proposal of the Law on Amendments of the Criminal Code of the Republic of Serbia was adopted, and trafficking in people started to be proclaimed and prohibited as a criminal offence in Article 111b.

The Criminal Procedure Code¹⁰⁶ states that if there is a reasonable doubt that a person has committed alone or with others criminal offences with the element of organized crime, trafficking of people is indicated, the investigative judge may, upon written and elaborated proposal of the state prosecutor, order surveillance or the recording of telephone and other conversations or communications via other technical devices, and optical recordings of such persons.¹⁰⁷ These measures may be imposed for the maximum period of three months with the possibility to be extended for three months more.¹⁰⁸ This Code also establishes the institution of victim protection which is a very important, if not the crucial element in prosecuting such cases. In many instances, a victim is the most convenient source of information which is expected as he or she is the direct participant in

¹⁰³ Art. 249 of the Criminal Code of FRY (Basic Criminal Code: illicit crossing of the State Border).

¹⁰⁴ Art. 251 of the Criminal Code of RS.

¹⁰⁵ Art. 155 of the Criminal Code of FRY (Basic Criminal Code: conception of enslavement and transport of people in slavery).

¹⁰⁶ Official Gazette of FRY 70/2001; 68/2002.

¹⁰⁷ Official Gazette of FRY 70/2001; 68/2002, Art. 232.

¹⁰⁸ *Id.*

the trafficking chain. He or she can give all the relevant information during the investigation and trial processes and assist the state in prosecuting traffickers and “cleaning” the society of this criminal activity. Thus, this provision could help in minimizing repeated victimization of trafficked victims, but also decrease the chances of traffickers’ influence on the victims in order to change their testimony. Also, a very important provision of the Code is collecting the information in the pre-trial procedure by the state prosecutor that later can be used as evidence in the trial, although the judgment can not be solely based on him or her. The provision has significant importance in trafficking cases where the victims are often too frightened to testify at the main hearing where they are frequently confronted with their abusers.

According to the Serbian Law on Movement and Residence of Foreigners, police have an obligation to directly transfer a foreign female who does not have proper documentation to the Reception Center for Foreigners.¹⁰⁹ In August 2001, the Federal Ministry of the Interior and the International Organization for Migration signed the agreement, and the Center is, according to that agreement, obliged to provide accommodation and meals for trafficked victims which later on will be refunded from the IOM’s budget.¹¹⁰ The Center has a responsibility to contact IOM as soon as it is informed about the existence of victims of trafficking. Once informed, IOM is responsible for conducting an interview with the victim in order to analyze and determine whether that person meets the conditions set forth in Palermo Protocol. Also, a victim is given an alternative to be repatriated and returned back to her home country through the IOM Repatriation Program.

IV. Assistance for Victims of Trafficking

The main role in victim’s assistance is coordinated through NGOs and Centers for Social Work. Still, there is a significant shortfall in the cooperation with the state institutions which has been

¹⁰⁹ Regional Clear Point, Country Report-Serbia, p.195.

¹¹⁰ *Id.*

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caused mainly by the lack of financial sources, a very important part especially in the case of foreign victims who usually stay a few months in Serbia before they go back via the repatriation process. Women trafficked from other countries are allowed to stay temporarily in Serbia for a period of:

[T]hree months for the purpose of giving assistance and protection in the recovery and returning to the victim's country of residence; six months in situations when trafficked women cooperate with Serbian law enforcement in finding persons who committed the act of trafficking; one year, if victims participate in the criminal proceeding as witnesses or if they seek reparation and there is a reasonable doubt that their lives are in jeopardy if they go back to the country of their residence.¹¹¹

A shelter for the trafficked women is located in Belgrade and works under the supervision of the Counseling Center for Family Violence NGO and the International Organization for Migration.¹¹² They provide all the necessary assistance to the trafficked women during their stay and also help them in dealing with procedures about their return to their country of residence. Victims have medical care which includes gynecological examination, pregnancy tests, STI tests, psychological and psychiatric care in the form of group or individual counseling since most of the victims suffered physical as well as mental injuries before they were admitted in the shelter. Very important is legal assistance, and there are three categories: (1) documentation assistance necessary for the return home; (2) legal information regarding the status as a victim of trafficking; and (3) individualized legal advice and representation for victims who participate in legal proceedings against traffickers.

