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TRAFFICKING IN HUMAN BEINGS
IN CANDIDATE COUNTRIES

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1. INTRODUCTION

In the last decade trafficking in human beings for sexual exploitation, forced marriage, forced domestic labour and other slavery-like practices has become a world-wide phenomenon. These crimes violate basic values and principles of human rights, especially the worth and dignity of human persons.

The situation is even more worrying, when such types of crimes are directed against under-aged persons, against children. Child prostitution, pornography, trafficking in children, all have recently taken on remarkable dimensions in many countries, particularly those of the economically underdeveloped, disadvantaged parts of the world. Official reports indicate alarming situations¹. The reports of UNICEF, ECPAT and other international organisations are providing data on the existence and scope of this phenomenon, calling for action, co-operation, mobilisation of the efforts and measures against it.

In the developing countries, the economic and social causes, the great poverty,² the unemployment, the lack of possibilities and several other factors in the background, are explaining the increasing migratory movements towards the rich countries, primarily to West Europe. We can speak not only about “feminisation of poverty”, but also “feminisation of migration” and in respect of trafficking, “feminisation of victimisation”. “The lack of social and economic opportunities in economically deprived countries has remained the primary cause of migration and since the 70th there have been significant increases in the number of women who migrate alone in search of new prospects for their own survival and to sustain their families in their countries of origin. The global trend of poverty amongst women has directly affected the “feminisation of migration”. Experience has taught us that an approach that operates solely within the framework of “illegal migration”, offers no contribution to humanitarian responses to the situation of migrant and trafficked sex-workers. Such approaches have resulted in the increased vulnerability of both migrant and trafficked sex workers. The inflexibility and harshness of new legislation around migration, has worsened

¹ In 1994 an independent group of the General Assembly of ILO prepared a 600 pages report, underlining the dramatic facts, events and development in child prostitution throughout the world.

² and feminisation of poverty as well

the situation and exploitation of migrant women within Western Europe, but has managed to reduce neither their influx, nor their presence.”³

“The number of illegal sex-workers in the European Union ranges from 200.000 to half million, with some two-thirds coming from Eastern Europe.”⁴

Since the last 10-15 years, there is a greater attention and a political will in the Central-East European Countries directed to combat organised crime in general, including trafficking in human beings. These countries have become mostly countries of origins or to a much less extent transit, and countries of destination of trafficking activities.

2. INTERNATIONALISATION AND EUROPEANISATION OF CRIMINAL LAW

Following the efforts to find a common definition, concerning trafficking in human beings, focusing on the issue to harmonise the national and international instruments, we are witnessing an important segment of the process towards internationalisation and Europeanization of criminal law and criminal justice.

For a long time it was very hard to find an exact and equally accepted definition of trafficking in women as there are various perspectives. Besides the element of exploitation, some definitions place the emphasis on the element of border-crossing, some on the element of forced prostitution, on debt bondage, or slavery-like practices, etc. Recent definitions however are not any more limited to trans-border trafficking, nor to trafficking of women for the purpose of prostitution. These definitions are also involving labour in slavery-like conditions, domestic-labour, forced marriages etc. and focus on the isolation, exploitation and/or maltreatment of the victims, who have everyday experiences on multiple violations of their rights.

The concept of the recent development of legal regulations is connected to the above mentioned type of definition, not necessarily including the element of border crossing, not limited to prostitution, and focusing on the violation of personal liberty and human dignity of the victim. It seems to be the most accepted definition is given by the “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing

³ TAMPEP Position Paper on Migration and Sex Work. Transnational AIDS/STD Prevention among Migrant Prostitutes in Europe Project, 2001.

⁴Trafficking in Persons: the New Protocol. p.1. [http: www.odccp.org/odccp/trafficking_protocol_background.html](http://www.odccp.org/odccp/trafficking_protocol_background.html)

the United Nations Convention against Transnational Organised Crime"⁵ as follows: *“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.”*⁶

The UN Convention on the Rights of the Child⁷ in several articles contains provisions on protection of the children, among others from abuse, violence, maltreatment, exploitation, including sexual violence. In the Convention, the protection of child from all forms of sexual exploitation and sexual abuse is declared (Article 34).⁸ The provision of Article 35 is binding the State parties to prevent the abduction of, the sale, traffic in children for any purpose or in any form⁹.

It would be very long, even to list the conventions, resolutions, action plans and other international documents in this respect. I have to underline however the importance of the basic principles involved in the numerous international texts. It is necessary to stress, that „women and children are particularly vulnerable to becoming victims of the crime of illegal trafficking in and transporting of migrants.”¹⁰ All States should „take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form, and any form of sexual exploitation or abuse of children, including within the family, or for commercial purposes, child pornography and child prostitution, and through child sex tourism, taking into account the particular problems,

⁵ 12. December, 2000. Palermo.

⁶ Article 3. Use of terms. (a)

⁷ 20th of Nov. 1989 (entry into force on the 2nd of Sept. 1990) – It was signed and ratified by Hungary by the Act No. LXIV/1991.

⁸ State parties – in particular – shall take all appropriate measures on national, bilateral and multilateral level to prevent: a.) inducement or coercion of a child to engage in any unlawful sexual activity, b.) exploitative use of children in prostitution or other unlawful sexual practices, c.) exploitative use of children in pornographic performances or materials.

⁹ The monitoring mechanism of the implementation of the rights, - according to this Convention – is the regular state-reporting procedure, presentation of the so-called periodic reports.

¹⁰ ECOSOC Res. 1998/19 (Action against illegal trafficking in migrants, including by sea)

posed by the use of Internet in this regard, and to protect children from these practices, while ensuring, the child victims are not penalised for such practices, in accordance with the provisions of the Convention on the Rights of the Child and taking into account the concrete measures outlined in the Vienna Declaration and Programme of Action and in the Programme of Action adopted by the Commission in 1992, 1993 and 1996”¹¹

I also refer to the Article 1. and Article 3. of the ILO Convention No. 182 on the Worst Forms of Child Labour (1999). This Convention call upon the member states to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.¹²

Finally, I underline the importance of the Recommendation No. R (2000)11 of the Committee of Ministers to Member States of the Council of Europe,¹³ on action against trafficking in human beings for the purpose of sexual exploitation, as well as the Recommendation No. R (2001)16 of the Committee of Ministers to Member States of the Council of Europe, on Prevention of Children against Sexual Exploitation¹⁴. The Recommendation 1526(2001)1 A campaign against trafficking in minors to put a stop to the east European route: the example of Moldova¹⁵, states, that trafficking in minors and young adults is an increasingly common phenomenon, which is “controlled by violent, international criminal networks that use modern technological methods; it is an extreme profitable market involving astronomical sums of money and paving the way for corruption, even in the industrialised countries of Europe.”¹⁶ “All of the observers concerned, including non-governmental organisations working in the

¹¹ Commission on Human Rights Resolution, 1999/80. Rights of the Child. Prevention and Eradication of the Sale of Children and of their Sexual Exploitation and Abuse, including Child Prostitution and Child Pornography.

¹² The worst forms of child labour comprises:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) the use, procuring or offering a child for prostitution, for the production of pornography, as pornographic performances;
- c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d) work which, by its nature or circumstances in which is carried out is likely to harm the health, safety as morals of children.

¹³ Adopted by the Committee of Ministers to Member States , on 19 May 2000, at the 710th meeting of the Minister’s Deputies

¹⁴ Adopted by the Committee of Ministers to Member States , Council of Europe on the 31st of October, 2001.

