



Council of Europe

Cooperation against trafficking in human beings

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1 Introduction

The Group of Specialists on Criminal Law and Criminological Aspects of Organised Crime (PC-S-CO) was established in 2000. Its terms of reference state that the Group should - *inter alia* – carry out best practice surveys to allow member States to benefit from the experience of other member States in the prevention and control of organised crime.¹

Each BPS concentrates on a particular approach or method. For practical reasons, only a few countries are selected for analysis on the basis of their experience in the particular field and to permit different legal systems and geographical region within Europe to be reflected.

The present BPS covers the topic of cooperation between criminal justice (including police) and other institutions (in particular NGOs as service providers) against trafficking in human beings. Such cooperation pursues the dual objective of:

- Assisting and protecting victims of trafficking
- Facilitating the cooperation of victims as witnesses with the criminal justice process.

The BPS is based on a study of three Council of Europe member States where such cooperative approaches are being pursued, namely Austria, Belgium and Bulgaria.

This topic has been selected for several reasons:

- The issue of trafficking in human beings is of increasing importance to Council of Europe member States, both as a question of human rights violations and of organised crime. This is reflected in particular in the decision taken by the Council of Europe's Committee of Ministers in April 2003 to launch the drafting of a Convention on Action against Trafficking in Human Beings.
- The concept of trafficking in human beings implies a strong role of criminal organisation,² in that it includes the threat or use of force, coercion, fraud, deception or other means, in that trafficking involves several distinct but interrelated acts, and in that the exploitation is not a one-time event but is carried out over a certain period of time.³ The international community has acknowledged this link by adding a 'trafficking protocol' to the United Nations Convention against Transnational Organized Crime.⁴

¹ So far, Best Practice Surveys on witness protection, the reversal of the burden of proof, interception of communications, crime analysis, cross-border cooperation and preventive legal measures have been published.

² "Organised crime group" shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes, in order to obtain, directly or indirectly, a financial or material benefit" (Council of Europe Recommendation Rec(2001)11 on guiding principles on the fight against organised crime adopted by the Committee of Ministers on 19 September 2001. This definition is similar to the one of Article 2 (a) of the Palermo Convention).

³See also International Centre for Migration Policy Development 1999.

⁴Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted by resolution [A/RES/55/25](#) of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations. According to Article 3 (a) of this Protocol:

- Effective measures against trafficking in human beings require cooperation at all levels.

The subject of cooperation in itself is rather broad and covers a large range of issues.⁵ However, keeping in mind the need to assist and protect victims of trafficking on the one hand, and the crucial role of victims as witnesses in the criminal justice process on the other, the cooperation between non-governmental organisations providing services to victims of trafficking⁶ and police and criminal justice institutions would seem to be of particular importance.

The PC-S-CO decided therefore to focus on this specific issue.⁷

The three member States selected for this BPS were all visited in June 2003 by a small delegation of the PC-S-CO. The mission started in Brussels (16 June), proceeded to Vienna (17 – 18 June) and from there to Sofia (19 – 20 June 2003).

The delegation was composed of Mr. Maximilian Edelbacher (Austria), Mr. Drago Kos (Slovenia) and Mr. Alexander Seger (Council of Europe).

The present BPS thus reflects the experience of three European countries with regard to the cooperation between anti-trafficking and criminal justice institutions, and of victims as witnesses in the criminal justice process.

Its purpose is to provide guidance to member States on how to approach this issue. It may also serve as an input to standard setting and technical cooperation activities of the Council of Europe related to trafficking in human beings and organised crime, and in particular the 'ad-hoc Committee on Action against Trafficking in Human Beings' which has been tasked with the elaboration of a convention against trafficking.

“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”.

⁵ See the PACO report on trafficking in human beings and corruption (Council of Europe 2002).

⁶ The role of NGOs is also recognised in the Palermo Protocol which refers to them in connection with measures for the physical, psychological and social recovery of victims (article 7(3)), prevention and protection from revictimisation (article 9(3)), and cooperation with criminal justice and other state bodies in training programmes for the prevention of trafficking (article 10(2)).

⁷ The PC-S-CO has been aware of other activities in this field, such as the study by Change (2003) on the Czech Republic, Greece, Italy and Romania; and the meetings of the EU Forum on the Prevention of Organised Crime which on 30 June 2003 held a workshop on this topic.

2 Austria

2.1 NATURE AND EXTENT OF THE TRAFFICKING PROBLEM

Under current legislation, trafficking in human beings in Austria is a question of trafficking of women across international borders for the purposes of prostitution. According to information provided by the Austrian Federal Criminal Police, criminal organisations traffic women from central and eastern Europe, but also from Asia and Latin America to Austria for exploitation in the sex industry. To some extent Austria is also a transit country. The main source country in 2003 appears to be Bulgaria. The situation may change rapidly. Previous primary countries of origin were Romania, Belarus and the Dominican Republic.