Lawyer participation during the proceedings is very important as it makes it possible for victims not to confront the defendant during the trial, and that way trafficked women avoid secondary victimization. Together with the staff in shelter, lawyers help in the

¹¹¹ Djordjevic, *supra* note 100, at 3.

¹¹² Regional Clear Point, Country Report-Serbia, at 200.

whole process of recovery and repatriation.

In March 2002, the NGO Astra opened a free help line for the trafficked victims.¹¹³ It has a preventive purpose, where much useful information could be found regarding job offers in foreign countries, ways of legal emigration, etc., but it also helps already trafficked women in notifying and getting support. This NGO makes significant progress in the education of young women but also in the education of judges, prosecutors, police officers, border patrols, social workers, and journalists toward gaining a better understanding of the phenomenon of women trafficking and its combating.

V. Case Study: A Great Hell for the Victims of Trafficking

The Special Court for Organized Crime and its prosecutors charged a group of ten from Pancevo with forming a joint criminal enterprise and the trafficking of human beings. The charges read that they transferred girls from Serbia via Croatia into Northern Italy where they were forced to engage in prostitution. All of the traffickers except the head of this group, Dejan Stosic, who is living in Italy, are going to be tried, and Interpol is looking for the main accused.

A. Secret Channels

Besides the leader, the accused are Dimce Kimov, Miodrag Stosic (brother of the first accused), Dusan Saponjic, Miodrag Nakomcic, Miodrag Milenkov, Tiosav Vasiljevic, Marinko Zemunovic (at large), as well as Vladimir Lukic and Sasa Stojkovic, who is not in held custody. Lukic and Stojkovic are accused that they pressured a girl to testify falsely; her testimony endangered the whole group and was the crucial one for the conviction.

Police obtained certain information that these criminal channels were used not solely for the trafficking of humans but also for the transfer of narcotics and weapons. These are all solely indications

¹¹³ See generally <http://www.astra.org.yu>.

and suspicions that still need to be defended in front of the court.

This group, in a perfidious way, tempted girls with the stories of a better life and great salaries in coffee shops and restaurants in Italy. The girls were asked to pay 500 euros in advance for so-called transportation expenses. When this amount was paid, they were taken to Croatia, more precisely, Split. In Split, Dejan Stosic waited for them, took away their regular passports, and gave them false documents.

B. Traps Everywhere

By ship, they were transferred to Italy and were located around Venice. That is where they encountered hell. There were no jobs in coffee shops waiting for them, but they were forced to engage in prostitution straight away. The ones that declined to engage in this activity were punished and tortured.

Girls also had scheduled working hours. Every work day, they had to serve their customers from 10 p.m. until 4 a.m. Over the weekends, they had to take lessons in Italian in order to be able to tell their price and the kinds of services they were providing; they were also trained how to handle the police. In case they wanted to escape, they would not only have the Serbian, but also the Albanian and the Russian mafia looking for them.

Only in a few cases, girls managed to escape and return back to their home countries. One of them is a main witness in this case heard in front of the Special Court in Belgrade.

C. Prices

For 10 minutes of their services, the girls would charge 30 euros. An hour cost 200 euros, and for the whole night, they would charge 800 euros. The macros would take all this money, after having promised the girls 20% of their earnings. The girls would never receive that money, and the macros would often explain that that money was used for some additional expenses. When girls would be overused, they would be sold to another macro.

This is how news agencies reported on the first case of sex trafficking that was put on trial in front of the Special Court for Organized Crime in Belgrade in June 2004. The judgment delivered is still being reviewed by the Supreme Court, and its confirmation is expected to be issued promptly.