¹⁵ Assembly debate on 27 June 2001 (21st Sitting) (see Doc.9112, report of the Social, Health and Family Affairs Committee; Rapporteur : Mrs Pozza Tasca) Text adopted by the Assembly on 27 June 2001 (21st Sitting)

¹⁶point 2

field, report that the victims of prostitution coming from Eastern Europe include an ever-larger number of increasing young children. These minors and young adults come mainly from eastern and central European countries. The origin and the number of emigrants fluctuate as the new democracies open up and become more impoverished, owing to the difficulties involved in changing to a market economy. Violence is widespread; victims are often misled and subjected to coercion and it is no longer unusual for them to be raped and beaten, locked up or deprived of their identity papers and in a state of semi-slavery.”¹⁷

There are a whole series of legally binding and legally not binding - however very important - documents in European and international level. Some of them are focusing on human rights, some on migration, on labour, on combat organised crime and/or specifically on trafficking issues. To evaluate, whether or not trafficking is addressed adequately it is necessary to combine and use all of these approaches. There is recognition that a global perspective on the criminal justice aspects of trafficking, a comprehensive and multidisciplinary approach in preventing and combating human trafficking is necessary.

Trafficking is a serious and multiple human rights violation, infringing a person’s human dignity, personal liberty, freedom of movement, privacy, and self-determination. It furthermore violates the prohibition of slavery, slavery-like practices and compulsory work as well as trafficking in human beings is to be equated with cruel and inhuman treatment. All mentioned areas are basic principles of the most important human rights documents, like the Universal Declaration of Human Rights (1948)¹⁸ or the International Covenant on Civil and Political Rights (1966)¹⁹ as well as the Convention on the Protection of Human Rights and Fundamental Freedoms (1950).²⁰

3. EUROPEAN EFFORTS AGAINST TRAFFICKING

Council of Europe

The most important human rights document in Europe is the European Convention of Human Rights (ECHR), which was ratified by all the Member States of the Council of Europe.

¹⁷ Extracts from point 4. and 5.

¹⁸ UN Gen. Assembly, 10th of December, Decision No. 217A (III)

¹⁹ Adopted by the General Assembly of the UN on the 16th of December, by Decision No. 2200 A (XXI).

²⁰ Rome, 4. of November, 1950.

The Convention does not contain explicit provisions concerning prohibition of trafficking in persons, however the provisions against slavery, servitude, compulsory labour²¹ as well as banning torture, inhuman or degrading treatment or punishment²² is regarded as applicable in case of trafficking in women and forced prostitution.

In 1991 a group of specialist was formed by the Steering Committee for Equality between Women and Men (CDEG), with the task to draw up proposals for action to combat trafficking. I had the honour to work in this group during its two years activity. On the basis of the final document produced by this group, a Plan of Action Against Traffic in Women and Forced Prostitution was elaborated by an expert²³, (in 1996) among others giving a definition of trafficking in women.²⁴ The Action Plan and the definition generated great and very creative discussions and remained as a continuous debate on the agenda of public discussions.

The Council of Europe had several other initiatives in this field, like drafting different recommendations to the Committee of Ministers,²⁵ (Recommendation No. R (2000)11 of the Committee of Ministers to Member States of the Council of Europe,²⁶ on action against trafficking in human beings for the purpose of sexual exploitation, as well as the Recommendation No. R (2001)16 of the Committee of Ministers to Member States of the Council of Europe, on Prevention of Children against Sexual Exploitation²⁷, or the Recommendation 1526(2001)1 A campaign against trafficking in minors to put a stop to the East European route: the example of Moldova) or organising various international seminars for experts and NGOs, as well as elaboration of regional action plan in Central East Europe.²⁸

²¹ Art. 4.

²² Art. 3.

²³ Michele Hirsch

²⁴“when a women is exploited in a country other than her own, by another person (natural or legal) for financial gain, the traffic consisting of organising (the stay or) the legal or illegal emigration of women, even with her consent, from her country of origin to the country of destination and luring her by whatever means into prostitution or any form of sexual exploitation.”

²⁵ As I have mentioned in he former chapter.

²⁶ Adopted by the Committee of Ministers to Member States , on 19 May 2000, at the 710th meeting of the Minister’s Deputies

²⁷ Adopted by the Committee of Ministers to Member States , Council of Europe on the 31st of October, 2001.

²⁸ Based on the findings of the international seminar, held in Athens, 29th June – 1st of July, 2000.

Finally, I would refer to the Recommendation on Recommendation Rec(2002)5 of the Committee of Ministers to member States on the protection of women against violence²⁹, which has essential importance.

European Union

The European Union has elaborated several documents and made various efforts to deal with the problem of trafficking.

In 1996, the Commission presented an aide-memoir “The European Union’s contribution to reinforcing the prevention of sexual abuse and exploitation of children”, in which detailed information was provided on the Commission’s activity in this field.

Concerning child sex tourism, in two communications were identified measures and appropriate means of combat against this phenomenon.³⁰ There were also two Communications on trafficking in women. In the first Communication, in 1996³¹, the European Commission developed a European strategy to prevent and fight against trafficking. In the second one, in 1998³², the EC evaluated the progress made and besides the continuation of certain existing actions, recommended new initiatives, too.

In 1997, the Council of the European Union adopted a Joint Action³³ to combat trafficking in human beings and the sexual exploitation of children, covering several topics, from the question of definition through criminal procedure to the assistance to victims as well as police and juridical cooperation.

In 2000,³⁴ the Council of the European Union adopted a decision to combat child pornography on the Internet. In the same year, in December, 2000, the Commission adopted a Communication “Combating trafficking in human beings and the sexual exploitation of children; two proposals for framework decision.³⁵ It was reached an agreement on the definition, modelled on the definition of the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

²⁹ adopted on 30th of April, 2002.

³⁰ See COM (96)547 on Combating child sex tourism 27.11. 96. and COM (96)262. The implementation of measures to combat child sex tourism. 26. 05. 1999.

³¹ COM (96) 567 final, 20.11.1996.

³² COM (98) 726 final, 9.12.1998.

³³ Official Journal L 063, 4.3. 1997.

³⁴ Official Journal L 138/1, 9. 6. 2000.

³⁵ COM (2000) 854 final, 21.12. 2000.

The Treaty of Amsterdam requires cooperation in police and judicial matters in criminal cases to combat organised crime more effectively. The Europol (European Police Office) has a significant role in prevention and fight against internationally organised crime, in particular concerning illicit drug trafficking, radioactive and nuclear substances, crimes involving clandestine immigration networks, illegal vehicle trafficking, trafficking in human beings, illegal money-laundering activities, connected these crimes.

The Europol was given the competence to combat trafficking in human beings, as well as sexual exploitation of children and child pornography through the Europol Convention in 1995.³⁶ In 1998 the definition of the form of crime “trafficking in human beings” in appendix to the Europol Convention was supplemented.³⁷ The Europol is facilitating the exchange of information and data, promoting awareness of analysis on crime and harmonisation of analytical methods. At the same time, it keeps contact between the national police forces in an informal, quick and non-bureaucratic basis.³⁸

European Parliament

There are several, very important European Parliament Resolutions, like the Resolution on the Exploitation of Prostitution and the Traffic in Human Beings (1989) or the Resolution on Trade in Women (1993). The latest is calling for international cooperation and improvement of the victims’ position.

In 1996 European Conference on Trafficking in Women for the Purpose of Sexual Exploitation, was held in Vienna. It resulted in a Communication of the European Commission on Trafficking in Women for the Purpose of Sexual Exploitation.

In 1997 an EU Ministerial Conference was held in The Hague on the question of trafficking in women for the purpose of sexual exploitation, and the Basic Principle for the Code of Conduct was drafted.

³⁶26. July

³⁷ Council Decision 99/C 26/5 (OJ 26, 30. 01. 1999) of 3. 12.1998.

³⁸ Knaus/Kartusch/Reiter :Combat Trafficking in Women for the Purpose of Forced Prostitution. International Standards. Published by BIM, Vienna, 2000.

