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## POLICY TO COMBAT HUMAN TRAFFICKING IN MACEDONIA – LEGISLATION, SPECIALISED BODIES AND PROCEDURES

### ABSTRACT

For many years, the Balkans have been considered to be the primary area of interest of criminal groups that traffic in people, especially women and children. In Macedonia, this problem was revealed in the 1990s. However, initial efforts to reduce this phenomenon and combat it proved ineffective. This stemmed from the lack of a designated strategy and the narrow character of cooperation between individual institutions. The situation was unfavourable since human trafficking is an issue that requires an interdisciplinary approach and the collaboration of many bodies. This paper is an attempt to present and assess the institutional and legal system currently being established in the Republic of Macedonia in order to effectively combat the problem of trafficking in persons. First of all, the author will describe the existing legal framework and will also indicate the specialised institutions and procedures established in order to undertake coordinated institutional measures that address the problem of trafficking in persons.

**Key-words:** human trafficking, organized crime, Macedonia, anti-trafficking policies

### TRAFFICKING IN PERSONS AS A THREAT TO SECURITY

Trafficking in persons, especially women and children, has been a serious problem of global significance since the early 1990s. In Central and South-Eastern Europe, this was not a new phenomenon, but it has intensified since 1989. The speed and ease of

travel as well as the use of new technologies such as the Internet have fuelled this kind of crime alongside related offences such as sexual exploitation or slave labour, which bring huge profits.

The scale of human trafficking is extremely difficult to estimate and as a consequence, the actual number of victims of this practice is not known. This is because only a small number of cases are detected by competent state authorities. As a result, the phenomenon could be compared to an iceberg because official statistics only reveal a small part of the problem. Our knowledge of its scale comes from estimates, which are not reflected in the official data collected by law enforcement authorities and the judiciary or by non-governmental organisations. Thus significant differences between the data reported by the many international institutions and organizations that deal with this issue are not surprising.<sup>1</sup> The U.S. State Department estimates that each year, 800,000 to 900,000 people are trafficked.<sup>2</sup> On the other hand, the International Labour Organization thinks that this phenomenon affects at least 2.4 million people a year.<sup>3</sup>

The definition of human trafficking is included in the 'Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children' (the so-called Palermo Protocol). This document supplements the United Nations Convention against Transnational Organized Crime adopted by the General Assembly on 15 November 2000.<sup>4</sup> The definition included in the above document is broadly believed to be universal. Pursuant to Article 3 of the Palermo Protocol "trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."<sup>5</sup>

<sup>1</sup> So far, no general agreement has been reached on methods that should be employed to calculate such estimates, and as a result the data reported are often contradictory. At the global level, the following entities maintain databases on human trafficking: the U.S. administration, the International Labour Organization (these two bodies try to estimate the total number of victims), the International Organization for Migration (which collects data on victims who have obtained assistance) and the United Nations Office on Drugs and Crime (which investigates international smuggling routes).

<sup>2</sup> 'Trafficking in Persons Report 2013', U.S. Department of State United States of America, at <<http://www.state.gov/j/tip/rls/tiprpt/2013/>>, 8 March 2014.

<sup>3</sup> 'ILO Action against Trafficking in Human Beings 2008', Geneva 2008, p. 3, International Labour Office, at <[http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_090356.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_090356.pdf)>, 8 March 2014.

<sup>4</sup> On 12 December 2000, Macedonia signed that Convention together with all protocols and supplements thereto.

<sup>5</sup> 'Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime', 15 November 2000, UN, Office of the High Commissioner for Human Rights, at <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>>, 8 March 2014.

Trafficking in persons is inextricably linked to organised crime. The associated profits, which are comparable to those obtained from arms or drugs trafficking, contribute to the increase in the scale of this phenomenon. The low risk of detection and the relatively lenient penalties for those involved in human trafficking encourage criminal groups to become involved in this illegal practice. Owing to the peculiar nature of human trafficking, this crime is usually perpetrated by transnational organised crime groups, which makes its prosecution even more difficult. As opposed to law enforcement agencies, international criminal groups often have unlimited financial resources at their disposal. Their activities are very well coordinated and the criminals themselves extremely determined because there are immense profits to be made from human trafficking.

Trafficking in persons, just as that in arms and drugs, is an extremely dangerous phenomenon and the state must take appropriate and decisive measures in order to combat this practice. Possible consequences of the spread of this form of organised crime include the undermining of democratic processes and of efforts aimed at reforming state institutions and additionally encouragement to corruption and multiple other threats to the peace process and strengthening the rule of law. This is because a weak state, inconsistent legal system and the resulting inability to enforce the law effectively are conducive to human trafficking. The need for an interdisciplinary approach that exhibits coherence and consistency and involves the cooperation between numerous government authorities and NGOs is thus obvious. In order to provide the conditions for the effective prevention and suppression of human trafficking, a strategy to combat human trafficking and illegal migration for the years 2006–2009 was adopted in Macedonia.<sup>6</sup> After two years, it turned out that a significant part of the programme had not been implemented, many measures required follow-up and even more equally important challenges had come up. As a result, another strategy<sup>7</sup> and action plan was adopted for the period from 2009 to 2012. Currently, the National Strategy and National Action Plan against trafficking in persons and illegal migration for the years 2013–2016 are in force.<sup>8</sup> These documents provide the basis for a comprehensive policy to combat trafficking in persons whose primary purpose is to coordinate the activities of all relevant

<sup>6</sup> 'Стратегија за борба против трговија со луѓе и илегална миграција во Република Македонија 2006-2009 година', Национална комисија за борба против трговијата со луѓе и илегалната миграција, at <<http://www.nacionalnakomisija.gov.mk/mk/nacionalni-akciski-planovi-i-strategii/2006-2009>>, 8 March 2014.