*D. Serbia against Dejan Stosic and Others*¹¹⁴

The judgment of the Special Court reads that Dejan Stosic and others are accused of being part of this joint criminal enterprise and members of the criminal group that managed in the period of June to September 2003 to misguide Marinela Trejlov by promising her a vacation in Italy and a job as a prostitute in expensive hotels in Italy as well as that she would in a very short period of time earn large sums of money that would provide her with a decent living for a long time.

Marinela lived with her father, grandfather and her five-year old daughter and had no hope of finding a proper job in Serbia. After accepting this offer given by the group of traffickers (one of them being her next-door neighbor), she gave 500 euros in order to cover her travel expenses and visa. She was taken into a house where she was held for a week, but she was not allowed to have any visitations or to walk out of it. When she was granted a visa, two of the group members took her from Pancevo, where she had been living, to Belgrade and handed her over to a third person who was a member of this criminal group. He took her outside the Belgrade area where she was taken away by two Croatian women who transported her to Croatia. In Croatia, she was given forged documents and a fake ID of the Republic of Croatia together with a bus ticket to Split, a seafront city in Croatia. In Split, Dejan Stosic was waiting for her. He took away her Serbian passport prior to taking her to the harbor and placing her on a boat to Ancona, Italy. Once arriving in Italy, two girls working as prostitutes were waiting for her and took her to a little village where Stosic announced that she would not go on a

¹¹⁴ Belgrade, Serbia: Serbia against Dejan Stosic and Others, Judgment, Special Court for Organized Crime, Dec. 28, 2005.

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vacation at expensive hotels, but, instead, she would engage in prostitution on the streets, in the place that was determined before she arrived. The place that was picked was between Venice and Treviso, the so-called strip, and she would be charging a customer 30 euros.

Marinela did not accept these parameters, and she got taken to a house with fenced windows. She was locked there and was subjected to torture on a daily basis. She was beaten over the entire body, especially her arms, legs and face. After undergoing this torture for days, she accepted the conditions given to her.

After this, she was taken to the strip and given to the other prostitutes. She worked there until April 21 earning 600-700 euros per night and handing that money to Stosic every morning. Several times she overheard the conversations Stosic conducted with the men who offered her a vacation in Italy, and on the strip she met another girl from her town.

After three months, she met an Italian man whom she told about her position and asked for assistance to escape and return to Serbia. He helped her and she managed to escape via the same route that she used to enter Italy using the same false Croatian documents. She managed to enter Serbia, and upon her arrival she reported the crime to the police.

After she filed the report, at Stosic's request, two of the members of this criminal group came to Miranela's house forcing her at gunpoint to change her testimony. Their attempt was not successful. On page 73 of the judgment, the judge issued the legal qualifications of the crime where he stated that the accused by their actions misled and misused Marinela's poor financial situation, hid and tortured her, and engaged in her transfer over several state borders. They enabled her illegal entry into Italy using the forged Croatian documents and forced her into prostitution and exploitation by exposing her to physical and psychological torture. Her body was sexually exploited on numerous occasions which granted Dejan Stosic great financial gains.

Miranela as a subject of law, became the object of exploitation and trafficking which, in the criminal sense, represents an absolute

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forbidden act, breach of human dignity, and rights which are protected by the Criminal Code of Republic of Serbia on human trafficking in Article 111b ¶ 1.

In the framework of this group, there was obvious coordination of its activities with the aim of conducting the criminal offence of trafficking. The actions of this group were very well organized in all phases, starting from the lobbying, hiding, transfer, document forging, and illegal entries. All the accused were linked, creating a joint criminal enterprise, thus, each member of the group was conducting the activities assigned to him in order to reach the mutual aim.

Thus, there is a criminal group that breached the legal code addressing the criminal offence on human trafficking in an organized manner.

