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Trafficking in Human Beings, Eye on Romania

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1. Introduction

Nowadays, especially in areas very affected by conflicts and in areas confronted with economic difficulties, trafficking in human beings is a widely spread underground phenomenon of global dimensions, which is to blame for millions of human tragedies.

Human trafficking victims pay a horrible price. Psychological and physical harm, including diseases and stunted growth, has often permanent effects. In many cases the exploitation of trafficked victims is progressive: a child trafficked into one form of labor may be further abused in another. Another brutal reality of the modern-day slave trade is that its victims are frequently bought and sold many times over – often initially sold by their family members.

Victims forced to sex slavery can be overcome with drugs and subjected to extreme violence. Victims trafficked for sexual exploitation face physical and emotional damage from forced sexual activity, forced substance abuse, and exposure to sexually transmitted diseases including HIV/AIDS. Some victims suffer permanent damage to their reproductive organs. When a victim is trafficked to a place where he or she cannot speak or understand the language, this compounds the psychological damage caused by isolation and traffickers' domination.

Trafficking in human beings, defined also as human modern slavery, is a threat to the freedom, physical and psychical integrity, to the dignity and sometimes to the life of those who become victims of the phenomenon. It represents a transformation of a human being into a merchandise which is sold, resold and exploited by human dealers in order to obtain substantial profits. Threatened and blackmailed the victims are treated inhumanely and exploited as slaves.

Like any other form of organized crime, trafficking in human beings is connected to many crimes. From the moment that the victim is intercepted, the dealer and his accomplices break the law in various ways, violating human values like the right to life, the right to freedom and the right to security.

2. General notions

In order to prevent this phenomenon it is necessary to develop information campaigns addressed to potential immigrants, regarding legal immigration possibilities and dangers of trafficking in human beings. For this reason there must be an international cooperation reinforcing border control, visas policies, legislation and assistance programs. An adequate migration management can contribute to prosperity, development and mutual understanding between peoples, its component, however, which is trafficking in human beings, represents a serious threat to economic and social development, national interests and security.

There is little agreement in the international community about how to define "trafficking". Historically, trafficking has been defined in terms of trade in women and children for prostitution or other "immoral purposes". The term "trafficking" is also frequently used interchangeably with "smuggling" – a facilitated movement of illegal migrants across international borders for economic gain. "Trafficking" has not been defined in OSCE documents, and, to date, has never been precisely defined in the international law.¹

Despite many divergent definitions, there is a growing agreement that the "trafficking in human beings" problem involves two key elements: recruitment/transport and forced labor or slavery-like practices (actual or attempted). It is this link between the transport of migrants and the purpose of the transport that differentiates "trafficking" from "smuggling", and places trafficking among the practices considered "modern forms of slavery". Moreover, most experts agree that trafficking should be defined as an involving deception or coercion of some kind.²

¹ Informal Note of the United Nations High Commissioner for Human Rights, presented to the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, 1 June 1999, A/AC.254/16 ("Informal Note").

² See, e.g., Human Rights Caucus, Recommendations and Commentary on the Draft Protocol to Prevent, Suppress, and Punish Trafficking in Persons (A/AC.254/4/Add.3/Rev.2), July 1999, p. 4

European integration is based on the concept of freedom, human rights, democracy and law. These common values have proved themselves necessary for assuring peace, stability and prosperity in the European Union, and had become strong criteria in the European Union enlargement process.

The concept of the European Union, seen as an area of freedom, security and justice, was introduced by the Amsterdam Treaty in 1999. It is stated there that the European Union must be maintained and developed as an area of freedom, security and justice, as an area where the freedom of movement of human beings and the right to reside on the entire EU territory are assured. In fact, these elements represent the essential elements of the European citizenship.³ These objectives are sustained by the legislative and institutional mechanisms that determine the functionality of this area without bringing any prejudice to the rights and interests of the European citizens.

The area of liberty, security and justice subsumes a number of policies meant to assure that for EU citizens this freedom is guaranteed, as each European citizen has access to justice and benefits of security. The European Union promotes in the entire world human rights and liberties of which its own citizens already benefit. The policies applied by the European Union don't deny the fact that also those who lack this essential right to liberty and security in their origin countries have access to the European Union. Because of this concept, common policies concerning asylum and migration are developed and implemented. These policies are supported by a constant concern for the external border management and by efforts to combat illegal migration and transnational crime. One of the main objectives these policies are based upon, is to assure an open and secure Europe that fully respects the Geneva Convention as regards the statute of refugees and other relevant instruments concerning the respect of human rights, and which is capable of responding to humanitarian needs in the spirit of solidarity.

Romania, as a future member of the European Union, is one of the states contributing to the consolidation of the South-Eastern Europe area. The progresses achieved and the measures

³ Most of the facts expressed, regarding The European Union policies concerning trafficking in human beings are presented from The European Union Institutions official web-sites www.europa.eu.int, www.ue.eu.int, www.europarl.eu.int, www.esc.eu.int

applied by Romania are oriented towards legislative, institutional harmonization as well as Romania's and the European Union's cooperation concerning justice and internal affairs.

Along with a judicial system reform, an efficient border management is a priority, as it should be taken into consideration that Romania's northern and eastern borders will become external borders of the European Union. For this reason, the key element of Romania's Accession Partnership with the EU is to strengthen the management of the migration phenomenon in the country, including the prevention of illegal migration. In view of Romania's ambition to become the future external border of the EU, the control of migration flows coming from migrant-producing countries and using Romania's territory as a transit route to the EU area has become an issue of utmost importance. Romania is also preoccupied with promoting the practices and principles used by the European Union in this region of Europe as well as with implementing and developing its own initiatives in order to ensure a consistent fight against illegal migration, trafficking in human beings and organized transnational crime in general.