<sup>7</sup> 'Национална стратегија за борба против трговија со луѓе и илегална миграција во Република Македонија' и 'Национален акциски план за борба против трговија со луѓе и илегална миграција во Република Македонија', 2009–2012, Национална комисија за борба против трговијата со луѓе и илегалната миграција година, at <[http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/nap-mak\\_2009-2012.pdf](http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/nap-mak_2009-2012.pdf)>, 8 March 2014.

<sup>8</sup> 'Националната Стратегија за борба против трговија со луѓе и илегална миграција во Република Македонија' и 'Националниот акциски план за борба против трговија со луѓе и илегална миграција во Република Македонија', за 2013-2016 година, Национална комисија за борба против трговијата со луѓе и илегалната миграција, at <[http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/strategija\\_nap\\_mk\\_0.pdf](http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/strategija_nap_mk_0.pdf)>, 8 March 2014.

institutions and organisations. All major assumptions from the first National Strategy have been preserved, which clearly demonstrates the durability of the institutional approach adopted with respect to the issue of trafficking in persons.

This paper is an attempt to present and assess the institutional framework established in the Republic of Macedonia in order to effectively combat the problem of trafficking in persons. First of all, the author will describe the existing legal framework and will also indicate the specialised institutions established in order to undertake coordinated institutional measures that address the problem of trafficking in persons.

## TRAFFICKING IN PERSONS IN MACEDONIA – THE SCALE OF THE PHENOMENON

For many years, the Balkans have been considered to be the primary area of interest of criminal groups that traffic in people, especially women and children. This region was used as a route for the illegal smuggling of victims of such trafficking from Eastern Europe to rich Western European countries. Now, there are reasons to believe that the Balkans are used to smuggle victims from Asia, the Middle East and Africa.<sup>9</sup> Many countries of the former Yugoslavia are also major destinations for human trafficking, especially for the sex business. Traffickers take advantage of porous borders, gaps in economic development, political instability and corruption to establish supply routes that meet the needs of the lucrative sex market in Western Europe and in the Balkans. Many methods and routes that were once used for smuggling contraband (in order to circumvent the international sanctions imposed in the 1990s) are now used for smuggling people. According to Europol, the routes used by human traffickers and smugglers are changing rapidly, adapting to the current socio-political situation in the region as well as to the measures taken at the international level.<sup>10</sup> This usually occurs as a response by transnational crime groups to legislative measures and activities by public authorities.

In the global human trafficking market, Macedonia is primarily a transit country. On the basis of the developments observed with respect to trafficking in persons, it can be stated that the victims of this type of criminal activity are usually young girls, mostly from Kosovo, Bulgaria, Albania, Ukraine and Moldova, who are brought illegally into the territory of the Republic of Macedonia.<sup>11</sup> Most women who are brought illegally into Macedonia are subsequently transported to Greece or Albania, and further on to Western Europe via organised channels. The locations from where the victims are smuggled into Macedonia are mostly situated near the borders with Kosovo (Tetovo), Serbia (Kumanovo) and Bulgaria (Strumica, Delcevo, Kriva Palanka). On the other

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<sup>9</sup> 'EU Serious and Organised Crime Threat Assessment (SOCTA 2013)', EUROPOL, 19 March 2013, at <<https://www.europol.europa.eu/content/eu-serious-and-organised-crime-threat-assessment-socta>>, 8 March 2014.

<sup>10</sup> Ibid.

<sup>11</sup> Only few such persons have the legal right to reside in the territory of the Republic of Macedonia.

hand, Dojran and Gevgelija near the border with Greece and Struga close to the route leading to Albania are used by traffickers to smuggle people outside Macedonia.

The data collected by the Ministry of Internal Affairs of the Republic of Macedonia and the National Rapporteur on Trafficking in Human Beings demonstrate that the nature of human trafficking in the country is changing. Macedonia is namely becoming a country of destination and origin of trafficking victims as well. The problem of internal trafficking is also becoming increasingly visible in this country. Young Macedonian women and children are recruited mainly in rural eastern areas of the country and then either sexually exploited and forced to work (mostly young women) or forced to beg on the streets (primarily children, usually ethnic Roma).<sup>12</sup> Findings of the Ministry of Internal Affairs show that in most cases women are exploited by owners of bars, restaurants and hotels (forced to work as dancers or to offer sexual services) in the cities of Tetovo, Gostivar, Struga and Ohrid. Therefore the Macedonian police has focused on inspecting catering facilities in these areas in recent years. Inspections of such facilities are particularly important because they serve not just as places where the victims are exploited, but also as locations where trafficking victims are held prior to their sale.

Table 1 contains statistical data on trafficking in persons and the number of court cases published by the Ministry of Internal Affairs of the Republic of Macedonia and the National Rapporteur on Trafficking in Human Beings. It must be pointed out here, however, that there is a need to broaden the range of available data on human trafficking, since the collection of such information increases our knowledge of the level and extent of this phenomenon through collaboration and the exchange of already available data.