Dejan Stosic, Dimce Kimov, Miodrag Stosic, Dusan Saponjic, Miodrag Nakomcic, Miodrag Milenkovic, Tijosav Vasiljevic and Marinko Zemunovic conducted a criminal offence by breaching the Article 111b para. 1 of Criminal Code (on human trafficking) of the Republic of Serbia, Dejan Stosic was sentenced to four years of imprisonment. Dimce Kimov was sentenced to three years of imprisonment and the time he has spent in detention will be counted toward his sentence. Miodrag Stosic was sentenced to two years and six months of a jail time. Dusan Saponjic received a two-year prison sentence. Miodrag Nakomcic was sentenced to two years of imprisonment. Miodrag Milenkovic received a two-year prison sentence as well as Tijosav Vasiljevic and Marinko Zemunkovic. Vladimir Lukic and Sasa Stojkovic committed a criminal offence of unlawful possession of fire arms (breach of Article 62 para. 2 of the Criminal Code of the Republic of Serbia) and attempt of extortion (breach of Article 33 para. 1 of the Criminal Code of the Republic of Serbia) and were sentenced to eight months of imprisonment and five months of jail.

A year after the first judgment was delivered by the Special Court for Organized Crime in Belgrade, the Serbian Parliament amended the Criminal Code, more specifically Art. 111b, by establishing human trafficking and smuggling of people as two

separate crimes. This codification showed that trafficking in people has been considered one of the most serious criminal acts of modern times and that more adequate measures have been taken in order to suppress this phenomenon.

E. Conclusion

The phenomenon of human trafficking represents a gross violation of fundamental human rights which characterizes the main cause and at the same time the consequence of its existence. Women and children are the most vulnerable social groups and, thus, represent the easiest targets for traffickers worldwide. Women tend to suffer the cruelest violations of their rights and are often victims of gender discrimination. This has been a case for decades and although the globalization and modernization processes are changing the world, the social values and traditional views of gender roles are rarely undergoing any type of change.

Trafficking of human beings is a criminal activity that has been present for years, but its existence has not been transparent to a great degree, and thus it was often ignored and put to the side. People, for a great period of time, have not been aware of its importance and the ones who were familiar with this problem were too afraid to deal with it or had no means to do that. This ignorance is even present nowadays when state officials turn a blind eye to this illegal criminal activity because, in many cases, they themselves are indirectly or directly involved in this offence. This is often reflected in the case law in many Balkan countries when it comes to the statistics on women trafficking trials. Until a few years ago, when this issue became more popularized, the majority of judges or other state official did not even know what the term “human trafficking” implied and the elements of such a criminal act. At that time, human trafficking was in the majority of cases labeled and prosecuted as a criminal act of smuggling or prostitution.

Today, governments and the world community have been changing the approach to this widespread phenomenon and are investing more effort in raising awareness about this issue, but are still not doing enough to combat the underlying causes that enable

the flourishing of this phenomenon. In the countries of origin and transit, an unstable political situation, appalling economic conditions, gender inequality, lack of opportunities for young people, corruption infecting all parts of the system and society, and lack of education are the fundamental factors that push a woman to become an easy target for the criminal networks engaged in trafficking. Dealing with all these issues concretely and appropriately addressing all of these factors needs to be an essential part of an effective strategy for combating human trafficking, not just in the Balkans, but worldwide. By tackling the elements that underpin the existence of trafficking, one is able to focus on curbing and preventing the further spread of this problem. Unfortunately, nowadays we live in a materialistic world where the global atmosphere is such that financial gains are people's main priority, and the human rights agenda has been put aside. In such a world climate, it is often forgotten that every country has an irrevocable responsibility not only to respect women's rights but also to create environment in which every woman will be protected of every kind of discrimination, torture, and slavery.