Common policies concerning asylum and immigration imply creation of the following instruments:

- integration of migrant flows policy into the external European policy,
- development of a European system managing information on asylum, immigration and origin states,
- establishment of common standards regarding asylum, reception and familial reunification procedures.

Common policies concerning asylum and immigration are based on the following elements:

- Partnership with origin states – the policies of the European Union concerning immigrants and refugees must imply cooperation with origin states or transit states and refer to the respect for human rights.
- Common European system concerning asylum – a clear decision, which state is responsible for examining asylum requests, common standards for correct and efficient procedures, minimum reception conditions for asylum solicitors, approximation to the rules of recognizing and to the content of refugees' statute.
- Correct treatment of citizens from non-member states that live on the territory of the European Union legally, by offering them rights and liabilities comparable with those given to the community's citizens, by reinforcing nondiscrimination in the

economic, social and cultural areas as well as by the development measures implying fighting with racism and xenophobia.

- Migration flows management – a tight cooperation with origin and transit countries, information campaigns concerning legal migration possibilities, prevention from all the forms of trafficking in human beings, development of appropriate legislation regarding visas and fake documents.

First stipulations regarding free movement of individuals are included in the Rome Treaty. They aim at eliminating obstacles between member states in order to obtain freedom of movement concerning individuals, services and assets and forbid any kind of discrimination. The Single European Act defines freedom of movement of individuals inside the European Community as one of four fundamental freedoms of the Internal Market, along with the freedom of movement of products, assets and services.

The Maastricht Treaty for the first time includes the concept of “European citizenship”, offering in this way the right of free movement and free residence inside the European Union to all member states’ citizens. Throughout its policies the European Union has created a European area of freedom, security and justice where an individual control on the internal borders is no longer necessary, regardless of nationality. European citizens benefit from the fundamental right of movement and the right of settling wherever they want. However, freedom of movement must be supported by an appropriate level of security and justice. The Amsterdam Treaty is progressively establishing an area of freedom, security and justice. Lacks in border control have been accomplished on the basis of the Schengen Agreement only by few member states.

During the European Council in Nice, the Council, the European Parliament and the European Commission have signed the Charter of Fundamental Rights – a document containing all civil, political and economical rights mentioned in a number of international, European and national documents. The Charter does not discriminate between citizens, subsuming for the first time the rights of all humans legally located on the European Union territory.

Freedom of movement of individuals is one of the main objectives stated in the Rome Treaty that must be achieved in order to accomplish a common market. Moreover, it denounces discrimination between citizens of a particular country and citizens of another country living or working there, that refers to social integration, employment and benefits. The Schengen Agreement and the implementation of the Schengen Treaty Convention, by eliminating internal border control and reinforcing external border control, represent the most important step towards an internal market. Dissolution of internal borders and freedom of movement of individuals on the entire EU territory may induce problems of illegal migration. Clandestine migration, caused by poverty, political crises, civil wars, military conflicts and environment decay, has become one of the main issues on the agenda of international establishment concerning state security.

The EU by approximating laws and regulations of the member states in the area of police and judicial cooperation in criminal matters, relating to the fight against trafficking in human beings, establishes in the “Council Framework Decision on combating trafficking in human beings” coherent means and policies for fighting against the phenomenon. The common framework provisions should be introduced at a European level in order to address certain issues such as organized crime, penalties and other sanctions, aggravating circumstances, jurisdiction and extradition.

Since the Council’s adoption of a joint action⁴ concerning the fight against trafficking in human beings and sexual exploitation of children in 1997, initiatives have considerably developed in number at both national and regional levels. The Vienna Action Plan and the Tampere European Council called for additional provisions to regulate further certain aspects of criminal law and criminal procedures. The Framework Decision, an instrument introduced by the Amsterdam Treaty, should provide a better response to these priorities by gearing the EU for further enlargement.⁵

With this Framework Decision, the Commission wishes to complement the existing instruments used to combat trafficking in human beings, including: the French initiatives, the *STOP I*, *STOP II* and *Daphne* action programs, as well as the European Judicial Network.

⁴ Joint action to combat trafficking in human beings and sexual exploitation of children

⁵ Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings [Official Journal L 203 of 01.08.2002]

The Commission takes the view that trafficking in human beings is a crime against a person, with the aim to exploit him or her. In the definition of the concept of trafficking in human beings it is said that its purpose is labor or sexual exploitation. The member states must punish any form of recruitment, transportation, transfer or harboring a person who has been deprived of his/her fundamental rights.

According to the United Nations (UN), trafficking in persons "shall mean the recruitment, transportation, transfer, harboring 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 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."⁶

The UN's definition of trafficking in human beings is very similar to the Palermo Protocol, which states the same outlining elements. In conformity with the Palermo Protocol, one of the main problems in addressing trafficking was until recently the lack of international consensus concerning its definition. In particular, there was much confusion over the distinction between trafficking, smuggling and illegal migration. This problem has been addressed by the Palermo Protocol, which contains an internationally recognized definition. The definition involves three distinct but interconnected elements: the recruitment, transportation, transfer, harboring or receipt of persons, means of the threat or use of force, or other forms of coercion, abduction, fraud or deception, abuse of power or of a position of vulnerability, or 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, including 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.⁷

⁶ www.un.org

⁷ See 'Violence against women migrant workers: Report of the Secretary General', 17 July 2003, A/58/161

Trafficking in human beings is also one of the most pressing and complex issues in the Organization for Security and Co-operation in Europe (OSCE) region. Every year, hundreds of thousands of women, children and men are trafficked to or from the OSCE states, into conditions amounting to slavery. Available evidence suggests that the problem is expanding rapidly in the OSCE region. Trafficking in human beings affects virtually all the OSCE states. Trafficking is related to such issues as human rights, inequality, discrimination, rule of law, crime control, law enforcement, corruption, economic deprivation and migration. The problem can be particularly acute in areas of conflict, frozen conflict and in post-conflict areas. Trafficking affects all the dimensions of the OSCE's work and as such requires a multifaceted approach.⁸