The numbers presented in Table 1 do not reflect the full scale of trafficking in persons in Macedonia. However, the “dark figure” of this type of crime is extremely difficult to estimate. Some trafficking offences are never reported to the police. This is most often because of fear, shame, the associated social stigma and the threat of deportation (in the case of victims who are residing illegally in the territory of Macedonia). It should be stressed that the statistics published by Macedonian authorities used to include exclusively those persons who agreed to cooperate with the law enforcement authorities and testified as victims (the situation only changed after the establishment of the office of the National Rapporteur on Trafficking in Human Beings in Macedonia).<sup>13</sup> However, many women refuse to cooperate or withdraw their testimony for fear of social stigma or revenge by their former oppressors. Particularly worrying was the low detection rate of offences related to the status of Macedonia as a transit and destination country. For many years, women from other countries who stayed illegally in the territory of the Republic of Macedonia faced immediate deportation. Even if they were victims of trafficking in persons, this fact prevented them from giving evidence that would incrimi-

<sup>12</sup> ‘Годишни извештаи на Националниот Известувач за 2010, 2011, 20012, 2013 години’, Национална комисија за борба против трговијата со луѓе и илегалната миграција, at <<http://www.nacionalna-komisija.gov.mk/mk/godishni-izveshtai/godishni-izveshtai-na-nacionalniot-izvestuvach>>, 8 March 2014.

<sup>13</sup> In such cases, the victims’ testimony is extremely important since they are often the only witnesses.

nate the perpetrators, and also obscured the actual scale of such crimes. The changes with respect to legislation and the treatment of such persons that occurred in the recent years have been reflected in official statistics as well.

**Table 1. Numbers of victims of human trafficking in the Republic of Macedonia and the results of criminal proceedings**

Year	Number of identified victims of human trafficking (including foreigners)	Number of "potential victims" of human trafficking*	Number of indictments filed pursuant to Article 418-a of the 'Criminal Code'	Number of persons indicted pursuant to Article 418-a of the 'Criminal Code'
2002	no data	no data	18	33
2003	no data	no data	42	78
2004	no data	no data	19	42
2005	no data	no data	12	40
2006	no data	no data	6	27
2007	no data	no data	9	31
2008	10 (1)	no data	12	68
2009	8 (1)	no data	6	18
2010	12 (0)	no data	5	25
2011	11 (2)	114	5	35
2012	8 (4)	77	-	-
2013	15 (6)	82	10	38

\* In Macedonian statistics, a potential victim of human trafficking is a person who according to law enforcement authorities or other public authorities could have been a victim of trafficking in persons but has not obtained this status, inter alia as a result of his or her unwillingness to cooperate with law enforcement authorities or the withdrawal of his or her testimony.

Source: own study based on the data published by the Ministry of Internal Affairs of the Republic of Macedonia, the National Commission for Combatting Human Trafficking and Illegal Migration and the National Rapporteur on Trafficking in Human Beings in Macedonia.

## **MACEDONIAN LEGISLATION (PREVENTING AND COMBATTING HUMAN TRAFFICKING)**

One consequence of the signing by the Republic of Macedonia of the United Nations Convention against Transnational Organized Crime together with the Protocols thereto was the requirement that provisions on penalties for human trafficking be incorporated in the Macedonian criminal law system. The relevant provisions were

introduced by the Act Amending the Criminal Code adopted by the Parliament on 16 January 2002.<sup>14</sup>

Earlier, offences related to trafficking in persons had been prosecuted pursuant to Article 191 and Article 418 of the Criminal Code adopted in 1996. Article 191 provided for penalties for recruiting and inducing (using force, the threat of force or deceit) another person into prostitution, obtaining benefits as a result of another person prostituting herself or himself and facilitating the provision of sexual services for financial gain.<sup>15</sup> Article 418, which is included in the section of the Code entitled 'Crimes against Humanity and International Law', provides for prison terms ranging from 1 year to 10 years for persons who break the rules of international law by selling people into slavery, intermediating in such trade, enslaving people or keeping them enslaved.<sup>16</sup>

In order to combat trafficking in persons more effectively and also to harmonise national legislation with the international conventions ratified by Macedonia, in 2002 the Criminal Code was amended by introducing Article 418-a, which was entitled 'Trafficking in Persons'. It provided for penalties for any person who recruited, transported, transferred, bought, sold or received persons for purposes of prostitution or other forms of sexual exploitation, forced labour, slavery or another relationship similar to slavery or the prohibited transplantation of human organs, where such actions involved force, serious threat or other forms of coercion, abduction, fraud, or the abuse of the perpetrator's position or of the vulnerability of another person.<sup>17</sup>

The great importance of the adoption of Article 418-a stems primarily from the fact that trafficking in persons has been recognised as a separate and serious crime<sup>18</sup> punishable by imprisonment. Before the amendment of the Criminal Code in Macedonia, the crime of human trafficking was often – entirely erroneously – equated with prostitution. As a result, victims of such trafficking were treated as foreign prostitutes who were staying illegally in the country. This resulted in a fine and expulsion irrespective of whether they had the status of victims (forced prostitution) or provided sexual services voluntarily. Amendments to the Criminal Code, which involved the introduction of the article that made trafficking in persons punishable, also covered other possible forms of exploitation for financial gain, thereby providing law enforcement authorities with a new legal instrument.

The amendment to the Criminal Code introduced in 2004 changed the description of the offence and the severity of sanctions provided for in Article 418-a and also added Articles 418-b (concerning the smuggling of migrants) and 418-c (concerning

<sup>14</sup> 'Закон за изменување и дополнување на Кривичниот Законик', *Службен весник на Република Македонија*, Vol. 58, No. 4 (2002), p. 17, at <<http://www.slvesnik.com.mk/Issues/EBB3E415E04FCE48B572941187066BDC.pdf>>, 8 March 2014.

<sup>15</sup> 'Кривичен Законик', *Службен весник на Република Македонија*, Vol. 2, No. 37 (1996), at <<http://www.slvesnik.com.mk/Issues/90E0B29D702D49A48DBCC2239374B927.pdf>>, 8 March 2014.

<sup>16</sup> *Ibid.*, Член 418.