Prostitution is legal in eight out of the nine provinces of Austria. In 2001, 650 establishments were listed in which prostitution was exercised and some 2800 women were registered as prostitutes. Women, including foreign women, can obtain permits to work legally as prostitutes in Austria. However, indicators such as contact adverts in newspapers and magazines and random checks suggest that three to four times more women work in this business without registration, about half of them being foreign women.

Reportedly, there is a strong involvement of criminal groups in the sex industry, and street prostitution, nightclubs, bars, brothels, massage parlours and escort services are often in the hand of criminal organisations. 'Figure heads' operate bars and brothels in order to conceal the true owners or persons responsible and to minimise the risk of detection. Migration racketeering organisations have contacts or accomplices who are either able to provide visas or are specialised in passport forgery, or carry out the actual transport of victims. Primary criminal figures in third countries maintain direct contacts to criminals within Austria. Women are said to be often transported to Austria upon 'order'.

In 2002, 70 offences related to trafficking in human beings (article 217 Criminal Code) have been reported in Austria involving 168 suspected offenders. In 2001, 11 offenders were convicted.

While from the point of view of the criminal police, trafficking of women in Austria shows all characteristics of organised crime, there are few prosecutions and court procedures under the relevant article 278a of the Criminal Code. This appears to be due to the fact that organised crime is difficult to prove and that the penalties for trafficking (article 217) are anyway higher than for being a member of a criminal association (article 278a).

2.2 ANTI-TRAFFICKING POLICIES AND LEGISLATION

2.2.1 Policies

Although Austria has not adopted a specific policy against trafficking in human beings, the approach to trafficking is strongly influenced by a crime prevention policy based on the philosophy that victims of violence require assistance and support.

To this effect, from 1995, initiatives have been taken to link up law enforcement bodies, courts, NGOs and other institutions and to establish multi-disciplinary working groups. They primarily focused on domestic violence.

Furthermore, in 1997 the Minister of Interior established the Crime Prevention Council with the task of providing advice and supporting preventive measures.⁸

Subsequently, this approach was extended to victims of trafficking, that is, to women trafficked for the purpose of prostitution.

In practice this means that in addition to nine NGO service centres for victims of domestic violence which receive financial support from the Government of Austria, a tenth centre was added in 1998 specifically for victims of trafficking in women, the Intervention Centre for Victims of Trafficking in Women (IBF) managed by LEFÖ.⁹

Furthermore, Austria has been participating actively in a range of initiatives against smuggling and trafficking in human beings, including the establishment in 1993 of the International Centre for Migration Policy Development (ICMPD) located in Vienna.

Austria has signed the Palermo convention on transnational organised crime and its protocols. Legislative amendments are in preparation and ratification of the convention and trafficking protocol is envisaged before the end of 2003.

2.2.2 Legislation

The main legal provision criminalizing trafficking in human beings is article 217 of the Austrian Criminal Code which was introduced in 1974:

- Sect. 217 (1) Whoever procures or recruits a person, even if is person is already engaged in prostitution, to pursue prostitution in a state of which this person is neither citizen of nor a regular resident, is to be punished with imprisonment from six months to five years; whoever commits this offence professionally is to be punished with imprisonment from one to ten years.
- Sect 217 (2) Whoever induces a person (para 1) with the intent that this person pursue prostitution in a state, of which she is neither citizen nor a regular resident, through deception, or coerces this person through force or threat of violence to move to another state, or transports this person by force or deception to another state, is to be punished by imprisonment from one to ten years.¹⁰

The Austrian authorities acknowledge that the present legislation does not meet the requirements of the Palermo Protocol. However, a reform of the criminal law provisions on sexual offences is in preparation. In this context it is envisaged to include a new article 104a on trafficking in human beings in the Criminal Code which would not only criminalize sexual exploitation but also other forms of exploitation foreseen under the Palermo Protocol (e.g. labour exploitation, trafficking in organs).

⁸ See also the activities of the 'White Ring' (<http://www.weisser-ring.at>). Further measures and amendments in the criminal procedure code to protect the rights of victims of crime are under discussions.

⁹ See 2.4.2 for more information on Interventionsstelle für Betroffene des Frauenhandels (IBF) as a project of the LEFÖ (Lateinamerikanische Emigrierte Frauen in Österreich).

¹⁰ Unofficial translation.

2.3 WITNESS PROTECTION MEASURES

Court proceedings under article 217 Criminal Code show that convictions largely depend on the testimony of victims testifying as witnesses. Victim-witnesses are thus under considerable pressure and are or feel at risk.