It would be possible to continue the long list of these initiatives, I would only refer however to the Report of the European Parliament on the Communication from the Commission to the Council and the European Parliament "For further actions in the fight against trafficking in women (Rapporteur: Patsy Sörensen). This is a very important report, which in point 9. "Calls on the Commission, (further to the poor implementation of the 1997 Joint Action and in line with the conclusions of Tampere), to make specific proposals towards the harmonisation of national laws and methods of detection and prosecution..."³⁹

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- 38 with a view ensuring
 - a harmonised definition of the trafficking in human beings, whereby this crime is categorised in the same way in all Member States,
 - effective, proportional and dissuasive sanctions against traffickers,
 - extraterritoriality jurisdiction and extradition for the crime of trafficking in human beings,
 - seizure of the proceeds of criminal activities and legal scope for compensation and reparations for victims for the financial, physical and psychological harm they have suffered,
 - non-criminalisation of trafficked persons, including non-criminalisation for the use of forged visas or documents made as a result of their ordeal, together with a ban on any form of internment of victims in detention centres,
 - measures to protect victims and witnesses, and the families of witnesses, not least in the country of origin and guaranteed safety for women acting as witnesses or wishing to testify,
 - the possibility for NGOs to bring court actions on behalf of the victim;
 - the reversal of the burden of proof in court actions on trafficking charges, so that it rests with the alleged trafficker in a way that complies with national constitutions,
 - that the circumstances of victims of trafficking should not constitute grounds for an investigation of their background or of public or private documents, and can in no event be used against them, their families or their close relations, particularly when they freely exercise their rights as regards freedom of movement,
 - establishment and seeking gainful employment,
 - strict confidentiality in medical and psychological tests, which may be conducted only at the request of the person concerned and must be preceded and followed by proper counselling,
 - an analysis of trafficking and the existing instruments for combating it, including specific data and estimates number, origin, age and sex of persons involved, comparison of criminal law,
 - a detailed examination of the difficulties encountered in identifying and dismantling networks and detecting any links between different mafia organisations,
 - a specific evaluation of police cooperation and cooperation with non-member countries, in particular candidate countries, and an overview of arrangements for victim support,
 - an estimate of the budgetary resources required to implement the support measures required at European Union level.

The Tacis regulation 2000-2006 sets out new priorities, underlining the importance of actions in the common interest of the EU and the partner states. The Tacis Regional Action Programme 2000 is identifying trafficking in women as one of three focus points with priority on the western parts of the New Independent States and envisaging assistance in implementing measures aimed at combating trafficking in human beings.

The Programme is one of several initiatives following the European Parliament Resolution on trafficking in human beings of January 1996 and the subsequent Joint Actions adopted by the European Council⁴⁰. Later, the importance of tackling illegal immigration at its sources, was further underlined.⁴¹

4. THE INTERNATIONALLY ORGANISED NETWORK

The phenomenon of trafficking in women between European countries is going on several ways: Whereas some women are openly and explicitly recruited as prostitutes and decide voluntarily to work in the sex sector, others are forced into prostitution by use of violence, or misled by false promises, hired as waitresses, baby-sitters, nurses, and alike. Trafficking happens occasionally as well as in organised forms. Criminal networks involved in this business have different levels of organization (large-scale, medium-scale and small-scale network), realising huge profits while facing only relatively low risks.

This phenomenon's form, organization, structure are continuously and dynamically changing and its extension is on tremendous increase. In spite of the great efforts been taken to discover its scope, long time there were only fragmentary data and estimations on the number of women - especially foreign women - involved in prostitution.

⁴⁰ Joint Action 96/700/JHA, 29 November 1996, establishing the STOP Programme; Joint Action, 16 December 1996, extending the EDU-EUROPOL mandate on trade in human beings also to exploitation of minors and women; Joint Action, February 1997, for the fight against trafficking in human beings and sexual exploitation of women and children and improvement of judicial cooperation; Commission communication of 20 November 1996 to the Council and the European Parliament on trafficking in women for the purpose of sexual exploitation. Commission communication of 9 December 1998 to the Council and the European Parliament proposing further action in the fight against trafficking in women.

⁴¹ European Council - Tampere (October 1999) and the Feira (June 2000)

Most recent findings, experiences are showing, however, that the number of cases reported to the police and NGOs was relevantly increasing. “The traditional flow between certain developing countries (Northern and Central Africa, Latin America, Asia) and Western destination countries continues. However, the most striking factor, which gives rise to great concern, is the increase of numbers of women and children trafficked into the EU from Central and Eastern European countries. The worsening of the economic situation in these countries has had a direct effect on the flow of trafficking in women. Estimates of up to 120.000 women being trafficked into Western Europe each year have been made. The majority of these countries have according to their own law enforcement officials become to various degrees, both countries of origin, transit as well as destination. Many women originated from the Newly Independent States are being trafficked via the candidate countries before ending up in EU Member States. The phenomenon of re-trafficking within the EU has also been noted as one new and developing factor.

All Member States of the EU are, to a greater or lesser extent, affected by trafficking in women. More specifically, trafficking in women for the purpose of sexual exploitation has increased in recent years in parallel to the development of the sex industry. Although certain figures have been collected by police and NGOs, as well as international organisations, it is here again the difficult to gather reliable overall figures.”⁴²

Labour migration - in general- is directed towards Western Europe, towards development and better living conditions. Besides changes in ways and routes, there have also occurred structural changes over the recent years; increasing sex-tourism, economically motivated migration, new technologies, the concentration of soldiers in conflict-zones. We have to face an internationally organised phenomenon, where the export and import of women engaged in prostitution is carried out with the help of intermediaries, fully or partly illegal organizations.

The reasons of victimisation by trafficking are based on the next factors:

- the disadvantageous economic situation of some countries encouraging migratory movements, consequently exposing women to a more vulnerable situation;
- in the hope of better living conditions or in some countries, just for survival, the potential victims are taking higher risks;

⁴² News: Trafficking in Women – A Comprehensive European strategy. http://europa.int/comm/justice/home/news8mars_en.htm p. 2.

- the internationally organised criminal groups have increased their activity.

The sex-industry is continuously moving into new territories, where economic and social circumstances have created favourable conditions for its business activities. It is reacting immediately and flexible manner for every kind of effects and changes. It is moving towards such countries, where the conditions are more favourable for recruitment of women and girls. It is to be seen, that even within the same country, the activity of recruiters is shifting from the cities to the villages, where people are not yet adequately informed, or made aware of the dangers of trafficking; it is moving to those regions, districts, which are the most effected by unemployment and poverty.

The CEE countries' change, respectively the development into democratic structures in the transitional period, has some negative impact on women and their status within society. Mostly the women were affected by economic difficulties, the break down of factories and firms; primarily women lost their job, consequently the rate of unemployed women is generally higher, than of the men⁴³. The socio-economic situation, in particular the lack of possibilities or the insufficient earning as main causes lead to the fact that many women choose the option of migration. Various sources of information reported that in the CEECs, at present many women already know about the risks, connected to migration. However, the compelling need to earn a living, and missing future perspectives at home, make them choose this way, which possibly, might lead into sexual exploitation. In addition, in some of the countries, the issues, like women's emancipation, and elimination of violence against women were ignored and only a few years ago started to get into the focus of public interest.

At the same time it is not yet regarded as a general fact, that women possess adequate information about the living and working conditions of other countries. The prevailing ideas about life, structures, legal grounds and work in the sex industry, rather belong to the field of myths than the reality. "Many young women glamorize prostitution and do not have a realistic idea about the harsh conditions in which women in prostitution are often forced to work. One observer noted: 'No one has started a dialogue with women who have worked in prostitution.

⁴³There are few exceptions, like Hungary, where the registered unemployment of man is somewhat higher. The registered unemployed, share of persons receiving unemployment benefit by sex, from 1990 continuously shows a higher proportion of men. In 2000 from the persons receiving unemployment benefit, the share of women was 44.2 %, while the share of men was 55.5%. See: Women and Men in Hungary, 2001. Hungarian Central Statistical Office. Ministry of Education and Labour. Budapest, 2002. p. 84.

They are treated as though all of their problems are their own fault. "⁴⁴

On the basis of the unfavourable economic conditions in some of the countries there are still misleading information on the living and working conditions, having the myth of "unlimited possibilities" abroad. This is contributing to the development of the very profitable business of trafficking in human being. The traffickers are exploiting the situation, that in the hope of earning a better living, women are looking for working possibilities abroad and abuse the confidence of these people. (The situation is even more serious, when they involve relatives or friends of the women to take part in her victimisation, as in this case the women future confidence-building ability in people is severely violated.) The recruiters are offering job possibilities either abroad in the sex-free sectors (as baby-sitters, nurses, waitresses, dish-washers, domestic employees, dancers, etc.) or in the sex industry. In the previous cases, the women were misled, cheated in every respect and forced into an activity, which was not only not intended but even refused by them. In the latter cases they were misled partly, concerning the cruel and violent working conditions, on which -of course- they were not informed.