<sup>17</sup> 'Закон за изменување и дополнување на Кривичниот Законик' (2002), Член 418-a.

<sup>18</sup> Within the meaning of the Palermo Protocol.



organised crime)<sup>19</sup> In 2009, very important amendments to legislation were adopted that made it possible to combat human trafficking more effectively. Provisions were introduced at that time that enabled the confiscation of the property used by the perpetrators; in addition, a new article was added, pursuant to which an attempt to commit the crime of trafficking in persons became punishable by imprisonment.<sup>20</sup> In the Act Amending the Criminal Code of 14 September 2009, an article was added that provided for criminal liability of a civil servant who committed an offence against Article 418-a while carrying out his or her duties.<sup>21</sup>

As a result of the above amendments, the current wording of Article 418-A is as follows:

- “(1) The one who by means of force, serious threat shall mislead or other forms of coercion, abduction, fraud, of abuse of one’s power or another person’s condition of pregnancy, feebleness or physical or mental inability; or by means of giving or receiving money or other benefits to achieve the consent of a person having control over another person, or in another way shall recruit, transport, transfer, buy, sell, harbour or receive persons for the purpose of exploitation by way of prostitution or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriages, forced fertilization, unlawful adoption or similar attitude or prohibited transplantation of human body parts, shall be sentenced to imprisonment for at least four years.
- (2) The one who shall seize or destroy an identity card, passport or someone else’s identification document to commit the act of paragraph (1) of this Article shall be sentenced to imprisonment for at least four years.
- (3) The one who shall use or allow another person to use sexual services or another type of exploitation of persons which he knows or is reasonably expected to know that this will result in those persons being victims of trafficking in human beings shall be sentenced to imprisonment for six months to five years.
- (4) If the act of paragraphs 1, 2 and 3 of this Article is perpetrated by an official while carrying out his/her official duty, he/she shall be sentenced to imprisonment for at least 8 years.
- (5) The consent of a victim of trafficking in human beings to the intended exploitation set forth in paragraph 1 shall have no bearing on the existence of the criminal act of paragraph 1.
- (6) If the act of paragraph 1 is perpetrated by a legal entity, it shall be punished by a fine.

<sup>19</sup> ‘Закон за изменување и дополнување на Кривичниот Законик’, *Службен весник на Република Македонија*, Vol. 60, No. 19 (2004), p. 23, at <<http://www.slvesnik.com.mk/Issues/C8D46E8BD6830F418445D02699C773FB.pdf>>, 7 March 2014.

<sup>20</sup> ‘Закон за изменување и дополнување на Кривичниот Законик’, *Службен весник на Република Македонија*, Vol. 65, No. 114 (2009), p. 29, Член 117, at <<http://www.slvesnik.com.mk/Issues/2A2D5314C418A34EA5D597CC923695D2.pdf>>, 7 March 2014.

<sup>21</sup> *Ibid.*, Член 119.



- (7) The real estate used and the articles and means of transportation used for the perpetration of the act shall be seized.<sup>22</sup>

The legal solutions implemented in the Criminal Code were additionally reinforced by the provisions contained in the Acts on the Protection of Witnesses, on Aliens, on Social Protection and in the Act on the Protection of Children.

Of particular importance was the adoption in 2008 of the Act on Aliens, which was described as part of a policy to prevent illegal migration and the trafficking in children. The Act introduced stricter provisions (restrictions) on the entry of minors into the Republic of Macedonia. For victims of human trafficking who were not citizens of Macedonia, it also extended<sup>23</sup> to two months the decision-making period during which an alien may decide whether to cooperate with law enforcement authorities and the judiciary. If the victim cooperates with the Macedonian authorities and his or her residence in the territory of Macedonia is justified, the victim is issued a temporary residence permit for six months, which may be extended pending court proceedings.<sup>24</sup> Appropriate arrangements will be made for aliens who have obtained this permit and do not have the resources enabling them to stay, and those with special needs (pregnant women, children, the disabled, victims of sexual violence) will also be given access to medical and psychological assistance.

The legal framework for protecting victims of human trafficking was strengthened owing to the Act on Social Protection adopted by the Macedonian Sobranie in June 2009. The Act provides for the protection of persons, including victims of human trafficking (Articles 26, 31 and 132).<sup>25</sup> The aforementioned provisions formed the basis for the 'Rules concerning the norms and standards related to the facilities, equipment, staff and resources required for the establishment and operation of the Centre of Social Protection for Victims of Trafficking in Persons' developed by the Ministry of Labour and Social Policy.<sup>26</sup> The first centre where victims are offered medical and psychological assistance in addition to accommodation was commissioned in January 2011.<sup>27</sup>

<sup>22</sup> 'Criminal Code of the Republic of Macedonia (consolidated version with the amendments from March 2004, June 2006, January 2008 and September 2009)', Art. 418-a, at <<http://legislationline.org/documents/action/popup/id/16066/preview>>, 8 March 2014.

<sup>23</sup> A suspicion that an alien may be a victim of trafficking in persons must be confirmed by an authority competent to conduct proceedings related to combatting trafficking in persons; e.g. a public prosecutor may be such an authority.

<sup>24</sup> 'Закон за странците (пречистен текст)', Член 81, Член 82, at <<http://www.mvr.gov.mk/Uploads/Precisten%20zakon%20za%20strancite%2025.01.13.pdf>>, 8 March 2014.

<sup>25</sup> 'Закон за социјална заштита', *Службен весник на Република Македонија*, Vol. 65, No. 79 (2009), pp. 11-66, at <<http://www.slvesnik.com.mk/Issues/7CEA639634D1054DB351E7FB985665DC.pdf>>, 8 March 2014.