The Austrian Criminal Procedure Code contains a range of procedural provisions aimed at protecting witnesses. These apply also for victim-witnesses of trafficking:

- Article 47a – Protection of the valid interest of the victims of crime, their identity and personal data
- Article 162 (2) – Possibility for a witness to be accompanied by a person of confidence during interrogations by a investigative judge
- Article 162a – Interrogation of a witness not present in court through audio-/video-means, in particular for children below 14 years and victims of sexual offences. Presentation of audio-/video-recordings in court.
- Article 166 (1,1) – Protection of the personal data of the witness
- Article 166a – Anonymity of personal data
- Article 247a – Audio-/video-hearing of witnesses not present in court or from abroad
- Article 250 – Removal of the defendant from the court room during the testimony of a witness.

In 1997, Austria established a witness protection programme for key witnesses testifying in cases of organised crime, terrorism and other serious crime. This programme is managed by a specialised unit of the Federal Criminal Police Office. Measures may include identity change, relocation and protection as long as necessary.

Access to this programme is restricted. The number of protected witnesses is limited and presently includes less than twenty witnesses. So far, none of the witnesses included in this programme has been related to a case of trafficking in human beings.

2.4 COOPERATION AGAINST TRAFFICKING

2.4.1 Institutions involved

Institutions with competences in the prevention and control trafficking in human beings include criminal justice institutions such as the Ministry of Justice, the prosecution service, courts, the Ministry of Interior, the gendarmerie and the police, as well as the customs service of the Ministry of Finance, the Ministry of Health and regional health and social services, institutions dealing with immigration issues and non-governmental organisations.

Within courts and prosecution services, specialists may handle organised crime cases or cases of trafficking in human beings. All provincial courts (Landesgerichte) have specialised departments for sexual offences.

Within the Federal Criminal Police, the department for organised crime includes a division which focuses on trafficking in human beings. The criminal police in each province also maintain a department for organised crime, trafficking in human beings and smuggling of persons. Given the transnational dimension of offences under article 217 Criminal Code, the police at provincial levels cooperate with the Federal Criminal Police.

A coordinating structure – such as a task force or inter-agency working group – on the specific question of trafficking in human beings has not been established. On the other hand, in May 2003, the Ministry of Foreign Affairs organised a meeting of stakeholders to exchange views on trafficking in Austria and facilitate coordination. Apparently, such an event is to be organised twice per year in the future. It remains to be seen whether this will lead to a structured multi-agency approach against trafficking.

As mentioned above, the Crime Prevention Council has been promoting multi-disciplinary approaches and networking and cooperation between law enforcement, criminal justice, social services and NGOs since 1997. In 1998, this approach was extended to the problem of trafficking in women, when the Intervention Centre for Victims of Trafficking in Women (LEFÖ-IBF) was created. The cooperation between the LEFÖ-IBF and the law enforcement authorities in Austria can be cited as a 'good practice'.

2.4.2 Intervention Centre for Victims of Trafficking in Women (LEFÖ-IBF)

The IFB was established in 1998 as a project of the Association of Latin American Emigrated Women in Austria – LEFÖ.¹¹

The LEFÖ-IBF is the first and only service institution in Austria recognised by the Ministry of Interior providing protection and support to victims of trafficking.

Services offered by LEFÖ-IBF include:

- A shelter (that is, an apartment managed by LEFÖ-IBF) with accommodation for 8 to 10 women at a time. In 2002, 24 women spent 1795 nights in the shelter. Most women had been referred to LEFÖ-IBF by the police.
- Support to women in deportation custody. In 2002, 136 women were assisted.
- Support to women requiring support through personal meetings, counselling by telephone and other means.

LEFÖ-IBF staff accompany women to public institutions, health services or courts. They provide psychosocial counselling and advice as well as legal counselling on their situation and rights.

Furthermore, the LEFÖ-IBF observes court procedures and cooperates with a range of local, national and international institutions.

LEFÖ is the legal person responsible for the IBF. The LEFÖ-IBF employs four staff. In addition, interns and a network of counsellors (cultural mediators) familiar with languages and the cultural background of victims support the work of LEFÖ-IBF. Moreover, the LEFÖ-IBF benefits from a network of therapists and medical doctors.

¹¹ Verein LEFÖ - Lateinamerikanische Emigrierte Frauen in Österreich. Founded in 1985 as an organisation for information, education and support for migrant women.

2.4.3 Cooperation between authorities and the LEFÖ-IBF

2.4.3.1 Legal basis

The main legal provisions allowing for such cooperation are the following:

- Article 25 (2) of the Security Police Law obliges public security authorities to support measures for the prevention of crime threatening life and limb. This provision constitutes the legal basis for cooperation with other public and private institutions.
- Article 25 (3) of the same law authorises the Minister of Interior to sign contracts with institutions assisting and protecting victims of crime.
- Article 56 (1) of the Criminal Procedure Code allows law enforcement authorities to transfer relevant data to suitable victim protection institutions in so far as this is necessary for the protection of the person at risk.
- Article 10 (4) of the Immigration Law allows for the granting of temporary residence status for humanitarian purposes, in particular for women who are victims of trafficking and witnesses required for the criminal procedure in cases related to Article 217 of the Criminal Code. The granting of such a status is in turn a condition for access to social welfare assistance.
- Article 66 (1) of the Immigration Law allows to dismiss pre-deportation custody if the same purpose can be achieved through other means.