The recruitment of women for the purpose of prostitution usually happens under the facade of legal or semi-legal activities. Its attractiveness lies in the expectancy of promised large income. The real income however, is trivial, compared with the profit realised by those organizations involved in this business (travel agencies, hotels, bars, pimps, traffickers etc.).

In some cases, recruited persons have some idea about what kind of work they are expected to do (as barmaids, go-go dancers, "entertainers" or prostitutes), whereas in other cases they are not even informed about the nature of the employment. Missing or not proper knowledge of the language and lack of information concerning the legal system, the customs and behavioural patterns, prevent women from being able to negotiate with the client and to refuse unsafe sex, violent or "extreme" clients, therefore it makes them more vulnerable. Moreover, they are subjected to psychical, physical violence, economic pressure and exploitation of the trafficker, who is acting in the role of the "protector", while the women have not enough power and possibility to escape from his authority.

⁴⁴Minnesota Advocates for Human Rights, 2000, p. 13

The recruitment happens in different ways: by advertisements in newspapers, by personal contacts, built by "managers", by local contact persons, or by firms, travel agencies.

Among the main recruitment methods of traffickers, it can be distinguished the followings:

- a) placing advertisements in daily newspapers, magazines and the Internet,
- b) approaching young women and children in public places,
- c) using personal contacts and networks,
- d) applying force.

As a consequence of working as prostitutes, women usually face moral stigmatization and social isolation. Their social exclusion and legal prosecution contribute to the fact, that trafficked women are frequently regarded as part of the criminal underworld. The money originating from the exploitation of prostitution gets into the business life, laundered in different ways. In those systems, where prostitution and its management are legalised professions, this phenomenon is also true inversely, namely, that money originating from drug-dealing or weapon-trade can be laundered by getting into the sex-business.

Foreign woman, involved in forced prostitution belong to an isolated and manipulated group in society. Their human rights are permanently and seriously violated by the traffickers. Most of these women are held in debt-bondage; as soon as they sign a contract amounting to high debts for travelling cost, lodging etc., they are very dependent on their "protectors", in social as well as in economic meaning. Sometimes they are staying illegally in the foreign destination country, without valid travel documents and identity papers or even no documents at all. As a consequence, they do not seek the assistance of the authorities, but they avoid any contact with them. If they have not residence permit, which is not very unusual, they are facing the risk to be expelled from the country. The very strict control, which is practised by the traffickers over the women, constitutes an obstacle in approaching and helping the foreign victims of trafficking. The illegal status of the victims, or their involvement in various illegal activities, however is preventing them to ask for help.

Women involved in - voluntary or forced - prostitution are more or less stigmatized in every system (prohibitionist, abolitionist or regulatory). The licensing system of voluntary prostitution sometimes subjects sex-workers to the state's taxation system, but does not

always include them into the system of usual labour law standards or social security. Moreover, it does not eliminate the social stigmatization, experienced by prostitutes.

Among the most important factors of prevention of forced prostitution, I would like to stress the necessity of better information for potential migrants, of promoting women's economic independence, of co-operation between European countries to combat forced prostitution and to support the reintegration of victims into society. In these fields there were a lot of initiations, which should be continued and further improved.

5. LEGISLATIVE MEASURES - IMPLEMENTING EUROPEAN STANDARDS

In 1996, the European Commission –in a first Communication on trafficking in women for the purpose of sexual exploitation⁴⁵ – developed a European strategy to prevent and combat this phenomenon. In 1998, in the second Communication on further actions in the fight against trafficking in women⁴⁶, the Commission assessed the progress, besides the deepening of the existing actions, recommended new initiatives. Among the main objectives of the Communication, I would refer to those, which wish to keep the question of trafficking high on the political agenda and make clear to the candidate countries, in the context of the accession process the importance of national measures and co-operation with the EU in tackling this issue.

Among the main objectives of the Communication it should be mentioned the strengthening a multidisciplinary approach, focusing on prevention, research, law enforcement and effective sentencing of traffickers, as well as on support to victims. It is also important the reinforcement of international and European cooperation in the countries of origin, transit and destination. Based on this policy, there are several legislative measures, focusing on these issues.

Considering the increasing trend and the multi-level and multi-faced nature of trafficking in women, it is necessary to elaborate complex and differentiated strategies, measures and instruments. On the national and the international level, several tasks have to be addressed in

⁴⁵COM (96) 567 final, 20.11. 1996

⁴⁶COM (98) 726 final, 9. 12.1998

the fields of legislation and policy making. It is vitally important to focus on prevention as well as on the practical realization of victim/witness protection and support, whereas the latter already has some legislative background. Therefore, it is necessary to compare and evaluate national legislations on trafficking in women. Harmonization according to international standards is helpful in combating this phenomenon.⁴⁷

Furthermore, the ratification of existing international conventions on actions against trafficking in persons and their effective implementation should be encouraged.

It is highly important to analyse economic and socio-cultural factors and structures leading to trafficking in women, the supply and demand side and the role of actors (prostitutes, pimps, clients) and their social environment.

It has an essential importance to enact new legal provision to the criminal code on penalising trafficking in human beings as a special kind of crime. Its precondition is to accept an adequate definition of this crime and elaborate a great variety of the severely qualified circumstances of this type of crime. In this respect, the UN Protocol and the Proposal for a Council Framework Decision on combating trafficking in human beings give a very good ground and guidance.⁴⁸

It has a great importance to pay attention not only for the codification, but to the implementation of the law, to reinforce the counter-trafficking legislation. The legislative drafting process is accelerated and the implementation of law becomes more effective by raising awareness, exchange information, developing knowledge of the legal and other professionals, governmental officials, members of the judicial and law enforcement bodies. This is supported by projects⁴⁹, which are providing regular forums for debates, exchange information, share experiences, as well as post-graduate training courses or study- tours to EU countries. It is essential at the same time, to provide special training materials, manuals.

⁴⁷Hungary has set an important step in 1999, by penalising trafficking in persons as a serious crime and expressing, that it is a violation of personal freedom and dignity and modified in 2001. according to the definition of the Protocol to Prevent, Suppress and Punish Trafficking in Persons" and the "Protocol against the Smuggling of Migrants" supplementing the UN "Convention against Transnational Organised Crime".

⁴⁸ 52000PC0854 (01) Proposal for a Council Framework Decision on combating trafficking in human beings. /COM/2001/0854final-CNS 2001/0024/ Official Journal C 062 E, 27/02/2001 P. 0324-0326

⁴⁹ In particular the STOP, DAPHNE and other community programs

In several CEEC countries, there is a law on victim/witness protection, which makes it possible to keep anonymity of the witness, providing new identity, new place of residence, new documents, etc. – there are examples however, when this law was not implemented. The main reason of the missing implementation is the financial one. At the same time there is a certain scepticism in some of the NIS countries, concerning the applicability of such witness protection measures, as the country is relatively small, the number of the inhabitants are also limited, so it is difficult to change anybody's identity in such small communities.

In the CEECs there are various difficulties in different levels. The police usually have not adequate human, financial resources and infrastructure. Training, technical means, capacity also should be improved. Collaboration with the police in the country of destination of trafficked victim is not always enough effective.

There are very few successful prosecutions concerning trafficking in women. There are different pressures on the victim/witness, on the one hand for personal reasons (shame, fear of publicity, stigmatisation, moral refusal, family problems, etc.), which prevent her to provide evidences against the traffickers. On the other hand however the fear from the traffickers' threat or violence against the victim or her family creates an obstacle.