<sup>26</sup> 'Правилник за нормативите и стандардите за простор, опрема, стручни кадри и средства потребни за основање и започнување со работа на установата за социјална заштита Центар за лица – жртви на трговија со луѓе', *Службен весник на Република Македонија*, Vol. 66, No. 100 (2010), pp. 73-74, at <<http://www.slvesnik.com.mk/Issues/CCA654D6C9B1184C99062F26B27EE310.pdf>>, 8 March 2014.

<sup>27</sup> *Отворен Центар за лица – жртви на трговија со луѓе*, 28 January 2011, at <<http://www.kanal5.com.mk/default.aspx?mld=37&eventId=70607>>, 8 March 2014.

Three such centres operate currently in Macedonia, including one designed for foreign victims of trafficking in persons and one for minors.<sup>28</sup>

When analysing the legal framework presented here, it should be noted that the current Macedonian legislation fully meets the standards for combatting trafficking in persons that have been set by fundamental international documents. It is also worth emphasising that successive governments made efforts to improve the existing laws. The current legal framework not only offers comprehensive protection for victims of human trafficking but also provides a sound basis for conducting investigations and instigating criminal proceedings against perpetrators of crimes related to such trafficking.

## SPECIALISED BODIES AND INSTITUTIONS INVOLVED IN COMBATTING HUMAN TRAFFICKING

The effective prevention and combatting of trafficking in persons requires the involvement of many state authorities and institutions. Collaboration between them may be useful, provided formal mechanisms and procedures are developed that provide the basis for a clear division of the roles and responsibilities of the institutions involved. For several years, institutional mechanisms have been developed in Macedonia whose purpose is to ensure close coordination between the various entities involved in combatting trafficking in persons.

The main body that coordinates the implementation of the policy to combat trafficking in human beings is the National Commission for Combatting Human Trafficking and Illegal Migration (Национална комисија за борба против трговијата со луѓе и илегалната миграција). The Commission is an interministerial body that includes representatives of the Ministry of Internal Affairs, the Ministry of Foreign Affairs, the Ministry of Labour and Social Policy, the Ministry of Education and Science, the Ministry of Health, the Ministry of Justice, the Public Prosecutor's Office for Combatting Organised Crime and Corruption, the Customs Service and the Skopje 1 District Court.<sup>29</sup> The Commission, which was established in 2001, was assigned the following tasks:

- monitoring and analysing the situation with respect to human trafficking and illegal migration;
- coordinating the measures taken by the institutions competent to prevent and combat human trafficking and illegal migration;

<sup>28</sup> 'Годишен Извештај на Националната Комисија за Национална комисија за борба против трговијата со луѓе и илегалната миграција за 2013 година', Скопје 2014, Национална комисија за борба против трговијата со луѓе и илегалната миграција, pp. 11-14, at <[http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/2013\\_godisen\\_izvestaj\\_nacionalna\\_komisija.doc](http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/2013_godisen_izvestaj_nacionalna_komisija.doc)>, 8 March 2014.

<sup>29</sup> Commission website, at <<http://www.nacionalnakomisija.gov.mk/mk/kontakt/za-nas>>.

- cooperating with international organisations and NGOs involved in solving the problems related to human trafficking.<sup>30</sup>

In order to enhance the efficiency of the measures taken by the National Commission for Combatting Human Trafficking and Illegal Migration, in 2003 the Secretariat and Subgroup for Combatting Trafficking in Children (Подгрупа за борба против трговија со деца) were established. The Secretariat is an executive body responsible for implementing the Commission's decisions and for coordinating the cooperation with NGOs and international organisations that deal with the issue of human trafficking. Activities of the Subgroup for Combatting Trafficking in Children focus on the prevention of trafficking in children and improving the protection of minors who are victims of trafficking.

In Macedonia, a national centre operates that collects data related to the measures undertaken with respect to human trafficking. The office of the National Rapporteur on Trafficking in Human Beings (Национален Известувач на Република Македонија за борба против трговија со луѓе) was established in 2008 on the initiative of the National Commission for Combatting Human Trafficking and Illegal Migration.<sup>31</sup> Responsibilities of the National Rapporteur include in particular:

- monitoring general activities related to combatting trafficking in persons;
- collecting and analysing (quantitative and qualitative) data originating from state institutions and from relevant partners;
- adopting conclusions and recommendations to enhance measures against trafficking in persons and make them more effective with respect to law enforcement, the implementation of policies and better institutional responses;
- drawing up annual reports.

Apart from statistical data and indicators concerning the situation with respect to human trafficking, smuggling of migrants and illegal migration in the Republic of Macedonia, reports of the National Rapporteur also include sections on individual themes related to the issue. The report is submitted to the National Commission for Combatting Human Trafficking and Illegal Migration and subsequently published.

Despite certain difficulties in applying the law, it should be stressed that the system adopted in Macedonia works as a whole. This has been possible thanks to the important role of NGOs in its operation. The law provides for a formal register to be maintained of NGOs that look after victims of trafficking in persons.<sup>32</sup> These organisa-

<sup>30</sup> 'Одлука за образување Национална комисија за борба против трговијата со луѓе и илегалната миграција во Република Македонија', *Службен весник на Република Македонија*, Vol. 57, No. 18 (2001), at <<http://www.slvesnik.com.mk/Issues/9B34D7ACD289420FBAF034D79CEF86B9.pdf>>, 15 January 2014.