This is why the Charter for European Security states the commitment that all the OSCE participating states should „undertake measures to eliminate (...) all forms of trafficking in human beings. In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims.”⁹ Although such issues as illegal migrant smuggling and migrant workers' working conditions are closely related to trafficking and although they are also significant problems within the OSCE region, they are not addressed specifically.¹⁰

The United States (US) Department of State's official signification given to trafficking in human beings is: “The recruitment, transportation, transfer, harboring or receipt of persons, by means of 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.”¹¹

⁸ Bridget Anderson and Ben Rogaly, *Forced Labor and Migration in the UK*, a study prepared by COMPAS in collaboration with the Trades Union Congress, February 2005.

⁹ www.osce.org

¹⁰ A small percentage of young men and boys are also trafficked each year in the OSCE region for use in the sex industry. The CIA estimates this percentage as approximately two per cent. The term "girl" is used to refer to a female person under the age of 18 (www.state.gov).

¹¹ www.state.gov

Although all the international organizations mentioned above provide a different definition of the phenomenon, it is essential to provide a common framework for the discussion of trafficking in human beings problem. On studying this issue, some common elements of the terminology mentioned above become very noticeable. Therefore trafficking in human beings involves:

- all the acts involved in recruitment, abduction, transport (within or across borders), sale, transfer, harboring, or receipt of persons
- use of force, deception, coercion (including abuse of authority or threat), or debt bondage
- the purpose of placing or holding such a person, whether for pay or not, in involuntary servitude, forced or bonded labor, or in slavery-like conditions¹²

As defined, "trafficking in human beings" would include trafficking for sexual as well as non-sexual purposes,¹³ and all the actions along the chain, from the initial recruitment (or abduction) of the trafficked person to the end purpose or result – the exploitation of the victim's person or labor.

Many nations misunderstand this definition, overlooking internal trafficking or forms of labor trafficking in their national legislation, and often failing to distinguish trafficking from illegal migration. The interpretations most often leave out involuntary servitude from this definition, a form of trafficking that does not require any movement. The Trafficking Victims Protection Act defines "severe forms of trafficking" as:

- sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or

¹² This definition is based roughly on the definition used or recommended by the UN Special Rapporteur on Violence Against Women, the Human Rights Caucus, and the President's Inter-Agency Council on Women (United States). It is used in this report to provide a framework for discussing the problem of trafficking and is not necessarily recommended as a legal definition.

¹³ In connection with the UN draft Protocol to Prevent, Suppress, and Punish Trafficking in Women and Children ("Trafficking Protocol"), the UN High Commissioner for Human Rights, the Special Rapporteur on Violence Against Women, and the International Labor Organization have recommended using the gender-neutral term "trafficking in persons" and a broad and inclusive definition of trafficking that would include all forms of forced and/or bonded labor and servitude. They have also recommended against using the term "trafficking for purposes of sexual exploitation" as it relates to adults, in part because the term "exploitation" is subject to many divergent interpretations.

- the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.¹⁴

Fundamentally, according to the US Department of State, trafficking in persons violates the universal human right to life, liberty, and freedom from slavery in all its forms. Trafficking in children violates the inherent right of a child to grow up in a protective environment and right to be free from all forms of abuse and exploitation.

The loss of family and community support networks makes trafficking victims vulnerable to traffickers' demands and threats, and contributes in several ways to the breakdown of social structures. Trafficking separates children from their parents and their extended family. The profits from trafficking allow the practice to take roots in a particular community, which is then being repeatedly exploited as an organized source of victims. The danger of becoming a victim of trafficking can lead vulnerable groups, such as children and young women, to go into hiding, with adverse effects on their education or family structure. The loss of education reduces victims' future economic opportunities and increases their vulnerability to re-trafficking in the future. Victims who are able to return to their communities often find themselves stigmatized or ostracized. A recovery from the trauma, if it ever occurs, can take a lifetime.

The profits from human trafficking fuel other criminal activities. According to the US Federal Bureau of Investigation, human trafficking generates an estimated \$9.5 billion of annual revenue. It is closely connected to money laundering, drug trafficking, document forgery, and human smuggling. Where organized crime flourishes, governments and the rule of law are undermined and weakened.¹⁵

Trafficking has a negative impact on labor markets, contributing to an irretrievable loss of human resources. Some effects of trafficking include depressed wages, fewer individuals left to care for an increasing number of elderly persons, and an undereducated generation. These effects lead to a loss of future productivity and earning power. Forcing children to work that denies them access to education can reinforce a cycle of poverty and illiteracy that stunts national

¹⁴ The Trafficking Victims Protection Act (US Department of State)

development. If forced or bonded labor involves a significant part of a country's population, this form of trafficking retards the country's development, as these victims, generation after generation, remain mired in poverty.

Victims of trafficking often endure brutal conditions that result in physical, sexual, and psychological trauma. Sexually transmitted infections, pelvic inflammatory disease and HIV/AIDS are often the result of being used in prostitution. Anxiety, insomnia, depression, and post-traumatic stress disorder are common psychological manifestations among trafficked victims. Unsanitary and crowded living conditions, together with poor nutrition, foster a host of adverse health problems such as scabies, tuberculosis, and other communicable diseases. The most egregious abuses are often borne by children, who are more easily controlled and forced into domestic service, armed conflict, and other hazardous forms of work.