If the criminal procedure doesn't serve adequately the victims interest, it reduces the willingness of victim/witness to report the crime, provide evidences. When the substantial and procedural criminal law is not fully respecting and not taking into consideration the rights and interests of the victim, who is contributing to the success of the criminal procedure, this fact is always working against the crime prevention, prosecution, law enforcement and at least the rule of law. There is a great need of more victim-oriented approach in the criminal justice system.

Legislation on organised crime, on trafficking and on state compensation (or harm-reducing) of victims of violent crimes for the above mentioned reasons, was a very progressive step in

the candidate countries.⁵⁰ Allocation of funds for victims/witness protection and support and further development is essential.

The legislation, concerning organised crime, improved and became appropriate including the criminal legislation on money laundering. The questions of seizure of the traffickers' profit, compensation of victims etc. are supporting the development of a European legal instrument.

A delineation of the phenomenon of trafficking and an adequate analysis of the problems involved, a diverse and comprehensive strategy - a so-called plan of action - should be elaborated. International, European and regional (such as between CEECs as countries of origin, destination or transit of trafficking) conventions, common actions, cooperation agreements are supporting the actions against trafficking in persons.

Harmonisation of criminal- and procedural law with the Alien law, was essential, in particular in its effect for the victim's position, and prosecution of trafficking. Changes in the law on immigration and refugees also contributed to an improvement.

As far as law enforcement is concerned, it has great importance of provisions of international contacts and meetings for investigators with colleagues abroad to raise their awareness on their potential in international action. Networking visits to units working in law enforcement, in countries of the EU, CEE and destination countries has an enormous effect on the efficiency of work and building an active cooperation and based on good personal contacts.

The establishment of a standardised data-collection in each European state and a central coordination body dealing with all aspects of trafficking are recommended. In these bodies, the representation of state authorities (police, courts, immigration offices, etc.) as well as of NGOs has to be granted. Between these bodies, a "bridge of information" on international as well as on regional levels should be built. The focus should be put on all types of traffic in persons for sexual exploitation, whereas special attention should be dedicated to trafficking in children and young adults.

⁵⁰ As for instance in Czech Republic financial assistance by the state to crime victims was introduced by Act No. 209. /1997. or in Hungary, the Government Decree 209/2001. (X. 31.) On the Alleviation of the damages by the state of those suffering damages as a result of certain violent crimes were passed.

Prevention of victimization requires information campaigns, sensitisation for the problem, awareness-raising concerning the potential dangers and fight against recruitment techniques of traffickers (with better information, education, mass-media, business ethics etc.). Victims can be effectively protected from entering the network of trafficking only on the basis of the experiences of women trafficked to Western Europe.

Following the good results of the campaign in Ukraine, in 1999/2000, the IOM implemented an information campaign in Hungary and Bulgaria⁵¹ in cooperation with the government, several NGOs and various experts. The evaluation of these findings certainly has contributed to the more effective handling of the problems in this field.

6. VICTIM/WITNESS ISSUES

According to the recently published UN Global Report on Crime and Justice,⁵² the number of illegal sex-workers in the EU ranges from 200.000 to half million, with some 70-75 % from CEECs and 30-35% from developing countries of the illegal sex-workers.

“Combating and preventing trafficking are also taken into account in various ways in the enlargement process. The EU is actively involved in helping the candidate countries to improve their labour markets and their living standards, in particular by seeking to increase women’s participation. Candidate countries can also participate in specific Community programs in partnership with Member States, for example STOP, Daphne, EQUAL, and the Gender Equality Programme.”⁵³

Great emphasis should be placed on legislation and practice to improve the situation of migrants. Further financial resources should be allocated to cover the costs of strategic planning, decisions, programs and to improve the quality of accommodation and services for victims. Different measures and long-term action should be taken to prevent trafficking, like information campaigns, measures in the fields of education, and training.

⁵¹ The EU and US have joined forces combat trafficking in women, within the framework of the New Transatlantic Agenda, and information campaigns were founded.

⁵² Trafficking in Persons: the New Protocol. http://www.odccp.org/trafficking_protocol_background.html

⁵³ News: Trafficking in Women. – A Comprehensive European strategy. http://europa.int/comm/justice/home/news8mars_en.htm p. 2.

The most important tasks, to improve prevention of trafficking are the followings:

- a) more systematic and wide-scale distribution of information,
- b) focus on high-risk groups,
- c) improve specialised training of the professionals,
- d) victim support services for survivors of trafficking,
- e) regular and intensive exchange of information,
- f) standardised data-collection and co-operation between the national and international organisations,
- g) elaborate action plans on local, regional and international level.

Research can provide a comprehensive insight into perceptions of relevance and scale of trafficking in women, it can identify the main factors which are promoting trafficking. On the basis of results of surveys, awareness raising strategy as well as the responses given to the crime can be developed and improved.

The reasons, causes, main forms, extent of trafficking in women, should be analysed. Elaboration of means and methods of prevention of victimisation should be based on the findings.

It is necessary to disseminate more information in this field by very different means. Awareness-rising and information campaigns on potential dangers of trafficking and recruitment methods of traffickers can be reached by organising seminars, training and various meetings for high-risk groups and various professionals; editing information materials, booklets, posters, leaflets, brochures and their distribution through selected institutions dealing with potential victims of trafficking; producing movie-films, video-films, broadcasting radio. By promoting sensitivity of the media, the awareness- rising in radio, TV, newspaper can reach a great number of people. Public Service Announcements (PSA) in Television channel are ensuring utmost coverage and impact.

It is a very important task

- to organise seminars and workshops, information and prevention campaigns (also in cooperation with embassies and consulates)

- training and retraining: sensibility training for police and other professionals working in relevant fields, such as media, social workers and lawyers, also by NGOs; training courses for high-risk groups of potential victims of violence, to avoid victimization
- to reach a more realistic media coverage: radio broadcasting, TV documentaries, regular newspaper articles, columns to discuss the sensitive issues.

A regular training program of police officers in the field of dealing with victims and witnesses is currently being developed and in some of the candidate countries built in the regular curriculum of police schools and Police Academy. In the framework of dealing with victims of crime, special attention should be paid to women and child victims of crimes of violence as well as of trafficking. In this field there are already several efforts, examples of good practices, however further initiations, further programs are demanded.

It is necessary to develop manuals on trafficking in women and counter-trafficking activities of law-enforcement, which can become part of the regular curriculum in several law-enforcement and higher legal institutions, universities, police academies. There is a great importance of trainings and consultation by visiting lecturers, theoreticians as well as highly respected practitioners, members of experienced law enforcement bodies.

Special counter- advertisements placed in highly circulated national and regional newspapers containing employment-advertisements are effective tools to inform and make women aware of potential dangers in employment abroad.

Seminars, briefing sessions, training seminars and workshops targeted at decision makers, multipliers and lecturers, serve the purpose of a victim-oriented policy as well as familiarise the participants with international legislation and “best practices” in the field of counter-trafficking activity.

There is a need for further training

- to police on human rights issues, on the problems of violence against women
- to law enforcement authorities on questioning techniques of victims of trafficking (in general, how to deal with the victims of violence including victims of trafficking)

- to prosecutors, judges, and investigators in psychological issues concerning victims of trafficking and special interview techniques
- to psychologists, concerning trauma, post-trauma therapy, rehabilitation.

Providing support and assistance to persons/institutions in need:

- protective and supportive services for trafficked persons in order to encourage them to report the crime to the police and to act as witnesses before court
- hot-line services and various kinds of support with high standards for trafficked persons
- providing more assistance to persons reporting such cases and asking for help for women in trouble
- supporting the activities of NGOs working in the field - who have closer contacts to the affected women and are trusted by them – as well as closer co-operation and exchange of information with them

The willingness of survivors of trafficking to give evidence can be improved by securing and strengthening their rights and protecting their interests and privacy. In this regard, the NGOs, the police and the media have equally important tasks. They can improve as well as destroy each other's results when paying less attention to the victim and more to their institutional interests.

Hot line services operating 24 hours and green telephone lines of the NGOs , as well as the “eye-witness” lines, operated by the police and can be called anonym manner, are very helpful in providing and collecting information and assisting the victim.