2.4.3.2 Police directive

In June 1998, the Federal Police Directorate in Vienna issued a directive on cooperation with the LEFÖ-IBF which instructs police authorities to proceed as follows:

- Should a first interrogation of a foreigner provide indications that she could be a victim or witness of trafficking in human beings, the police must inform the LEFÖ-IBF and provide it with the necessary personal data. The provision of such information is permitted under Article 66 (1) Criminal Procedure Code, since the LEFÖ-IBF is a recognised victim protection institution. The aim is to allow the LEFÖ-IBF to enter into contact with the person within 24 hours.
- With regard to the procedures under immigration laws, the police will contact the immigration police with a view to determining whether the person will be taken into pre-deportation custody or whether – in accordance with article 66 (2) Immigration Law – the facilities of institutions such as Caritas or LEFÖ-IBF could be used.
- Should it become evident within one month, that the conditions are met for a temporary residence permit for humanitarian reasons, the police unit in charge will contact the Immigration Police, which will state whether the trafficked person is of relevance for the criminal procedure. The Immigration Police will inform the Ministry of Interior in order to obtain a decision by the Minister for the granting of a residence permit for humanitarian reasons.

- Should the conditions for article 66 (2) Immigration Law not be fulfilled and the person remain in pre-deportation custody, representatives of the LEFÖ-IBF will have access to the person to provide counselling and advice.

2.4.3.3 Funding contract

Since 1998, the Ministry of Interior and the Ministry of Women Affairs conclude annual contracts with the LEFÖ on the funding of the IBF. The objective of the contract is defined as:

To fight human rights violations from which migrants suffer as a consequence of their weak social and legal status, to help women concerned analyse their situation and make appropriate decisions, as well to create the conditions for immediate, medium- and long-term support of women concerned regarding their repatriation.¹²

The contract describes the activities and services offered by the LEFÖ-IBF and how the LEFÖ-IBF and the police cooperate:

- Women who are believed to be victims of trafficking are included into the programme of the LEFÖ-IBF.
- The police informs the LEFÖ-IBF about cases of trafficked women to allow the LEFÖ-IBF to establish contact.
- The police informs women about the LEFÖ-IBF.
- LEFÖ-IBF staff accompany women as persons of confidence to interrogations at the police or courts.
- Women approaching the LEFÖ-IBF as victims of trafficking will be informed by the LEFÖ-IBF about the possibility to lay charges against traffickers and testify as witnesses.
- Should the physical safety of the women be at risk, the LEFÖ-IBF and the police will jointly identify suitable protection measures.

Under the contract, the LEFÖ-IBF reports back to the ministries on progress made in July and provides a final annual report in January of the following year.

2.4.3.4 Other forms of cooperation

The LEFÖ-IBF holds several meetings per year with different criminal police units and the Immigration Police to discuss cooperation on the basis of specific cases and to inform police on the services it offers.

Through the observation of court procedures and by accompanying women to interrogations the LEFÖ-IBF has established relations with judges and investigative judges. Occasionally, the LEFÖ-IBF is contacted by judges searching for witnesses within Austria and abroad. The LEFÖ-IBF through NGOs in other countries may be able to provide the necessary information. In June 2003, LEFÖ-IBF participated in a training seminar for judges and prosecutors on the question of trafficking in human beings.

¹² See LEFÖ-IBF 2003: 3.

The LEFÖ-IBF cooperates with a range of other institutions, including social welfare and health offices, among other things, to facilitate medical examinations of women and access to social welfare assistance, and to employment services.

In terms of international cooperation, the LEFÖ-IBF cooperates with the International Organisation for Migration, the Organization for Security and Cooperation in Europe, the Stability Pact Task Force on Trafficking and other relevant organisations as well as NGOs abroad. In 2002 and 2003, this included the training of an NGO in Belgrade.

2.5 EFFECTIVENESS OF COOPERATION

On the one hand, the framework for cooperation against trafficking in human beings in Austria appears to be rather weak:

- A comprehensive anti-trafficking policy which would reflect a common understanding and could serve as a basis for interagency cooperation has not been elaborated.
- The scope of the criminal legislation is limited and not in line with the Palermo Protocol.
- An institutional mechanism to facilitate inter-agency cooperation and coordination is not in place.

On the other hand, for a number of years Austria has pursued a policy aimed at preventing crime and providing protection and assistance to victims. Under this policy, cooperation between law enforcement, criminal justice, social welfare institutions and NGOs has been actively promoted. This approach has also been extended to women who are victims of trafficking.