VI. Suggestions for Regional Initiatives

One of the effective ways of fighting against women trafficking is also establishing mechanisms on regional, national, and local levels that would effectively work separately but also engage in some coordinated effort to deal with this problem. The regional cooperation and exchange of the available information is greatly relevant and represents one of the most fundamental steps that need to be taken. This is the case because organized networks that are engaged in criminal activities are fully cooperating across national borders. For example, in the area of the Balkans it is very well known that the Bulgarian and Serbian Mafias have been cooperating for years sharing profit from human trafficking, weapons and drugs. They are very well tied through the so called "Balkan route", and their liaison was established and cemented after the break up of

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Communist rule in this region.¹¹⁵ From the beginning of the civil wars and sanctions, the secret police formed chains of infrastructure for trafficking of gas and other goods to Serbia. Lobbies between Secret Services and criminals that assisted in the smuggling of narcotics and weapons started cooperating with Bulgarian services and mafia. These close links are very often today still used for the trafficking of humans, but also some other criminal activities. In April 2004, the Greek police arrested a member of the Greek border patrol and nine more members of a Balkan organized criminal network who forged money and trafficked in drugs and women.¹¹⁶ Police had conducted a one-year long secret investigation into the activities of this ring, benefiting from an insider who followed the police officer without him being aware of it.

Today, there are several regional initiatives and institutions that are keeping the anti-trafficking agenda in the spotlight and undertake extensive efforts trying to “encourage and strengthen co-operation among the countries of South Eastern Europe (SEE) in order to streamline and accelerate existing efforts to combat human trafficking in the region.”¹¹⁷ One of them is the Stability Pact for the South Eastern Europe Task Force on Trafficking in Human Beings (SPTF) that is operating under the auspices of Organization for Security and Cooperation in Europe (OSCE), whose primary goal is to “ensure that the regional dimension of the multi-faceted elements of human trafficking are fully considered and included in the planning and implementation of anti-trafficking activities in SEE,” but also “intensively [to] foster regional co-ordination and collaboration by all actors and actively support and monitor the development and implementation of regional anti-trafficking measures.”¹¹⁸

The other institution established in order to strengthen regional

¹¹⁵ Zajednicke im i placene ubice, Sept. 13, 2004. www.glas-javnosti.co.yu.

¹¹⁶ Uhapšen grčki policajac-graničar, član balkanske bande, *available at* <http://www.orgkriminal.org/prin.asp?id=1156>.

¹¹⁷ *See generally* Stability Pact Task Force on Trafficking in Human Beings (SPTF). <http://www.stabilitypact.org/trafficking/> (last visited on May 13, 2009).

¹¹⁸ *Ibid.*

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cooperation and make information sharing among states more efficient and plausible is the South Eastern European Co-operative Initiative (SECI) with its headquarters in Bucharest, Romania.¹¹⁹ SECI, the regional centre for combating organized crime, was established as a result of the Agreement of Co-operation to Prevent and Combat Transborder Crime, an agreement on co-operation between law enforcement agencies signed by SEE countries in May 2000.¹²⁰ The SECI Task Force operates through liaison officers from all participating countries stationed and working out of the SECI Centre in Bucharest. They are in permanent contact with the national authorities through their designated National Focal Points, persons who communicate directly with the National Coordinators and the National Trafficking in Human Beings Squads.¹²¹

Having a sound national strategy that combats women trafficking is not sufficient. The crucial thing is its proper implementation which can be hardly done without international cooperation. National authorities conduct primary investigations, but women trafficking goes far beyond one state border. Thus, international police cooperation is not only necessary in collecting information, it also offers many possibilities such as the training of specialists in applying new tactics and methods in detecting suspects, finding victims, and raising awareness of the locations where women trafficking is prevalent.

A significant part of an efficient anti-trafficking strategy is also the above-mentioned cooperation between international and national non-governmental organizations that are in many cases first points of contact that may lead to the identification of trafficked women. They bear a great responsibility as victims rely on them and usually trust them to ask for their help. The reason could be their specialization, good knowledge, and experience in their job. Still, in many countries there are no requirements for financing these organizations, so the biggest support they have is from international institutions through

¹¹⁹ South Eastern European Co-operative Initiative, Bucharest (2001) <http://www.secicenter.org/> (last visited on May 13, 2009).