In the interest of the successful prosecution of traffickers, it is vitally important to support the victim as witness by providing financial, legal, medical, social and emotional support. This includes programmes of witness-protection⁵⁴, issuing temporary residence-permits and working permits, as well as financial aid and confidentiality in the course of the victim's repatriation. Efficient networks should strengthen the cooperation between police and NGOs.

(Referring to the example of Hungary, the regulation of victim/witness protection has been implemented in several stages. The first related document was Government Decree No. 34/1999 on personal protection, while the latest related document is Act LXXXV of 2001 on the Protection Program of the participants in the criminal procedure and those assisting the criminal justice.)⁵⁵

⁵⁵ The purpose of the protection program is to provide protection to the participants of the criminal procedure, the persons actively supporting the criminal procedure and the persons closely related to the persons mentioned above, whose threatened situation is the consequence of their said relationship and their personal safety demands increased protection by the State. A further objective of the Act, in accordance with the degree of the danger threatening the person in question, is to apply special measures to combat crime, in particular organized crime, and to efficiently apply the interests of crime prosecution and criminal justice.” The Protection Program constitutes, for the witness, victims, and the accused party participating in the criminal procedure, as well as their next of kin and other persons in relationship with the injured and being in a threatened situation, an organised form of protection which may not be provided in the framework of personal protection,

- a.) provided by the police under a civil law and on the basis of an agreement with the person being in threatened situation, and
- b.) in the course of which it is necessary to apply special measures (Section 16) and, for the purpose of promoting the social reintegration of the person in question, to provide mental, social, economic, human and legal support (Point 1 of Section 1.).

The Protection Program may be applied during as well as after the completion of the criminal procedure. In relation to a crime of a serious nature, an agreement may be concluded with witnesses, injured persons or accused parties participating in the criminal procedure, and co-operating with the authority according to the requirements prescribed by the law. The crimes of a serious nature are the following: in particular crime, where the characteristics of organized crime may be identified, or which are connected with terrorism, blackmail, money laundering, trafficking in drugs and arms, prostitution, paedophilia as well as with crime committed in relation to the above against the life or physical integrity of people.

For the prevention of unlawful acts against the life, physical integrity or the personal freedom of the person involved, the Service may apply the following special protective measures:

- a.) changing the place of residence in order to move the protected person to safe place, or in the case of involving persons under detention and participating in the Program to transport them to another law enforcement institution;
- b.) providing personal protection;
- c.) ordering suspension of data provision in registers, and requiring the reporting of any request for information in the data registered;
- d.) changing name;
- e.) changing personal identity;
- f.) participation in international co-operation.)

It is very important, to ensure the rapid, safe and human repatriation of the victims of trafficking, including their assistance, treatment, rehabilitation and reintegration. In special cases, when it is required by the protection of victim, temporary residence permit should be granted on humanitarian ground. In some of the candidate countries it has already legislative basis.⁵⁶ (As for instance, Act XXXIX of 2001 on foreign individuals' entry to and residence in Hungary provides the Alien Police Authority with the opportunity to grant, on humanitarian grounds, a residence permit to those foreign citizens who are co-operating with the authorities of criminal justice in order to discover offenders of trafficking in human beings. The issuing of the residence permit is based on the proposal of the crime prosecution authorities. In the Czech Republic "victims could be granted temporary residence for three month, which could be extended, if the victims are willing to contribute to investigation of the case If granted temporary residence, victims had access to the health care, but could not immediately receive social benefits." ⁵⁷)

In the field of policy making and legislation as well as in the field of prevention (information campaigns, offering alternatives to prostitution, migration management etc.) and assistance of victims (legal support, rehabilitation, return activities etc.), the cooperation with international governmental organizations as well as with NGOs, is essential. The countries should be more active in assisting and supporting victims of trafficking in persons.

Contacts will contribute to an increased involvement of international civil society in assisting in these countries in combat trafficking in persons. On the bases of the best practices, a general model should be elaborated, a main strategy, and a possible standardisation of the rehabilitation assistance, on which, the individual treatment assistance can be developed.

Main forms of assistance for victims, survivals:

- ❖ providing comfort, calm, safe environment; listening to them;
- ❖ medical, psychological care and treatment ;
- ❖ providing legal counselling, legal assistance:

⁵⁶ Point c), Paragraph (1), Section 15 of Act XXXIX of 2001 on foreign individuals' entry to and residence in Hungary.

⁵⁷ Press Release, p. 11. WOM/1354 CEDAW 573rd and 574th meetings, 08/08/2002, New York

- *preventive*: pro-active legal assistance in procedures, targeted to find disappeared victims; this is provided to the relatives of the victim
- *protective*: free of charge legal defence of victims of trafficking in the criminal procedure
- *re-integration targeted* : basic legal counselling,
 - assistance in criminal
 - as well as civil procedures
 (aiming at helping in establishment and stabilise the restart of life)
 providing safe housing, shelters, reception centres;
- ❖ providing rehabilitation assistance.

There are shelters, safe-houses in most of the candidate countries,⁵⁸ some of them however are overcrowded, and there is a lack of the necessary financial means and staff. It is necessary to establish such shelters country-wide, and provide services according to a certain standards. These shelters could ensure that women feel safe and can receive psychological support during the period of investigation and the legal proceedings. The rehabilitation centres are more specialised to provide a high level medical, psychological rehabilitation. The long-term rehabilitation program should include trainings for the survivals of trafficking, to get qualification as well as assistance to obtain a job. The assistance of victims to train or to find a job is casual and should be more systematically include to the services.

The shelters, safe flats, houses are ensuring the woman' safety, from threats of the traffickers. This arrangement will result a better recovery of victim as well as a higher rate of successful prosecution and convictions. Shelters in ideal cases should be run with the aim of self-sufficiency for reasons of sustainability. This is at present the rare example, so in this field training assistance on the possibilities, sharing the experiences on basis of the “best practices” and support is required. By the complex rehabilitation and standards of services it would be possible to help the recovery, to improve the situation of survivors and to prevent effectively the re-victimisation of trafficking.

⁵⁸ In Hungary, unfortunately there is not any shelter, established specially to the needs of the victims of trafficking. The safe housing problem is always casually solved, with mutual efforts of various NGOs.

Regular contacts, cooperation between NGOs, GOs and international organisations specifically working in the field of counter-trafficking is essential. In the past such contacts have proven to be a most successful tool in returning a victim - for NGOs and GOs alike. It can be expected that these networking of NGOs on the national as well as on the international level with organizations in Central-East and other European countries, can be a great step for more effective measures, in order to exchange information or assist victims.

7. PRE-REQUISITES OF AN EFFECTIVE-COUNTER TRAFFICKING POLICY

Counter-trafficking activities should be based in particular on the next main pillars:

- information and awareness raising,
- prevention of victimisation,
- criminalisation of crime,
- prosecution of the offenders,
- reintegration assistance of and support to the victims.

The specific nature of the counter trafficking activity requires permanent pro-active efforts. This means, distribution of information, awareness-raising campaign, training media representatives, as well as sensitised them to the problem, and mobilise all means of media. Prevention of victimisation is based on the above mentioned measures, completed with special education, targeting high-risk groups. Distribution of leaflets, information materials; producing and displaying video-films in schools, informing people intending to migrate or looking for foreign employment possibilities, are effective in prevention of victimisation or can reduce its harms.

Finally, if women still become victims of the offenders, then it should be done all the possible efforts to support them,⁵⁹ to counsel, to assist them to be able to witness at the court, to provide them special witness protection, when it is needed, to grant temporary residence permit on humanitarian ground and to help their reintegration process.

⁵⁹ to survive the trauma, to recover psychologically, physically

This is a complex program, which will not work without the close and continuous cooperation of the various government institutions and NGOs on international, national as well as on regional and local level.

The criminalisation and adequate sanctions of the criminal code against trafficking in persons has a very important role combating trafficking in human beings. According to the situation in 2000, from the Member States of the Council of Europe, in the CEECs there were several countries, which have had special regulation on trafficking in human beings, some of them applied however different, other provisions for this type of crime.⁶⁰ There were however going on drafting processes in several countries, to elaborate new regulations in this respect. The situation is dynamically changing.