<sup>31</sup> 'Решение за дополнување на Решението за именување национален координатор, негов заменик, национален известувач за трговија со луѓе и илегална миграција, секретар и членови на Националната комисија за борба против трговијата со луѓе и илегалната миграција во Република Македонија', *Службен весник на Република Македонија*, Vol. 64, No. 168 (2008), p. 475, at <<http://www.slvesnik.com.mk/Issues/2BC79AA0E05C5F4A959B74516D5A31D4.pdf>>, 14 January 2014.

<sup>32</sup> This list currently includes "Отворена порта – Ла страда Македонија", "За Среќно детство", "Семпер", "Езерка-Струга", "Еднаков пристап".

tions are funded by the government and local authorities. Owing to the development of mechanisms for institutional cooperation between NGOs, the police, public prosecutors and local authorities, confidence has been gradually built since the entry into force of the aforementioned provisions. In September 2005, the Office of the National Mechanism for Referral of Victims of Trafficking in Human Beings was established within the Ministry of Labour and Social Policy. The Office was established owing to a project implemented by the Ministry of Labour and Social Policy, the National Commission for Combatting Human Trafficking and Illegal Migration and the OSCE Mission in Skopje. The Office of the National Mechanism coordinates measures related to prevention and the protection of victims of human trafficking, seeking to identify such persons, assist and protect them regardless of their nationality, ethnicity, gender or age. The coordination mechanism (National Referral Mechanism) established includes the Coordination Office (currently employing two persons at the Ministry of Labour and Social Policy), a total of 60 employees at 30 social welfare centres in Macedonia (available on a 24/7 basis) and a representative of the Institute for Social Activity. Specialists from the National Referral Mechanism work closely with the police, representatives of NGOs and civic associations. Successful cooperation enables the system to operate smoothly.<sup>33</sup>

Within the Ministry of Internal Affairs, at the Centre for Suppression of Organised and Serious Crime), a specialised Unit for Combatting Trafficking in Persons and Smuggling of Migrants was established. The tasks and powers of this unit involve the detection of offences related to trafficking in persons and the identification of their perpetrators as well as conducting criminal investigations at both the national and international levels. It has also been tasked with supporting and assisting all law enforcement authorities.

The legal and institutional system established only provides a framework for the effective combatting of human trafficking. Of key importance here is the human factor, i.e. properly selected, qualified and trained people who work properly with victims. Most important are the members of those services that are supposed to come into direct contact with victims of human trafficking: the police, Border Guard, social services and the public prosecutors' offices. Therefore training to deal with human trafficking is targeted precisely at the aforementioned services. Issues of trafficking in persons are covered by the basic courses that candidates preparing to work for the services in question must undergo. In addition, officers of the police, Border Guard, public prosecutors and judges participate in specialist training courses that deal with matters related to combatting human trafficking.<sup>34</sup> Within the framework of educational activities, from

<sup>33</sup> 'Стандарни оперативни процедури за постапување со жртви на трговија со луѓе', ревидирана верзија, October 2010, pp. 59-61, Национална комисија за борба против трговијата со луѓе и илегалната миграција, at <[http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/ii\\_standardni\\_operativni\\_proceduri\\_-\\_revidirani\\_-\\_mkd.pdf](http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/ii_standardni_operativni_proceduri_-_revidirani_-_mkd.pdf)>, 8 March 2014.

<sup>34</sup> From 2009 to 2011, five such courses were conducted, which were attended by 112 employees of state institutions. 'Годишен извештај за работата на Академијата за судии и јавни обвинители 2009', at <<http://www.jpacademy.gov.mk/upload/Izvestai%20za%20Akademija/Lektoriran%20Izvestaj%20>

July 2009 to December 2010, a project entitled 'Technical assistance for strengthening the ability of relevant actors involved in combatting organised crime, with particular emphasis on trafficking in persons' was carried out, which was funded by the European Union and the International Organization for Migration in cooperation with the Ministry of Internal Affairs and the Ministry of Labour and Social Policy. During that period, eight training courses in 'Basic issues related to trafficking in persons and the smuggling of migrants' were conducted, which were attended by 276 police officers; six specialised workshops were also held for 166 representatives of state institutions alongside four three-day training courses for 76 representatives of institutions that are involved in combatting trafficking and of NGOs in order to strengthen the integrated approach to identifying and protecting the victims of trafficking.<sup>35</sup> Irrespective of the number of public service officers and social workers who have been trained, there is an ongoing need to conduct training courses and workshops in order to improve the qualifications of personnel.<sup>36</sup>

## STANDARD OPERATING PROCEDURES – A PILLAR OF THE MACEDONIAN STRATEGY TO COMBAT HUMAN TRAFFICKING

In order to make the measures against human trafficking in Macedonia undertaken by state institutions and NGOs more systematic, work started on developing a set of guidelines for use by public servants where the crime of human trafficking has been detected or is suspected. The need to develop such guidelines was also pointed out in the Strategy for Combatting Trafficking in Persons and Illegal Migration in the Republic of Macedonia of March 2006, which was the first comprehensive document that described priorities and directions for the state in combatting human trafficking. It should be noted that not only government experts and members of the National Commission for Combatting Human Trafficking and Illegal Migration were involved in the work on

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za%20rabotata%20na%20Akadem.%202009.pdf>; 'Тодишен извештај за работата на Академијата за судии и јавни обвинители 2010', at <<http://www.jpacademy.gov.mk/upload/Izvestai%20za%20Akademija/Lektoriran%20izvestaj%20za%20rabota%20na%20Akademijata%20za%202010%20godina.pdf>>; 'Тодишен извештај за работата на Академијата за судии и јавни обвинители 2011', at <<http://www.jpacademy.gov.mk/upload/Izvestai%20za%20Akademija/Godisen%20izvestaj%20na%20Akademijata%20za%202011-%20konecen-%20lektoriran.pdf>>, 8 March 2014.