Many governments struggle to exercise full law enforcement authority over their national territory, particularly where corruption is prevalent. Armed conflicts, natural disasters, and political or ethnic fights can create large numbers of internally displaced persons, who could be vulnerable to trafficking. Human trafficking operations further undermine government efforts to exert authority, threatening the security of the vulnerable people. Many governments are unable to protect women and children kidnapped from their homes and schools or from refugee camps. Moreover, the bribes paid to law enforcement, immigration, and judicial officials impede a government's ability to battle corruption from within government ranks.¹⁶

3. Eye on Romania

Romania¹⁷ is a source and transit country for persons trafficked for the purposes of sexual exploitation and forced labor, taken to the Balkan countries and the EU – particularly Spain, France, and Italy. Persons trafficked through Romania generally originate from Moldavia,

¹⁵ www.fbi.gov

¹⁶ www.state.gov

¹⁷ According to the US department of State Romania is ranked as a TIER 2 country (Countries that do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance.)

Ukraine and Russia. There are still concerns about Romanian street children and their vulnerability to exploitation and trafficking.

The Government of Romania does not fully comply with the minimum standards for elimination of trafficking; however, it is making significant efforts to do so. The government made progress in establishing shelters for trafficking victims and convicting traffickers. Corruption among law enforcement authorities remains a serious problem; the government took actions to address it. With continued improvement in the area of victim protection, Romania has laid the groundwork for greater success in its efforts to combat trafficking.

Like other Central and Eastern European countries, Romania is currently facing the challenge which is trafficking in human beings. Romania shares the international community's concern over illegal migration and trafficking in human beings taking place throughout Europe. The Romanian authorities consider that involvement in fighting against trafficking in human beings represents not only a national responsibility, but also a regional one. In tackling this issue a number of external and internal factors are to be taken into consideration:

- In the former Yugoslavia, the latent internal conflicts, resulting in violent confrontation during the 90's, produced an ongoing and extensive deregulation in the field of public order that favored a development of numerous flourishing prostitution networks
- On the territory of the former Soviet Union, an easy access across the borders between the ex-soviet states neighboring Romania facilitated the activity of other numerous trafficking networks operating on the territories of these states.
- Within Romania, the presence of a significant number of foreign nationals from migrant-producing countries led prospective migrants into a belief that Romania is a propitious area to target at and a freeway to the Western part of the European continent. They are taking advantage of the fact that certain Romanian nationals, particularly some inhabitants of border areas, confronted with low living standards and a poor perspective to ameliorate their economic and social condition, are always ready to perpetrate illegal acts, such as dispersing emigrants who may or may not have fallen victim to trafficking.

According to the Romanian Ministry of Foreign Affairs, in 2001 and 2002 Romania was both a country of origin and transit for internationally trafficked women and girls. National statistics referring only to the victims identified indicate that 20% of the victims are aged between 13 and 15 years; 33% between 18-20; 23% between 21-23; 12% between 24-26. Women aged between 18 and 26 and girls aged between 13 and 15, irrespectively of their ethnicity, are more at risk to be trafficked. An overwhelming majority of the victims is coming from Romania, Ukraine, the Republic of Moldavia, the Russian Federation. They are trafficked to Bosnia-Herzegovina (29%), the Former Yugoslav Republic of Macedonia (FYROM) (26%), Albania (17%), Kosovo – the Federal Republic of Yugoslavia (FRY) (14%), Italy (6%), Cambodia (2%), others (6%).¹⁸

Traffickers' main target is the female population aged 13 to 26. It is estimated that about 30% of the trafficked persons in Bucharest are less than 18 years old. 23% of the IOM-assisted¹⁹ trafficked persons were teenage girls younger than 18 years. Romania trafficker's profile: individuals or small groups of individuals, unemployed males (sometimes working with women, former prostitutes, as intermediary). Most of them have been previously involved in other criminal activities such as theft, smuggling, pimping, illegal border crossing etc. In the majority of the cases victims are offered, via public advertising, lucrative jobs abroad (dancing, domestic service, and serving in a restaurant), in Western countries, or some friends' friends directly approach them with the same type of offer. Employment, travel, tourism agencies or marriage brokers have been detected as fronting for traffickers or crime groups to traffic individuals.²⁰

In 2001, the police investigated 391 persons (158 for pimping, 217 for prostitution, 16 for other crimes) in cases related to trafficking. It has been established that the persons investigated had perpetrated 336 crimes, 161 of which was pimping (108 abroad), 126 prostitution (95 abroad) and 49 others. One prostitution network has been identified and dismantled in Italy. In 2001, 128 persons were convicted for pimping (1 fined, 127 sentenced to prison) and 148 persons were convicted for prostitution (7 fined, 141 sentenced to prison). These sentences are currently served.

¹⁸ www.mae.ro

¹⁹ International Organization for Migration (IOM)

²⁰ www.mae.ro

At the operational level, the action was focused on “undercover” trafficking perpetrated by some businesses, travel agencies and art/modeling management companies. 368 international carrier agents were controlled, and 115 offences were discovered. Also, by monitoring newspaper announcements regarding offers for a baby sitter, modeling activities, or an artistic impresario, 430 persons involved in trafficking were identified and several networks operating in Republic of Moldavia or Cyprus were dismantled.