It has an essential importance to enact a special legal provision, which is severely penalising trafficking in human beings as a crime. Its precondition is to accept an adequate definition of this crime. There should be a harmonised definition of this crime in Europe, accompanied by a consequent prosecution of crimes. The definition of the Proposal for a Council Framework Decision on combating trafficking in human beings⁶¹ is based partly on those of the Protocol to Prevent, Suppress and Punish Trafficking in Persons⁶² and completing it. It differentiate between trafficking in human beings for the purpose of labour exploitation (Article 1) and for the purpose of sexual exploitation (Article.2) Sexual exploitation includes the purposes to exploit a person in prostitution, in pornographic performances or in the production of pornographic material. The points (a) and (b) of both Article are correspond the UN-Protocol on trafficking, the points (c) and (d) partly correspond and covering forms of taking advantage or exercising pressure when a person is trafficked.⁶³ Article 3 puts an obligation on Member States to penalise the behaviour of instigation of, aiding, abetting and attempt to commit trafficking in people. Among the most important Articles it should be mentioned the liability of legal persons, in case of involvement in trafficking.

On the basis of the Framework Decision there is a realistic perspective, to harmonise the legislation on this issue, in Europe.

⁶⁰ Trafficking in Human Beings. Compilation of the main legal instruments and analytical reports dealing with trafficking in human beings at international, regional and national levels. Volume II. National texts.2000.

⁶¹ 52000PC0854(01) Proposal for a Council Framework Decision on combating trafficking in human beings. /COM/2001/0854final-CNS 2001/0024/ Official Journal C 062 E, 27/02/2001 P. 0324-0326

⁶² supplementing the UN Convention against Transnational Organised Crime,

⁶³(c) there is a misuse of authority, influence or pressure, or (d) there is another form of abuse.

It is important that in all of the CEECs there are possibilities on the existing legal provisions to sanction the recruitment activity of trafficking. Although it is necessary to improve this regulation, even on the basis of the present criminal law there are more possibilities and there are not satisfying the results produced in prosecuting the offenders. The usual argument is referring to the difficulties of providing enough and adequate evidences. To improve the efficiency of the investigation of this crime, indeed, needs a special knowledge, a special strategy, which can be obtained on the basis of experiences, good practices.

It is worth to mention and call the attention to the fact that in some of the Central East European countries, the penalisation of prostitution itself, still exists and this fact leads to unfavourable consequences. First of all, it can create a ground, a reason for the people involved, to migrate to a country, where practising prostitution based on a regulatory, or abolitionist system, which is not criminalising the behaviour of prostitute. Secondly, it creates an obstacle for the victim of trafficking, to ask assistance of and help from the police, as there is a fear of stigmatisation and penalisation.

In the efforts to harmonise legislation according to the international standards, it should be encouraged of signing of international conventions, in particular the UN-"Protocol to Prevent, Suppress and Punish Trafficking in Persons" and the "Protocol against the Smuggling of Migrants" supplementing the UN "Convention against Transnational Organised Crime".

In the field of counter-trafficking policy, major achievements can be expected only if the problem of trafficking is high on the political agenda. It should be dealt with and coordinated by a central coordination body, where the competence, expertise and information are concentrated. This body can be a permanent inter-ministerial one, established for co-ordination, comprising high-ranking government representatives from various ministries involved in counter-trafficking and related issues, as well as NGO representatives.

Successful activities in the prevention of trafficking in women and in providing support to trafficked victims, cannot exist without the activities of NGOs, which are very effective in producing of training materials, providing training to potential victims as well as for social workers, delivering and disseminating information on the referral assistance

The efficiency of the NGOs can be based on a combination of various sources of financing and support, given by different (funds, foundations, firms, companies, embassies and international) organisations. Mostly it is a short-term financial support, appropriate for such projects like developing and editing some information materials or publishing a newsletter. It has essential importance however to run continuous, long-term projects, too. This can guarantee the possibility of planning, thinking in perspective, and resulting long-term achievements. Therefore the state itself, should participate more intensively in the financing of NGOs.

The NGO staffs generally consist of only a few paid persons. The continuity of work of the NGOs is based on the paid staff, whose work is supported by a great number of volunteers. Considering the economic situation of these countries, which has a decisive impact on the personal financial problems of the individuals, including the volunteers, the voluntary work for NGOs should be even more highly estimated by the society. Besides the moral support, it would be necessary to be granted a small amount of honorarium; otherwise the need of earning a living, unavoidable leads to a great and unwanted fluctuation which undoubtedly has a negative effect on the efficiency of NGO's work. It should also be noted, that in most of the CEECs including the candidate countries, the supervision support for persons involved in direct contact to victims of trafficking, (like social workers, medical staff, police officers), to avoid “burn-out syndrome”, is not always existing on regular basis. These people would need highly professional and regular debriefing sessions, which, in most of the cases, have also only financial obstacles, as the knowledge and the potential supervisors are available.

PROPOSALS FOR FURTHER ACTIONS

General

- sensitisation of politicians, member of the Parliaments, of embassies, consulates, police officers, law enforcement personnel;
- to make better understanding that the counter trafficking activity takes long-term, coordinated and continuing efforts and programmes in order to change the situation;
- to support preventive and to develop further educational programs in combating trafficking in human beings;
- to improve early child care, the pre-school and primary school education;
- to stress on prevention projects, child protection;

- to address unemployment, poverty, and social exclusion;
- to combat violence against women and eliminate gender discrimination.

Information, awareness rising,

- to provide information materials, leaflets on the recruitment methods of traffickers;
- to use the media in focusing on the preventive aspects and developing, expressing opinion on this issue;
- to organise seminars, conferences and provide forums for debates;
- to involve different legal and other professionals, to exchange ideas, develop working methods, building an informal link for future co-operation;

Training, education

- to include preventive aspects of trafficking to the school-education;
- to elaborate post-graduate training programs (in a "train the trainers system");
- to organise study tours in other CEEC as well as EU countries for practitioners (police officers and prosecutors, judges) to exchange information and share experiences;
- to provide manuals, text-books, case studies;
- to provide forum to exchange experiences, to improve national and international co-operation in the interest of effective combat against trafficking in the countries of origin, transit and destination;
- to include the subject of human rights, violence against women and combating trafficking of human beings, as a regular course, in the education of the police officers;
- to employ and train more female police officers;
- to organise further training courses for judges, prosecutors, and police officers.

Legislation

- to accelerate the process on counter-trafficking legislation program according to the European standards;
- to provide ongoing support for the legislation and implementation process of the law as well as evaluation of the results;
- use and enforce all possibility of existing law, in fight against organised crime and trafficking in women;
- make it quite clear, that traffickers should stand at trial and hold responsible for the crime committed;
- law enforcement agencies should make all the efforts on the basis of existing law to investigate, prosecute and sanction the offenders for committing this type of crime;
- to conduct research and collect data on the problems of trafficking is helping orientation and set up priorities;
- the statistical data collection, compilation, analysis and distribution system should be improved;
- reviewing the laws on organised crime, trafficking in human beings (as well as exploitation of prostitution) on the basis of research, legal practice, experiences of NGOs and comparative law; involving the most experienced legal practitioners, theoreticians, police, border guard, customs experts and inviting foreign experts of the EU.

Victim

- to enact and implement laws on victim/witness protection in the interest of encouraging successful prosecution of the committed crimes and protection of the victims;
- develop and support activities and techniques, empowering, assisting victims and develop compensation schemes;
- to revise the criminal procedural law and providing legal measures to protect the interest of the victims, to keep their anonymity during and after the procedure and provide adequate protection for them;
- to ensure the rapid, safe and human repatriation of the victims of trafficking, including their assistance, treatment, rehabilitation and reintegration;
- to establish further shelters, rehabilitation centres for victims of trafficked women, where they can receive adequate legal, medical, psychological, help and can be assisted to train

or find a job.