<sup>35</sup> 'Reply from "the former Yugoslav Republic of Macedonia" the Questionnaire for evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, 1<sup>st</sup> evaluation round', reply submitted 29 May 2012, Council of Europe Group of Experts on Action Against Trafficking in Human Beings, GRETA(2004)1, at <[http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public\\_R\\_Q/GRETA\\_2014\\_1\\_RQ\\_MKD\\_public\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2014_1_RQ_MKD_public_en.pdf)>, 8 March 2014.

<sup>36</sup> The need to ensure high qualifications levels was pointed out in the 2013–2016 National Strategy for Combatting Trafficking in Persons and Illegal Migration in the Republic of Macedonia, 'Националната Стратегија за борба против трговија со луѓе и илегална миграција во Република Македонија' и 'Националниот акциски план за борба против трговија со луѓе и илегална миграција во Република Македонија', за 2013–2016..., pp. 35–77.

the development of standard operating procedures; representatives of NGOs were invited as well. Finally, the draft submitted was approved at a cabinet meeting in February 2008.<sup>37</sup>

Standard Operating Procedures (Стандардни Оперативни Процедури за постапување со жртви на трговија со луѓе, SOPs) were developed on the basis of several key documents, both national and international, which concerned the issue of trafficking in persons in different areas and at different levels. It should be stressed here that SOPs were based on: United Nations Convention against Transnational Organized Crime,<sup>38</sup> Council of Europe Convention on Action against Trafficking in Human Beings, drawn up on 16 May 2005<sup>39</sup> and manuals published by UNHCR<sup>40</sup> and OSCE.<sup>41</sup> As a result, the guidelines drawn up take into account the specificity of trafficking in persons as well as the need to respect national<sup>42</sup> and international standards.

The document stipulates the procedures and methods for providing assistance and protection to victims of human trafficking within the existing legal and institutional framework.

The measures included in SOPs concern the following areas:

- identifying victims of human trafficking;
- the legal status of victims of human trafficking;
- return by victims of human trafficking to their home country;
- providing assistance for victims of trafficking before their return to their home country;
- providing assistance for the reintegration of victims;
- the participation of victims of human trafficking in criminal proceedings as witnesses;
- the right of redress.

The document consists of five sections: identification; initial assistance; return; reintegration; court proceedings. In each section, SOPs contain useful information and guidance related to key issues: What measures should be used? When can specific so-

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<sup>37</sup> 'М-р Никола Груевски на промоцијата на Прирачникот за стандардни оперативни процедури за постапување со жртви на трговија со луѓе', Влада на Република Македонија, at <<http://arhiva.vlada.mk/?q=node/23>>, 8 March 2014.

<sup>38</sup> 'UN Convention against Transnational Organized Crime' and its Protocols, 15 November 2000, UN General Assembly, A/RES/55/25, at <[http://www.unodc.org/pdf/crime/a\\_res\\_55/res5525e.pdf](http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf)>, 15 March 2014.

<sup>39</sup> 'Council of Europe Convention on Action against Trafficking in Human Beings', Council of Europe, 16 May 2005, at <<http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>>, 15 January 2014.

<sup>40</sup> 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (results from the UN Protocol on Human Trafficking), UN, Office of the High Commissioner for Human Rights, at <<http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>>, 15 January 2014.

<sup>41</sup> T. Kröoeger, J. Malkoč, B.H. Uhl, *National Referral Mechanism. Joining Efforts to Protect the Rights of Trafficked peoplePersons. A Practical Handbook*, OSCE/ODIHR, Warsaw 2004.

<sup>42</sup> Owing to the legislative changes introduced in 2008 and 2009, SOPs were revised in 2010, adapting their contents to the new legislation.



lutions be applied? Who is responsible for the application of the measures described? How should the solutions described be implemented?

The full implementation of the procedures contained in SOPs has contributed to improving the effectiveness of law enforcement authorities and their response to human trafficking. It has also affected the situation of the victims significantly. Prior to the implementation of Standard Operating Procedures, initial screening or interviews with victims of human trafficking were performed in accordance with police investigative procedures, and as a result many victims were deprived of any protection or assistance. Currently, law enforcement authorities have the support of the entire institutional system in the process of identifying the victims. Additionally, the support for the victim afforded as a result of following SOP guidelines has a positive effect on the victim's situation and his or her sense of security and therefore also on his or her willingness to cooperate. It is worth pointing out that owing to the legislative changes introduced in 2008 and 2009 in Macedonia, SOPs were revised in 2010, adapting their contents to the new legislation. Many of the recommendations made in 2010 are novel and therefore it is too early for a final judgment since their evaluation is underway. Macedonia's readiness to develop, test and improve appropriate and effective solutions should be stressed, however.

## PREVENTIVE MEASURES

Prevention includes, *inter alia*, the publishing of folders, brochures and leaflets as well as the production of spots to be broadcast by the mass media.<sup>43</sup> Additionally, hotlines and helplines were launched, which also offer counselling. An important part of preventive measures are attempts to increase the awareness of young people by pointing to numerous risks associated with e.g. seeking employment abroad (this may prove to be a way to be forced into prostitution or slave labour) and therefore information campaigns are of huge importance.

The measures listed, where implemented by the institutions included in the National Commission for Combatting Human Trafficking and Illegal Migration, are covered by cooperation and discussed at the meetings of that body. Thus one can speak of co-ordination and exchange of good practices. Independently of the preventive measures implemented by state institutions, such actions are also undertaken by non-governmental organisations and associations. As a result, there is a relative wealth of information about human trafficking,<sup>44</sup> which has a positive impact on increasing public awareness in this area. On the other hand, the state of affairs will never be fully satisfactory, since there will always be people without adequate information in this respect, particularly in small towns and villages.