¹²⁰ *Ibid.*

¹²¹ *Ibid.*

projects which they are undertaking.

VI. Suggestions for National Initiatives

As mentioned earlier, the phenomenon of trafficking is often being (mis)understood as the (mere) smuggling of persons. Although the two phenomena have some similar features, such as illegal migration, trafficking includes elements of force and involuntariness that represent much deeper violation of human rights and, as such, requires more attention. The states have a duty to recognize women as trafficked victims while proper identification of victims, but also of traffickers will contribute to enforcing the right trial procedures and arriving at adequate sentences. Proper training of border patrol officers, migration institutions, and police forces would achieve easier identification and adequate fulfillment of these tasks. Women who were found to be trafficked victims should have better protection than aliens who violate their immigration status, and they should be able to apply for asylum (as seen in Macedonia) or to adjust their legal status in case there is a great threat to the security of those women if they return to the country of residence. As we can see, many Balkan countries do provide certain protections for illegal aliens, but when it comes to trafficked victims, their inaction is evident.

In order to be able to create effective measures to combat trafficking in human beings, one important factor that needs to be established is well-planned and continuously implemented cooperation between the police and the IO and NGO sector victim support services. “This requires cooperation and planning of such details as how trafficking victims will be transported from the site of discovery to the shelter, which office of law enforcement is responsible for protection of witnesses, will NGOs participate in any secondary interviews conducted by law enforcement officers (preferably women officers) for identification purposes, etc. The challenge for the law enforcement response is to create the trust and conditions within which the victims and IO-NGO sector can feel able

to co-operate with the criminal justice system.”¹²²

A very important element also is to support the participation of non-governmental organizations in the process of adjusting the legal norms addressing trafficking of human beings on the domestic level. This would be an effective step, if taken, because NGOs are directly involved with victims of this criminal activity, and their input and guidance could be very useful. Also, the divergence between practice and written rules could be very easily avoided using this mechanism.

Most of the Balkan countries still do not implement and enforce pertinent domestic legislation, thus allowing perpetrators to go unpunished. During the trials, women are often too frightened to testify against traffickers, usually because they have not been offered any kind of victims' protection. Many legal systems require victims to confront the traffickers during trial. That way, they suffer secondary victimization and a continued violation of their rights. Furthermore, trafficked people are often treated as criminals, rather than as victims, and prosecuted, detained or imprisoned, for crimes relating to being trafficked. It is the responsibility of the governments to ensure that trafficked people are supported and not treated as criminals, and that a fair judgment is being delivered to the traffickers.

Another element that represents a problem to proper prosecutions of this crime is often the duration of the trial. The trials in some instances tend to be too long, and if a woman is already repatriated, there could be difficulties in bringing her back to participate in the trial. Many of them just want to forget that part of their lives and do not realize that this act opens the doors to other girls to be trafficked while traffickers will continue with their criminal activity. If we take the example of the Serbian legislature, one can see that a judge has a discretionary right to minimize a

¹²² This section draws upon the “Guidelines for a Co-operation Agreement between a Criminal Investigation Agency (Ministry of Interior/Police) and a specialized advisory agency (for victim protection and assistance - IO or NGO)”, elaborated by the Stability Pact for South Eastern Europe, Task Force on Trafficking in Human Beings.