Cooperation

- to set up an official consultative body to improve the cooperation and mutual understanding among the authorities and the NGO's;
- to improve networking, cooperation of the NGOs;
- to develop control, monitoring mechanisms and to provide more efforts to prevent illegal border crossing of persons, in particular children;

8. CONCLUSIONS

The central geographical location of some of the candidate countries,⁶⁴ (close to Austria, as an EU country), on the one hand, the relatively good economic situation compared to other CEECs on the other hand, have contributed to the fact, that most of the candidate countries have become a country of transit as well as of destination, and only to a less extent, country of origin, as trafficking in persons concerned.⁶⁵

In Central East Europe, the flow of trafficked women moves mainly from East to West, however there is a great flow of Women to the Balkan region, as well as to North Europe or to other continents. The trafficking routes are sometimes across other CEECs as transit countries, (East to East to West) and, in some respect trafficking is directed to the candidate countries, as destination (East to East).

The central geographical location of some candidate countries is attracting those persons, too who could not migrate directly to the EU countries and are looking for legal or illegal ways to cross the border. In this countries, the number of cases of alien smuggling is somewhat increasing.⁶⁶

⁶⁴ like the Check Republic, Poland or Hungary

⁶⁵ Hungary is a country of origin, destination and transit as well. As far as the scope of the phenomenon is concerned, Hungary is not included to the major sender or receiver countries.

⁶⁶ As for instance in Hungary, the number of crimes of alien smuggling was 2902 in 1998, 6499 in 1999, 5178 in 2000 and 10.266 in 2001.

Many women originated from the Newly Independent States are being trafficked via the candidate countries, before ending up in EU Member States. At the same time, “the phenomenon of re-trafficking within the EU has also been noted as one new and developing factor.”⁶⁷ A special attention should be paid to this phenomenon and elaboration of a much more effective strategy seems to be necessary in this respect.

“Migratory routes are determined by such things, as the entry visa requirements for tourism (or other purposes) of each EU country, the norms and the extent of police controls and the usual outcome of these controls, and the legal norms for expulsion or repatriation in each of the signatories of the Schengen Accord.”⁶⁸

It is well-known, that in some of the CEE countries, as well as Western countries, following the traffic routes, there are cities, which are targeted by a more intensive traffic, which are considered as distribution centers of trafficked women. One could put the questions, why the anti-trafficking efforts are not concentrated to these places?

It seems to be, that people are still not made sensitised enough, of the crime of trafficking. The full recognition, that there are such severe crimes, like trafficking in women, which are frequently happening in the surrounding of citizens, is missing. Therefore, blaming the victim is not exceptional. The idea of the patriarchal, male-dominated societies, that it is the fault of women, if they come under such bad conditions, is phantom like return sometimes.

Prostitution itself was, and in a certain extent it is still regarded, as a morally condemnable, deviant behaviour of women, while to be a client is a manifestation of the sexual freedom of men. According to this view, women in prostitution⁶⁹ do not need protection, and as the citizen is not involved as a victim in such crimes, he/she is not claiming for public security. Moreover on the surface, the situation was calm, as the traffickers, prostitutes have guaranteed the silence of the victims by all means of threat and violence, and a certain security in the territories of prostitution. Therefore the police was not very eager in fighting

⁶⁷ News: Trafficking in Women – A Comprehensive European strategy. http://europa.int/comm/justice/home/news8mars_en.htm p. 2.

⁶⁸ Health-migration-sex work. The experience of the TAMPEP. Edited by Licia Brussa, The Netherlands, 1999. p. 39.

⁶⁹ Disregarding from its reasons

against forced prostitution and trafficking in women and it was (and it is still) necessary to sensitise to this problem..

To break the silence of the victims, to cut the circle of victimisation and re-victimisation was never so actual, than today. To reach this goal, however, needs a wide-scale of measures, a lot of activity a mutual effort of the society. The victims should be supported, protected and empowered.

The task of police in the field of fight against trafficking is a difficult one; the investigation needs more time, more commitment, more energy, good infrastructure and special techniques. Therefore, to create special units dealing with the crimes of trafficking is much more effective. If the police have success, in prevention, detection or investigation of these crimes, their work should be much more evaluated both by their colleagues, bosses and by the society. This has an effect on the institutional structure and priorities.

The second point touches upon the reasons why there is a migration of women into the uncertain conditions, taking even the high risk of dragged into prostitution. The main reasons are: the unemployment, the poverty, the marginality, the lack of opportunities, sometimes even the lack of hope. There are however other kind reasons, like looking for better opportunities, adventure, etc. In the latter case, the awareness rising and distribution of information has a greater preventive effect, concerning victimisation..

The third reason is that the criminal network of organised crime is eager to recruit vulnerable women by methods of false promises, about the future in the West European countries. As long as correct, reliable information in many CEECs is missing and the everyday perception is unrealistic in this field, the victims are easily caught. The problem however is not so simple. The great financial, economical difficulties of the home country can be compelling factors to the women, to migrate as a last resort, in the hope of survival or earn a better living. In the former case, they are willing to take any risk. Therefore, there is a need to address all of these questions adequately, which means long-term projects.

The specific of these three causes together is not their existence at all, but their dominance in certain CEECs and to a smaller extent in some candidate countries. So all - what was previously described in this study,- is to a certain extent the leading and main problem in

different countries and here also to a different extent. The situation in the candidate countries in social, economical and legal terms is much better, than in the other countries in Europe outside the EU.

Most of the CEECs, in particular the candidate countries are committed to combat the phenomena of trafficking. The legislation is rapidly changing, including the criminal and procedural code. In the first part of the transitional period the human rights issues and principles, the safeguards and guarantees of the criminal procedure were placed into the focus of the attention. The victim's issues, were the next, enlargement the rights of the victim in the criminal procedure and state funded compensation issues. Legislation on organised crime and on state compensation (harm-reducement) of victims of violent crimes is very progressive steps. The catalogue of crimes in the Special Part was first of all changed in content and of course becomes continuously wider. There is legislation on responsibility of legal entities, the organised crime and victim/witness protection. The Alien law, immigration law, law on refugees and a lot of other fields of law were changed and harmonised according to the international standards.

The candidate countries of course, having been focused more on the systematic and planned legislative changes in harmonisation of the EU standards and requirements. These procedures, in the first part of change, the transitional period, were less intensive in the former Soviet member countries, as there were different priorities, according to the social-economical problems, they were faced. Some of these countries have serious economic difficulties. "European countries must also co-operate in tackling the causes of trafficking, which means addressing the problem of poverty, social exclusion and emigration for economic reasons as well as combating the demand for trafficking, including the sex-industry, sex tourism and trafficking via Internet."⁷⁰

As far as the issue to combat trafficking is concerned, some of the legislative steps were already taken in the candidate countries. In this field several CEECs were very active, like Ukraine, where the trafficking of persons as a special article of the Penal Code, was

⁷⁰R 1526(2001) 1 A campaign against trafficking in minors to put a stop to the east European route...", Point 6.Council of Europe

criminalised⁷¹ in 1998, or Hungary,⁷² where this type of crime was criminalised first in 1998, then modified again in 2001.

The administrative structures, infrastructures should be further supported and developed at the law enforcement agencies, judicial bodies to improve the effectiveness of investigation and prosecution and to be able to address the fight against organised crime, including trafficking in women.

It should be recognised and accepted, that any success cannot be granted immediately, but only step by step and to reach our goals, means systematic work on the special issues, including long-term programs and a lot of efforts.

⁷¹ Inserted in the Penal Code by Law No. 210/98 –BP, 24, March 1998. See more on this topic :
Roelof Haveman-Marjan Wijers: Review of trafficking in Persons in Ukraine. Edited by IOM, 2001.

⁷² Hungary has set an important step in 1999 by penalising trafficking in persons as a serious crime and expressing, that it is a violation of personal freedom and dignity and modified in 2001 by Act No. CXXI., - according to the definition of the Protocol to Prevent, Suppress and Punish Trafficking in Persons" and the "Protocol against the Smuggling of Migrants" Supplementing the UN Convention against Transnational Organised Crime" - which entered into force on the 1st of April, 2002. .