Within this context, the victim-centred cooperation between the police and other public institutions with the Intervention Centre for Victims of Trafficking in Women (LEFÖ-IBF) can serve as good practice which should be useful for other countries – or regions within Austria. This cooperation is based not only on a legislative but also a contractual framework, it involves funding and provides for a clear separation of roles.

In general terms, both law enforcement authorities and the LEFÖ-IBF consider their cooperation positive and constructive, in that it helps meet the dual objective of combating trafficking in human beings and protecting and assisting victims of trafficking.

For the LEFÖ-IBF, cooperation continues to improve in that temporary residence permits for victims are granted more readily and in a less bureaucratic manner and that victims are thus able to receive social welfare benefits. In some cases in 2002, women were granted compensation payments by courts following convictions of traffickers under article 217 Criminal Code.¹³

The witness protection programme of the Federal Criminal Police has not been of relevance with regard to trafficking in human beings, and victim-witnesses of trafficking have not been included in this programme to date. On the other hand, the Austrian legislation allows for a range of procedural measures to protect witnesses, including victim-witnesses of trafficking.

¹³ Actual payment, however, appears still to be outstanding.

Court procedures show that in Austria, as in other countries, convictions of traffickers are based on the testimony of victim-witnesses. This puts victim-witnesses under considerable pressure. From the point of view of the LEFÖ-IBF¹⁴, victims and victim-witnesses are at risk of being instrumentalised for the criminal procedure while at the same time their status remains uncertain:

- The granting of temporary residence for humanitarian reasons (Article 10 (4) Immigration Law) is a discretionary provision. This means that foreign victims who lay charges against traffickers or who come forward to testify as witnesses have no certainty that they will not be deported immediately.
- Even for women who have received temporary residence status, the duration is not clearly defined, which makes it impossible for women concerned and institutions like the LEFÖ-IBF to plan ahead.
- At the first interrogation by the police, women have to state whether they consider themselves victims of trafficking and whether they are ready to cooperate as witnesses. The results of this interrogation determine the further course of action in terms of deportation or referral to the LEFÖ-IBF. According to the LEFÖ-IBF, a stabilisation phase would be required before traumatised women are capable to make an informed decision on cooperation with the criminal justice process.

There seems to be agreement that the criminal legislation would need to be improved to address the problem of trafficking in all its aspects and to bring it in line with international standards. Amendments to the Criminal Code have been drafted and are now under discussions in Austria.

Considering the potentially large number of victims of trafficking in Austria, and – following the amendment of the Criminal Code – additional legal possibilities to prevent and control trafficking in human beings, it would seem that the capacities to assist and protect victims and witnesses of trafficking would need to be expanded. With the LEFÖ-IBF there is at present only one specialised centre, operating primarily in Vienna. Thus, the experience of the LEFÖ-IBF may need to be replicated in other cities.

¹⁴ See LEFÖ-IBF 2003:53.

3 Belgium

3.1 NATURE AND EXTENT OF THE TRAFFICKING PROBLEM

Belgium is a destination and transit country for trafficked persons primarily from sub-Saharan Africa (especially Nigeria), central and Eastern Europe (especially Albania) and Asia (especially China). An analysis of data on victims assisted by the three main victims support centres shows that out of 230 victims, 70% originated from seven countries: 34 victims from China, 32 Nigeria, 25 Albania, 25 Moldova, 18 Ecuador, 15 Russia and 10 Ukraine.¹⁵ The majority of victims (57%) has been exploited sexually, others in economic sectors such as agriculture, textile and construction, domestic work or sports.¹⁶

Nigerian and Albanian victims are usually young women, between the age of 21 and 30, destined for prostitution in Belgium's largest cities, or in transit to other EU countries for the same purpose. Chinese victims are often young men destined for manual labour in restaurants and sweatshops. Young African male victims – football players are usually destined for playing in Belgium and clubs in other European Union countries.

Police officers suggest a strong involvement of criminal organisations in the trafficking in human beings in Belgium. It would in particular seem that Albanian criminal organisations are expanding their control of the prostitution market, not only of Albania women but also of victims from other central and eastern European countries.¹⁷ Reportedly, the use of violence and threats of violence against victims or their families are increasingly used as tools to enforce compliance.

The appearance of new criminal groups or changes in the market is reflected in the sudden influx of victims of the same nationality in a given area.

The reported links between trafficking in human beings and organised crime is not necessarily corroborated by convictions. To a large extent, prosecutors and judges rely on the testimony provided by victims. These, however, may only know the lower levels of criminal organisations, but may not provide the evidence required to dismantle criminal structures. Moreover, since investigations into transnational criminal organisations require long-term efforts with uncertain chances of success, criminal justice agencies pursue more economical approaches by focusing investigations and prosecutions on individual criminals or local networks of criminals.

¹⁵ Centre pour l'égalité des chances et la lutte contre le racisme [Belgium] 2001: 58.