The Romanian Ministry of Foreign Affairs worked on a joint project with the government of the Republic of Moldavia – Criminal Law Reform in Trafficking". It included sharing information and experience in creating legislation for preventing trafficking as well as creating an institutional network to combat trafficking, international co-operation and training for law-enforcement officials.²¹

In comparison with the mentioned period, in 2004 the Romanian government increased trafficking convictions and sentences significantly. The authorities convicted 103 traffickers, up from 49 in 2003. Of those convicted in 2004, 34 received prison sentences of five to ten years, and 49 received sentences of one to five years. Romania’s anti-trafficking legislation specifically covers trafficking for the purposes of both sexual and non-sexual exploitation and provides for appropriate penalties. The government created a national network of 52 judges specialized in trafficking cases, one for each tribunal and court of appeal. In December 2004, the government reorganized the border police and established special units for fighting trafficking and illegal migration. In 2004, Romania’s leading police anti-corruption agency investigated 81 police officials implicated in trafficking-related corruption; the authorities imposed administrative sanctions on 31 officials, dismissed ten officials, and sent 40 cases forward for prosecution. Additionally, the Anti-Corruption National Prosecutor’s Office reviewed a total of ten cases of suspected trafficking-related corruption in 2004. The Romanian government continued to host

²¹ Taking into account the fact that one of the causes of the trafficking in human beings is a rise in the request of prostitution services within the destination zones, either in Western Europe or in the Balkans, the local authorities must initiate more definite actions for reducing the "offer" and punish those who benefit from the presence of trafficked women. On the other hand, it is necessary to develop the exchange of information between the authorities of source, transit and destination states; only thus the authorities of the states which bring the crime to trial may produce evidence before the court. Accordingly, Romania proposed that all counties involved agree on a standard set of questions to be answered by the victims. The forms, after being filled in, will be made available for the authorities of the victim's source country. The data from the forms could be introduced into a database that will serve for enhancing the efficiency of the undergoing activities of the police, for elaborating strategic analyses and

the headquarters for the Southeast European Cooperative Initiative (SECI) and actively participate in SECI anti-trafficking operations, including *Mirage 2004*, and conducted joint anti-trafficking investigations with Spain and the Czech Republic.

The government's victim protection efforts were improved in 2004. The government opened five of nine trafficking shelters required by law, compared with two opened in 2003. Additionally, the government funded a local NGO's opening of ten shelters for unaccompanied repatriated children, which have already assisted 32 trafficked children. The Ministry of Administration and Interior provided security at Bucharest's non-government-run shelter which assisted 100 victims throughout 2004. While victims are entitled to shelter and to legal, psychological, and social assistance according to law, the overall Romanian funding for the NGOs that assist trafficking victims remained low. The NGOs reported a good cooperation with law enforcement, although Romania's new victim referral system did not comprehensively identify and refer all returning trafficking victims. Romanian embassies abroad assisted in repatriation of 350 trafficking victims.

In 2004 the Ministry of Education and Research initiated a new course as a part of the national curriculum for primary and secondary school students that contained trafficking themes. It reached a total of 200 teachers and 6,000 students. The Romanian police and a local NGO produced together a television campaign entitled "Watch Out for the Traps of Traffickers". In 2004 the government monitored employment agency advertisements for any fraudulent or deceptive offers that might lead to trafficking. The legislation adopted in 2004 improves an anti-trafficking protection of minors and provides protection for victims of all crimes, including trafficking. Also in 2004 the government approved a National Action Plan to prevent and combat trafficking in children. The police opened in June 2004 the Trafficking Resources Center which aim is to centralize the collection of country-wide trafficking data.

There is no clear data on the number of returning and assisted victims of trafficking in Romania. The Ministry of Administration and Interior provides information about the investigated cases. It admits, however, that until 2004 the statistics did not differentiate between returning migrants

for foreseeing the evolutions of the phenomenon. Romania has already transmitted its proposal for the set of questions, via the Southeast European Cooperative Initiative (SECI) Center in Bucharest.

and returning victims of trafficking. Therefore, the numbers of returning victims of trafficking before 2004 are not known.

According to the Ministry, 626 cases of illegal migration were detected in 2003. 417 people were investigated and 59 people were arrested for illegal migration. In relation to trafficking, 979 people were investigated and 187 people were arrested. More than 283 networks were dismantled. However, it is not clear how many of the investigated people who returned to Romania were victims of trafficking and how many of them were assisted. In the first quarter of 2004 1395 people were investigated. Among them 456 victims of trafficking, of whom 277 were women and 109 were children (67 girls and 42 boys), were identified and presented to prosecutors. Seventy-six networks of traffickers were identified.²² It is not clear how many people were assisted. According to the report of the Inter-ministerial Working Group for coordination and evaluation of activities for preventing and combating trafficking in people: The year 2003 meant first of all an intense activity on the part of the law enforcement agencies who succeeded in dismantling more than 300 criminal groups and human trafficking networks, in prosecuting 318 individuals and convicting 50 individuals of human trafficking or associated crimes. *Circa* 500 victims were given assistance out of which 200 testified as witnesses.

However, the report does not state clearly what kind of assistance those victims were given or who provided the assistance. According to the Ministry of Administration and the Interior, the police sent women to the shelters in Pitesti, the Alternative Sociale shelter in Iasi, SCOP in Timisoara or to the county or government shelters in Mehedinti and Timisoara. There is no information available about the number of women sent to the shelters, but probably fewer than 50 women among those who were identified as victims of trafficking received assistance in the shelters²³. According to the Ministry of Administration and the Interior, many victims do not ask for assistance and do not want to be placed in a shelter²⁴. As regards children, they are all placed in a shelter (emergency center or placement center) until their family situation is assessed.

²² Interview with Gabriel Sotirescu, Director and National Coordinator, and Mircea Dumitrescu, Ministry of Administration and the Interior, Directorate for Organized Crime and Drugs, Bucharest, 1 June 2004.

²³ The shelter of Alternativa Sociale at Iasi was opened in August 2003 and up to May 2004 assisted 21 victims. Reaching Out assisted approximately 28 women in 2003 and 2004. IOM refused to say how many cases they had assisted.

²⁴ The number of 500 victims from the Report of the Inter-ministerial Working Group refers to the number of identified rather than assisted victims.

Also according to the Ministry of Administration and the Interior, 205 children returned to the country in 2002. In 2003, 1034 children were returned, out of whom 219 were victims of trafficking. In 2004, 222 children returned, of whom 109 were victims of trafficking²⁵. It seems that recently more and more returned children are being identified as victims of trafficking. According to the police this change is due to the intense activity of the law enforcement agencies, including close co-operation with the local authorities from the destination countries²⁶.