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penalty when it comes to sentencing in a criminal trial which includes persons who are accused of criminal acts of trafficking, which undermine the preventive function of the Criminal Code. If a person is accused of this offence, in case the elements of the Criminal Code are fulfilled, and that person has never been accused of a similar crime earlier, the judge has the right to impose the minimum penalty. As a result, even though there is strong evidence regarding the committed trafficking offence, the accused will not be punished adequately. With this type of punishment policy, traffickers are encouraged to continue their illegal activity. The danger about enforcing this discretionary rule in minimizing the sentence has various consequences. Trafficking in women is part of organized crime, and traffickers have good financial backgrounds that can be used to corrupt judges which would result in judgments in their favor. This is a very popular practice in many Balkan countries where poverty and improper treatment of judges result in bribe and corruption. Women trafficking involves a gross violation of human rights. Thus, informing and educating judges and prosecutors who are the main actors in legal proceedings about future consequences of their decisions in terms of women's rights should be a priority in every state policy. Also, it would result in a higher percentage of adequate sentencing decisions and therefore in a better protection of women's rights.

To effectively combat women trafficking, we need to have educated judges, prosecutors, lawyers, and police inspectors who also familiar not only with national legislation, but also with the international instruments that are available to them in order expedite the case and arrive at a fair judgment.

The establishment of national teams that will specialize in dealing solely with the issue of trafficking would be another proper response to tackling this phenomenon. In Serbia, an institution of National Co-ordinators for Trafficking in Human Beings was established operating under the auspices of the Ministry of the Interior that successfully cooperates with national as well as international organizations in exchanging necessary information. Also, members of the National Team for Combating Trafficking in Human Beings participate in workshops and conferences where

together with the participants from foreign teams deal with actual problems and make strategies for future cooperation.

Finally, trafficked women need to have proper treatment once they are found. This assumes the existence of shelters or safe houses where they will have the possibility to be accommodated, to get health care, legal assistance, and other support. Also, adequate education could be involved during their stay in the shelter and women could be trained in order to use this knowledge for future employment.

The responses to women trafficking have been established through an anti-trafficking framework which developed over the last few years in the Balkan states. However, every country's government, together with good anti-trafficking measures, should be determined to combat this phenomenon in a more efficient manner. If we compare the situation in the late 1990's with the present situation in the region, it is obvious that circumstances have changed and progressed in a good way, but still there are some gaps between legislation and practice that make combating of women trafficking a slow, but as we have seen from the Serbian case study, an ultimately successful process.

Actions and initiatives for combating trafficking of human beings should not find success predominantly in the high statistics of assisted victims and prosecuted traffickers. They must contribute to creating strong and competent national democratic institutions whose main role would be the promotion and protection of human rights. Even though many organizations that deal with women trafficking claim that their work is explicitly within the boundaries of the human rights framework with the main focus on the protection of the rights of the victims, in some instances the best interest of the victims is not very well safeguarded. In order to make their approach to the victims more accountable, those institutions need to develop their policies and improve their work, taking into account the specifics of every country and adjusting them to the national and local level.

At the end, I would like to finish this analysis with the words of Dr. Helga Konrad, the OSCE Special Representative in Combating Trafficking in Human Beings: "The ultimate goal of all our anti-

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trafficking work, measures and activities must be a clear reduction of this horrendous crime and human rights violations. Anti-trafficking measures initiatives must offer tangible prospects of escaping the cycle of poverty, abuse and exploitation.¹²³ The question is no longer: What can we do about human trafficking but rather how we can do more and do it better. There is no time to lose or waste.”¹²⁴

This paper is my contribution to the fight against trafficking not just in the Balkan region, but worldwide. I hope it will raise awareness about this horrid crime and offer some answers to how to combat it. I also hope that humanity will realize very promptly that the human rights agenda and its safeguarding is the paramount goal of the civilized world we live in, and that there is no excuse for allowing a crime such as the trafficking in persons to put a price on any human being because every human life is priceless. We should never forget that.

¹²³ Helga Konrad, *Helping Victims of Trafficking*, DEUTSCHE WELLE.COM, Aug. 23, 2004, <http://www.dw-world.de/dw/article/0,,1335876,00.html>.

¹²⁴ Helga Konrad, Address at the Conference Alliance Against Trafficking in Persons, Vienna (2004).