¹⁶ Ibid.

¹⁷ Ibid.

3.2 ANTI-TRAFFICKING POLICIES AND LEGISLATION

Belgium was the first country in Europe to tackle trafficking in human beings as an issue separate from illegal immigration or the smuggling of people. Moreover, Belgium recognised at an early stage the necessity of protecting victims and encouraging their cooperation against traffickers.

Legislative developments over the past ten years are a reflection of this approach. They are moreover an indication of a culture of cooperation against trafficking which has evolved at all levels.

A comprehensive policy against trafficking in human beings was initiated by a report of a Parliamentary Committee in 1994.

In the same year, the Belgian Government issued the 'Ministerial circular concerning the granting of residence permits and work permits (work cards) to foreigners who are victims of trafficking in human beings'.¹⁸ This circular appointed three non-governmental organisations as specialised service providers. These NGOs were authorised to issue a certificate proving that counselling is being provided to a victim of trafficking. The certificate serves as a basis for the 'stabilisation phase' of 45 days after which the victim in principle would have to leave Belgium. If within these 45 days the victim files a complaint or statement with the police or public prosecutor against the trafficker, a declaration of arrival (valid for three months) is granted. Persons, who are in possession of a declaration of arrival, may be employed on a temporary basis. When the public prosecutor notifies that criminal proceedings are launched following the complaint or declaration, a residence permit with a duration of more than 3 months ('temporary residence', usually for 6 months) will be delivered. In case of extension of the permit, a residence permit with duration of a further 6 months will generally be granted. When the accused has been summoned to appear before the criminal court and when the complaint or declaration of the victim appears to be of significant importance to the criminal procedure, the victim may submit a request for a residence permit of undetermined duration.

In 1995, the Belgian Parliament passed a new 'Law on the suppression of trafficking of human beings and child pornography'¹⁹, which amended the Criminal Code as well as the Immigration Law. The law added a new Article 77bis to the Immigration Law in which trafficking became a specific offence punishable with a sentence from 1 to 5 years imprisonment and a fine. The same law also replaced the existing Article 380bis of the Criminal Code. The new text of the Article²⁰ provides very severe sentences. It is important to note that the provision

¹⁸ Belgian Statute-Book, 7 July 1994

¹⁹ Belgian Statute- Book, 25 April 1995

²⁰ §1. A punishment of 1 to 5 years imprisonment and a fine of 500 – 25 000 Francs shall be imposed on:

1. anyone who, to gratify the passions of another, shall have recruited, enticed, corrupted or held an adult for the purposes of sexual immorality or prostitution, even with the consent of that person (...);
2. anyone who shall have kept an establishment for sexual immorality or prostitution;
3. anyone who shall have sold, hired or made available rooms or any other premises for the purpose of prostitution with the aim of an unlawful profit;
4. anyone, who shall have, by whatever means, exploited the sexual immorality or prostitution of another.(...)

§3. Sentences of 10 to 15 years penal servitude and a fine of 500 – 50 000 Francs shall be imposed for the offences referred to in &1, insofar as their perpetrators:

1. makes direct or indirect use of fraudulent practises, violence threats or any form of coercion;

'particularly vulnerable position' is interpreted rather broadly and that, as a consequence thereof, a foreigner's illegal immigration status is proof enough of abuse of the vulnerable position.

In 1997, the Belgium Government issued the 'Joint Directive for the Aliens Office, police services and social inspection services concerning assistance to victims of human trafficking'²¹, which guides the practical application of the circular of 1994. The circular of 1994 already granted rights to three non-governmental and non-profit making organisations providing support to victims, especially rights to request residence permits for victims of trafficking, to provide psychological and social counselling and offer legal aid to victims wishing to defend their interests in court proceedings. The Directive of 1997 provides for State subsidies for the three victims support centres.

Very important in the field of trafficking in human beings is also the 'Directive on the investigation and prosecution policy concerning trafficking in human beings and child pornography' (COL 12/99), issued by the Ministry of Justice in 1999 with the aim of establishing a uniform and coherent policy. The directive defines trafficking in human beings and child pornography, as well as the important role of 'Liaison magistrate on trafficking in human beings'.²²

In 2001, the Belgium Government adopted 'The federal government action plan for security and penal policy',²³ in which the phenomenon of trafficking in human beings is one of the key points. The plan recognises that the most appropriate way to combat trafficking in human beings cannot be limited to the enlargement of a one-sided repressive legislative means. A successful policy towards the combating of trafficking in human beings according to the action plan requires a multidisciplinary approach, the so-called '4 pillar approach' comprising measures in the field of administrative law, social law, criminal policy and victim support.

The evolution of the legislation continues in order to bring Belgian legislation fully in line with the provisions of the Palermo Protocol as well as the Framework Decision of the European Union on trafficking in human beings.