The children sent back from the EU countries are returned directly to their families by the police. This is done without any involvement of the National Agency for Child Protection and Adoption. The police do not investigate the likelihood of violence and abuse in the families of the returned or trafficking children. If the police cannot locate the family, the child is placed in an emergency center, where she/he stays for 24-72 hours, until the Commission for Protection of Children makes a decision about where to place the child permanently. The children are usually moved to placement centers, which are operating at local levels and led by local authorities.

Poverty and unemployment as a consequence of social reforms, disappearance of employment in the public sector and a decline of industries and agriculture together with gender discrimination, violence against women, failing social safety nets as well as health and educational services are considered to act as push factors in women's migration and therefore potentially contribute to trafficking in women in Romania and outside.²⁷

Finally, factors contributing to trafficking are also seen to emerge from the lack of available legal migration channels that make domestic work opportunities or other informal work opportunities accessible. Reports have indicated that the nature and scope of public and private initiatives to facilitate migration and recruitment of female domestic workers vary from one country to another, depending on labor agreements and legislation on migration. As there are few options available for legal migration, irregular migration channels become the main conduit of access to such work, and these render women vulnerable to trafficking.²⁸

²⁵ Ibid.

²⁶ Information from Adina Cruceru, Human Trafficking Unit, Organized Crime Squad, Bucharest, December, 2004.

²⁷ General Recommendation No.19 of the Committee on the Elimination of Discrimination against Women

²⁸ Report of the Special Rapporteur on the Human Rights of Migrants, E/CN.4/2004/76

The authority's response to the phenomenon was consolidated by means of numerous measures in various action fields. The most significant step in fighting trafficking in human beings was the adoption of legislative measures in the domestic legislation as well as the ratification of main international legal instruments.

On the domestic legislation plan the following laws and plans were adopted.

- Law no. 678 on preventing and combating trafficking in human beings
- National Action Plan against trafficking in human beings, enforced by the Government Decision no. 1216/2002
- Law no. 27/2001 for the ratification of the Penal Convention regarding corruption
- Law no. 61/2001 for the approval of Government Emergency Ordinance no. 89/2001 for modifying and completion of Several Penal Code disposals concerning sexual life offences
- Law no. 81/2002 for the approval of Government Emergency Ordinance no. 104/2001 for the organization and functioning of the Romanian Border Control
- Law no. 243/2002 for the approval of Government Emergency Ordinance no. 105/2001 regarding State Border of Romania
- Law no. 252/2002 for the approval of Government Emergency Ordinance no. 112/2001 regarding sanctioning of acts committed abroad Romania by Romanian citizens or stateless persons having their residence in Romania
- Law no. 230/2002 for the approval of government Ordinance no. 12/2002 for the ratification of the Agreement established between the Romanian government and the government of the Republic of Hungary regarding their own citizens' and other persons' readmission, signed on December 10, 2001 in Bucharest
- Law no. 218/2002 on the organization and functioning of the Romanian Police
- Law on the status and regime of policemen was promulgated and is pending to be published in the O.J.
- Emergency Ordinance no. 43/2002 regarding the National Anti-corruption Prosecutor's Office

Along with the domestic legislation, ratification of the main international legal instruments was very important in confronting the phenomenon. Therefore, Romania became part of the following international conventions:

- UN Convention on organized transnational criminal activities
- Additional Protocol to the Convention on the prevention and punishment of human trafficking, especially women and children
- Optional Protocol to the Convention on children rights, regarding children trading and infantile prostitution and pornography

But it is not everything that the Romanian authorities accomplished. In 2001 the Inter-Ministerial Committee, established in 2001, drafted the National Plan of Action (NPA), with the regional Plan of Action of the Stability Pact Task Force on Trafficking²⁹. The NPA's³⁰ main point is the law enforcement and a legal reform. It includes also all relevant governmental and non-governmental institutions in each range of action, as well as exploration, prevention, attentiveness raising, support, legal reform and law enforcement. In the sector of prevention, the NPA specifies a growth in economic and social status of people at high risk for being trafficked, an identification and establishment of measures to prevent the causes of trafficking, an integration of gender equality measures and strengthening the law against trafficking.

According to the NPA, special offices should be set established in each county in order to develop anti-trafficking initiatives and programs, the latter of which depends on local capacity. At present main activities are taking place in the areas where victims come from –eastern and southern parts of Romania – and they are implemented by Non-Governmental Organizations (NGOs).

In the area where the awareness is raising the NPA stipulates development of materials and organization of operations, seminars and trainings for the general population, high-risk groups and professionals dealing with the issue. Although the NPA identifies the need for educational

²⁹ The government approved the NPA in November 2001 according to Government Decision No. 1216/2001

³⁰ All evaluations and assessments regarding the Romanian NPA were revealed according to “Trafficking in Human Beings in South Eastern Europe- 2004 - Focus on Prevention in: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Moldavia, Romania, Serbia and Montenegro, and the UN Administered Province of Kosovo”, Report by Barbara Limanowska, (United Nations Children’s Fund, United Nations Office of the High Commissioner for Human Rights, Organization for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights).

and information campaigns in educational institutions, it does not recommend clearly the inclusion of trafficking as a topic in educational curricula.