<sup>43</sup> It should be emphasised, however, that these are not permanent information campaigns but rather periodic activities.

<sup>44</sup> The author's assessment based on the observations made during his stay in Macedonia in 2011.



## EVALUATION OF THE SYSTEM FOR PREVENTING AND COMBATTING HUMAN TRAFFICKING IN MACEDONIA

The systematisation of measures to combat human trafficking should be applauded, particularly because of the marked improvement in the coordination of the initiatives undertaken. At least a dozen entities are involved in the process of combatting human trafficking and counteracting and preventing such practices in Macedonia. It should be borne in mind, however, that the system is based on state institutions whose position within the political system varies and additionally individual institutions are subject to frequent reshuffles, which may limit the effectiveness of their actions.

It is worth noting that the measures taken in Macedonia have resulted in the creation of prerequisites for effectively preventing and combatting trafficking in persons and also for supporting and protecting the victims of this crime. The system established does not focus exclusively on criminal law measures, but also provides for supporting victims and preventive measures, which is particularly worth stressing. Successes include the creation of an efficient interinstitutional cooperation framework as well as changes in law that cover not only the criminal code, but also other statutes relevant from the point of view of counteracting human trafficking. The tasks listed in the 2013–2016 National Strategy that require further implementation include primarily raising public awareness and disseminating knowledge on the phenomenon of human trafficking, improving the effectiveness of the measures aimed at combatting trafficking in persons, in particular through enhancing legal tools and procedures and implementing best practices, raising the qualifications of the persons involved in counteracting human trafficking and supporting victims of this crime, collecting data on human trafficking and initiating studies of this phenomenon as well as developing schemes to protect and support victims.<sup>45</sup>

The measures introduced by Macedonia have been noticed in a recent U.S. Department of State report, which evaluated the countries' efforts to combat human trafficking. Macedonia was included among tier 1 countries,<sup>46</sup> which means that the solutions adopted by this country are fully compliant with minimum international standards.<sup>47</sup>

Despite the adoption of sound legal and institutional solutions and the effective cooperation between state bodies and NGOs, certain issues of concern should be pointed out. When analysing the duration and effectiveness of court proceedings, one should note that despite procedural improvements and amendments to criminal laws, many trials concerning offences related to trafficking in persons continue to be excessively lengthy. Many delaying tactics used by experienced lawyers cause such cases to drag

<sup>45</sup> 'Националната Стратегија за борба против трговија со луѓе и илегална миграција во Република Македонија' и 'Националниот акциски план за борба против трговија со луѓе и илегална миграција во Република Македонија', за 2013-2016...

<sup>46</sup> 'Trafficking in Persons Report 2013', U.S. Department of State...

<sup>47</sup> Among South-Eastern European countries, only Macedonia and Croatia have this status.

on and lead to time-consuming procedural steps, complicating the victims' situation.<sup>48</sup> The media have spotted many procedural inconsistencies and corrupt practices, forcing the Ministry of Justice to respond.<sup>49</sup> Another aspect of the corrupt involvement of court officials (especially typical of the pre-2005 period) was the tolerance of criminal behaviour exhibited by local investigating judges from the same (mainly Albanian) ethnic group.<sup>50</sup>

Despite the efforts by law enforcement authorities to reduce human trafficking, which are dominated by ongoing operational activities, the number of human trafficking cases detected by the police and border guards is very modest compared to the estimated number of victims of this crime in Macedonia. An additional problem is the fact that only few victims (see Table 1) decide to cooperate with the public prosecutors and law enforcement authorities. It is true that this aspect of the situation has improved in recent years, but further measures are required to ensure that victims have adequate procedural rights (such as rendering the trial non-public) or that social welfare is provided.

The number of defendants accused of human trafficking in Macedonia does not correspond to the actual numbers of people involved in this form of organised crime either. Judges often treat trafficking victims as illegal immigrants, which frequently allows traffickers to avoid punishment.<sup>51</sup>

The policy for combatting trafficking in persons implemented in Macedonia is an attempt to strike a balance between the need to effectively fight organised groups of traffickers and the duty to protect and assist victims of crime. Macedonia still faces many challenges in its fight against human trafficking, but the efforts of successive governments point in the right direction. Given the current political will, amended legislation, enhanced procedures for handling victims and further training courses for judges, prosecutors, social welfare workers and law enforcement officers, the future looks brighter.

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<sup>49</sup> The public opinion reacted to the news on the promotion of judge Krste Sivakov to the National Judiciary Council. As a judge of the Appellate Court in Bitola, Sivakov was criticised for the unjustified mitigation of the prison term handed to Dilaver Bojku Leku, a notorious criminal convicted of human trafficking and pimping.

<sup>50</sup> S. Vaknin, 'Human Trafficking in Macedonia and Kosovo', Afro Articles, 6 March 2009, at <<http://www.afroarticles.com/article-dashboard/Article/Human-Trafficking-in-Macedonia-and-Kosovo/157221>>, 8 March 2014.

<sup>51</sup> М. Готовски, *Мониторинг на судски предмети од областа на трговијата со луѓе и илегалната миграција во Македонија 2010 година*, Скопје 2011, pp. 17-28, Коалиција "Сите за правично судење", at <[http://www.all4fairtrials.org.mk/Main\\_files/Izvestaj\\_2011\\_MKD.pdf](http://www.all4fairtrials.org.mk/Main_files/Izvestaj_2011_MKD.pdf)>, 8 March 2014.

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