2. or takes advantage of the particularly vulnerable position in which an individual is placed as a result of illegal or insecure administrative status, pregnancy, illness, infirmity or physical or mental disability.

²¹ Belgian Statute-Book, 21 February 1997. The circular was modified in 2003.

²² See chapter 3.4.1.1 below.

²³ Federal veiligheids- en detentieplan, URL: just.fgov.be/index_nl.htm

3.3 WITNESS PROTECTION MEASURES

Experience shows, that in Belgium as in other countries, court proceedings against traffickers depend to a large extent on the testimony of victims. The approach according to which victims are granted a stabilisation phase and are protected and supported through shelters has proven to be successful in that the number of victims cooperating with the criminal justice process is steadily growing.

In 2002, several laws were adopted providing for protection of victims at risk:

- Law of 8 April 2002 on anonymous witnesses
- Law of 7 July 2002 on rules on the protection of witnesses being threatened²⁴
- Law of 2 August 2002 on receiving declarations by means of audio-video equipment.

The witness protection law of 7 July 2002 covers persons who are objectively at risk for their declarations in a criminal matter. It does not cover witnesses in a broader sense – such as investigators or prosecutors who may also be at risk – and it does not extend to collaborators of justice, that is, witnesses who are themselves part of the crime on which they testify.

The law establishes a 'Commission for the protection of witnesses' chaired by the Federal Prosecutor as well as other senior prosecutors, police officials and representatives of the Ministries of Justice and Interior. This Commission is responsible for making decisions on the measures to be taken.

Within the General Directorate of the Judicial Police the Service for the Protection of Witnesses is responsible for the implementation of the measures.

Two types of measures are foreseen:

- 'Normal' measures such as protection of the personal data, confidential telephone number, preventive surveillance by the local police, relocation for a period of up to 45 days.
- 'Special' measures are provided for under exceptional circumstances and include long-term relocation or change of identity.

Witnesses may receive financial assistance. Measures may also cover their relatives.

Investigative judges or senior prosecutors can request the Chairman of the Commission to decide on protection measures and financial assistance. The Chairman then asks the Director General of the Judicial Police to draft an opinion – including an evaluation of risks – for decision by the Commission within one month. If necessary, the Chairman can in the meantime order 'normal' protection measures on a provisional basis.

If the Commission authorises protection measures, the witness signs an agreement that he/she will make statements as a witness whenever required and cooperate with the Protection of Witnesses.

So far, it seems that special measures under the law of July 2002 have not yet been applied in cases related to the trafficking in human beings.

²⁴ Belgium Statute-Book, 7 July 2002.

3.4 COOPERATION AGAINST TRAFFICKING

3.4.1 Criminal justice organisations

At the federal level, the Federal Police comprises six General Directorates, and at regional levels 196 police offices. The federal level includes the Central Service against trafficking in human beings with subordinated units in all regional offices. This Service functions as a clearing house with regard to trafficking and as an information and advisory body for all units, and it performs operational measures and coordinates the activities of all police services in the field of trafficking in human beings.

In 1996, the Council of General Public Prosecutors appointed 'Liaison magistrate on trafficking in human beings' in five general prosecution (Gent, Antwerp, Bruxelles, Mons and Liege) and 27 other prosecution offices. In 1999, these liaison magistrates were confirmed by COL 12/99 and tasked to further enhance cooperation and coordination among justice authorities as well as with other actors. This includes assuring information exchange among magistrates at the first instance level.. Higher instance liaison magistrates also serve as contact points for external actors in this field. Once every two months they organise a working meeting involving police forces, social inspection and labour inspection. Once a year, a meeting with specialised victim support services is held.

In 2002, the Office of the Belgian Federal Prosecutor was established with the following tasks: to institute appropriate criminal proceedings, to oversee, monitor and coordinate criminal proceedings, to facilitate international cooperation and to supervise the activities of the federal police. In furtherance of this, the office received national jurisdictions and competence. It is divided into two departments: the Department for International Affairs and the Department for Public Affairs. Trafficking in human beings is a priority. In the Department for Public Affairs three prosecutors deal exclusively with the problems of trafficking in human beings. The Federal Prosecution Office serves as the central point of contact for various judicial authorities and international institutions²⁵. The office can also authorise cross-border operations involving Belgium as a destination, source or transit country.

The Council of General Public Prosecutors has established an 'Expertise Network' for the exchange of knowledge and experience in the field of trafficking in human beings. Through the network legislation, judgments and different practical solutions on trafficking in human beings are made available to all members of the judiciary. From the second half of 2003 all information will also be available on the internet.

In order to ensure further integration of anti-trafficking measures under the '4 pillar approach', in May 2001 a Task Force on trafficking in human beings was established under the Federal Government Action Plan for Security and Security Policy. On a bi-monthly basis it brings together representatives of relevant governmental organisations and the Centre for Equal Opportunities and Combating Racism. It draws up guidelines for cooperation between relevant departments and services involved in anti-trafficking measures.