In the area of improving the economic and social situation of people at high risk for being trafficked, the NPA lists the types of programs needed to achieve this. These are: programs preventing illiteracy and school abandonment, programs fighting against poverty and unemployment and special educational, health and psychological programs for high risk groups, street children and children in different institutions. Among the measures to eliminate the causes of trafficking, the NPA includes actions to eliminate unemployment and to develop economically deprived regions. Finally, with the objective of integrating gender equality within the social protection of the family and among the measures to prevent casting out, the NPA lists:

- programs for combating all the types of violence and discrimination at work
- equal access to active measures for integration in the labor market
- special programs for professional retraining of women
- stimulation of businesses to attract female employees
- measures to prevent convenience and under age marriages
- development of programs to encourage the free movement of people
- organization of job fairs at local and national level
- actions to identify migrant and trafficker markets

Along with the revealed measures, Romania has reprogrammed its system of border control. The General Inspection for Border Police (GIBP) is responsible for border monitoring, including immigration and emigration patterns for the evidence of trafficking. The GIBP has been established in 1993 as a specialized unit acting under a direct supervision of the Minister of Interior. The unit has been given new specific competencies, under the provision of the Governmental Ordinance no. 105/2001 regarding the regime of the state border of Romania. The law establishes a legal regime of the state border, introduces new strict regulations for border crossing, access, circulation and performing activities in the border zone and at the border checkpoints.

The law establishes also the National System for Information concerning the circulation of persons and goods through the border. The human resources management system within the

Border Police is being restructured in accordance to European models. The government has allocated funds totaling approximately 22 million Euro for the procurement of border police equipment and for the creation of a computerized system for the Border Police.

The monitoring of the border has improved during the last two years. The main reasons for the decrease of the illegal crossings through the green border are:

- for Romanian citizens: lifting the visa regime for Romanian citizens on the Schengen area
- for foreigners: improvement of security measures on Romanian northern and eastern borders; firm measures of control undertaken by the Border Police³¹

Constructing a serious management control, the Romanian authorities conceived the National Strategy of the Integrated Management of the Romanian State Border between 2004-2006. This strategy is meant to assure state border secularization developed by all means and with help of all the authorities and contributes greatly to the diminution of trafficking in human beings and other forms of transnational crime.

On the level of international cooperation, the active participation in the SECI Regional Anti-Crime Center made it possible for Romania to process almost 750 cases of information requests in 2001 and to dismant, through Romanian-Bulgarian-Greek cooperation, a regional network having trafficked around 1000 people.

Within the Bucharest-based SECI Center for Combating Trans-border Crime an international Task-Force (TF) dealing with trafficking in human beings has been established. It is composed of specialized officers from SECI member states: Albania, Bosnia-Herzegovina, Greece, the Republic of Moldavia, Slovenia, Hungary, Bulgaria, Croatia, FYROM, Turkey and Romania.³² The TF is coordinated by Romania and divided into three working groups: one for the country's southern border (with Bulgaria, Turkey and Greece as partners), one for the eastern border (with Moldavia and Ukraine as partners) and one for the western border (with Hungary, the Federal Republic of Yugoslavia and FYROM as partners).

³¹ www.politiadefrontiera.ro

³² Germany, Italy, Ukraine, France and Austria are observers

Romanian specialized structures co-operate also on a permanent basis with liaison officers seconded to Bucharest, coming from Germany, France, Great Britain, Belgium, Italy, Spain, Austria, Japan, US and Ukraine. Relevant reports, statistics and information on trafficking in human beings circulate between agencies at national and international level mainly using the channel of communication offered by the SECI (Center for Combating Trans-border Crimes).

Recently, a Focal Point has been established, which has the same aim, that is to facilitate the exchange of information. In the same time, an Action Plan for strengthening the co-operation with the Republic of Austria in the field of combating illegal immigration and trafficking in human beings was adopted and a mixed working group with Great Britain has already started to work. The institution of home affairs attaché and liaison officer has been put in place. There is already a home affairs attaché in Brussels and liaison officers have been seconded to Germany, Austria and the Czech Republic.

Hosting the Regional Conference on Fighting against Trafficking in Human Beings and Illegal Immigration on May 21, 2001 in Bucharest, organized by the OSCE Romanian Chairmanship-in-Office at that time, in cooperation with the South-Eastern Cooperation Initiative Center, has offered an important opportunity to approach these issues in a more systematic way, at a regional level.

With the support of the Council of Europe, the Ministry of Foreign Affairs of Romania organized in Bucharest (24-26 October 2001) a regional seminar on bilateral cooperation between Romania and the Republic of Moldavia for prevention and combating human trafficking, specially dedicated to the representatives of law enforcement agencies and the NGO's involved in these specific activities.

Throughout the Romanian-American Cooperation in Combating Trafficking \$300,000 assistance funds were provided by the US for Romanian public awareness campaigns and prevention from trafficking in persons. The assistance in setting up an NGO's network in Romania is meant to ensure the coordination among NGOs and protection for victims. Parallel, a two-year program "National Action for the Prevention and Elimination of the Child Labor in Romania" (started on March 1, 2000) was run with financial support from the US government (technical and financial

assistance in preventing from and eliminating child labor both in urban and rural areas, quantitative and qualitative research in order to assess the extent and nature of child labor; work on raising public awareness on the child labor issue, strengthening governmental and NGOs institutional capabilities to fight against child labor).

The excellent law enforcement cooperation with the Federal Bureau of Investigation (FBI) Office in Bucharest in conducting investigations in human trafficking cases. The assistance provided by the US (FBI) to the Anti-Organized Crime Brigade increased the efficiency of the actions against trafficking of the Romanian police.

A seminar on “Combating Trafficking in Women“ was held on November 5-8, 2001, in Bucharest. It was attended by 45 students (prosecutors, police officers from the Special Task Force, representatives of the Ministry of Justice and of Non-Governmental Organizations) and focused on the analysis of legal framework, the inter-agency approach to fighting against human trafficking and the government’s cooperation with NGOs. A follow-up – an assistance program for anti-trafficking task forces in four cities in Romania (Bucharest, Iasi, Drobeta Turnu Severin, Alba Iulia) was held between April 14-26, 2002 by two Assistant US attorneys under coordination of the US Resident Legal Advisor in the US Embassy in Bucharest, with the aim to ensure better police-prosecutors coordination at local levels.

With the support of the FBI Office in Bucharest, a seminar for police officers, prosecutors and border police took place in Romania. The seminar intended to improve the fight against trafficking, to exchange experiences, and to learn further techniques and best practices in combating this phenomenon.

However, the fact that trafficking in human beings is on the decline, is a direct outcome of the partnership between the Romanian government and the NGOs in general and between the Romanian government and the International Organization for Migration (IOM) in particular. The International Organization for Migration (IOM) is the most active of all the international agencies. It has taken an active part in all the anti-trafficking initiatives, organized by the government, it started prevention campaigns and assistance activities as well as initiated cooperation with the NGOs that were already actively involved in assistance work. On the basis of

the Memorandum of Understanding, signed between the IOM and the Romanian Ministry of Interior in March 2001, a shelter for trafficked persons was opened in Bucharest on November 1, 2001. The shelter, managed by an NGO, that is the Estuar Foundation, provides assistance services on a 24-hour basis.

In 2001 the IOM also supported the organization of a network of 24 local NGOs, named "Interagency Cooperation in Fighting and Prevention of Trafficking in Women", that would cooperate in the field of assistance to victims and their reintegration. The IOM also organizes trainings for NGOs on social and psychological assistance services provided to trafficked victims; the result of these workshops will be a guide containing the principles of assistance provided to trafficked persons, the minimum standards of reintegration services provided by NGOs and other agencies and a collection of case studies. The guide will serve as a written source of knowledge in terms of know-how and best practices in the field of assistance to trafficked persons.

The UN AIDS, another important organization working with Romanian authorities, is supporting programs on HIV/AIDS prevention. Since 1999, along with the UNDP/UNAID, it has supported a health project for commercial sex workers in Bucharest, implemented by a local NGO, ARAS. The Romanian authorities have also worked successfully with the UNICEF³³ as well as with the USAID³⁴ in the fight against the phenomenon and the protection of victims of trafficking in individuals.

4. Conclusion – Effective Strategies for Combating Trafficking

In order to be effective, anti-trafficking strategies must target both at the supply side, the traffickers, and at the demand side, the owners or, in the case of trafficking for sexual exploitation, the sex buyers of this ugly phenomenon.

³³ UNICEF provides support for programs for children in institutions and for those leaving these institutions. It also supports local NGOs to do outreach work on HIV/AIDS prevention with sex workers.

³⁴ USAID is the main donor for the anti-trafficking work and supports the initiatives of the IOM, the UNDP and local NGOs in the area of trafficking prevention and victim assistance.

On the supply side, the conditions that drive trafficking must be dealt with through programs that alert communities to the dangers of trafficking, improve and expand educational and economic opportunities of vulnerable groups, promote equal access to education, educate people regarding their legal rights, and create better and broader life opportunities.

Regarding traffickers, law enforcement have to vigorously prosecute traffickers and those who aid and abet them; it has to fight public corruption, which facilitates and profits from the trade, identify and interdict trafficking routes through better intelligence gathering and coordination, clarify legal definitions of trafficking and coordinate law enforcement responsibilities. It also has to train personnel to identify and direct trafficking victims to appropriate care.

On the demand side, the people who exploit trafficked persons have to be identified and prosecuted. The employers of forced labor and the exploiters of victims trafficked for sexual exploitation have to be named and shamed. With regard to sex slavery, awareness-raising campaigns have to be conducted in destination countries in order to make it harder for trafficking to be concealed or ignored. Victims have to be rescued from slave-like living and working conditions, they have to be rehabilitated, and reintegrated into their families and communities.

Local, state, national, and regional programs to fight against trafficking have to be coordinated. By drawing public attention to the problem, the governments can enlist the support of the public in the fight against trafficking. Anti-trafficking strategies and programs developed with an input from stakeholders (the civil society and NGOs) are the most effective and likely to succeed as they bring a comprehensive view to the problem. Coordination and cooperation – whether national, bilateral, or regional – will leverage the country’s efforts and help rationalize the allocation of resources. Nations should cooperate more closely to deny traffickers legal sanctuary and facilitate their extradition for prosecution. Such cooperation should also aim at facilitating a voluntary and humane repatriation of victims.

In order to assure effectiveness³⁵ in fighting this aspect governments have to:

1. Enhance research and coordination:

- research the extent and the nature of the problem;

³⁵ Accordingly to the US Department of State policies and opinions.

- draft an action plan for addressing organized crime;
- designate a government contact point to coordinate efforts with non-governmental, intergovernmental, and travel or tourism organizations.

2. Augment prevention and training:

- encourage travel industry to sign and implement a “code of conduct”;
- fund and launch public awareness campaigns, highlighting relevant extraterritorial laws;
- train and sensitize law enforcement on the issue;
- ensure that border and airport officials report any suspected cases of child trafficking.

3. Strengthen legal measures and prosecutions:

- draft, pass, and/or enforce extraterritorial laws;
- prescribe punishment that is commensurate with that for other grave crimes;
- prosecute the crime to the widest extent possible.

4. Assist victims:

- provide shelter, counseling, medical, and legal assistance to victims;
- provide an appropriate reintegration assistance;
- support the efforts of the NGOs working with child victims.

The main structure having competence in the field of managing the aliens’ legal stays and combating illegal migration is the Directorate for Aliens and Migration Issues (DAMI), which was established in 1995. The Directorate is an institution within the General Directorate of Personal Data Records (GDPDR). An institution that is closely tied to the proper management of migration-related issues is the Romanian Refugee Office, which was established in 1997. In 2000, this institution achieved the status of a general directorate – the National Refugee Office.

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