²⁵ Such as International Tribunals, European Judicial Network, Eurojust, Europol, OLAF or Interpol.

The Task Force in particular initiated the setting up of an 'Information and analysis centre concerning human trafficking' (IAM) to allow all parties and services to exchange permanently and in a structured manner depersonalised information on human trafficking and smuggling. The information to be gathered will take many forms: embassy reports, reports from immigration officials, reports from the NGOs active in the field or statistical data. The IAM assures information exchange through an Interdepartmental Cell which includes around 20 representatives of different institutions involved in the fight against trafficking in human beings

Within the Ministry of Justice, the Service for Criminal Policy is a department advising the Minister on crime policies. It also serves as an interlocutor for the Council of General Public Prosecutors, and thus coordinates the action between judicial actors and the Government. One of the units within the department is the 'Unit for trafficking in human beings and child pornography' with six employees. The unit maintains close contacts to the Task Force. Among other things, it drafts the annual report of the Government on trafficking in human beings to the Belgian parliament.

3.4.2 Anti-trafficking NGOs

As mentioned above, in 1997, through the 'Joint Directive for the Aliens Office, police services and social inspection services concerning assistance to victims of human trafficking'²⁶, three victim support centres managed by NGOs were officially recognised, namely Payoke in Antwerp, Pag-asa in Brussels and Sürya in Liege:

- Sürya has 44 beds for victims of trafficking in human beings, and ten employees.²⁷ Victims usually stay for six months. After this period the victims find their own accommodation. Yearly they meet 100 – 120 victims and 50 – 70 of them accept their programme. From the monthly financial assistance victims have to provide their own food and pay 6 EURO per day for accommodation in the support centre.
- Payoke was established in 1987 on private initiative and since 1990 offers help to victims of trafficking. Payoke staff can be reached 24 hours per day and provides services similar to Sürya.
- Pag-asa started in 1995 and has a shelter house outside of Brussels, where most victims stay for six months. They are guided and counselled and when ready they move to private accommodation. Pag-asa divides its assistance in three different sections²⁸ to avoid an overlap of interest or confusion of trust-relationship. It has contact with 20 lawyers specialised in aliens law to assist victims when needed.

All three NGOs receive public funding (around 124 000 EURO per year) and provide services to victims of trafficking in human beings, sexual exploitation and sexual violence. Victims who want to apply for assistance offered by the State must prove that they have contacted one of these three organisations. A victim support centre may also be a local social service which has signed a co-operation agreement with one of the three recognised NGOs.

²⁶ Belgian Statute-Book, 21 February 1997

²⁷ Educational experts, social workers, logistic personnel

²⁸ 1. Legal 2. Social 3. Shelter

The victim support centres have the right to request residence permits for victims of trafficking in human beings, to provide psychological and social counselling and offer legal aid to victims wishing to defend their interests in court.

The police or the social inspection service are instructed to establish contact between victims and the support centres, either by providing victims with information on the centres or by inviting representatives of the support centre to the police station provided that the victims agrees.

As soon as the support centres take on a victim, they are responsible for administrative follow-up with the Aliens Office. The police or social inspection service immediately contacts the Aliens' Office about any person residing illegally in Belgium, or whose residence status arouses suspicion and also inform the Aliens Office of the intervention of the victim support centre. If the support centre is not able to provide counselling, the police unit or social inspection service concerned must follow the Aliens Office's instructions.

Once the victim receives a certificate of arrival, the Aliens Office will inquire with the prosecutor on the action taken on the victim's complaint or statement and the expected timeframe for criminal procedures.

If the prosecution confirms that the case is a question of human trafficking and that the case is still in progress, the victim will receive a residence permit valid for longer than three months, which may be renewed until the legal proceedings come to an end. From the moment when a victim receives a temporary residence permit, she or he is entitled to social welfare benefits.²⁹

The basic rights of the victims in all cases are:

- Shelter/accommodation. The victim support centres are in contact with shelters where victims can be accommodated for the first three to six months. After that, victims usually find their own accommodation and are able to pay rent from the social allowance. According to the experience of the three NGOs so far no major security problems have been encountered at shelters.
- Counselling. The support centre takes on the counselling of the victim. From that moment the centre becomes responsible for administrative follow-up with the Aliens Office.
- Means of subsistence. From the time when a victim receives a temporary residence permit (after concluding the so called 'stabilisation phase'), she or he is entitled to social benefits from the Public Social Assistance Centre – CPAS or through a victim support centre.
- Medical care is provided through the shelter where the victim lives for the first period. The CPAS covers cost for urgent medical care. Once the victim is given a six months permit she or he can apply for Public Medical Care.
- Legal aid is organised by the victim support centres, which are in contact with the 'Centre for General Welfare' that provides subsidies for assistance of lawyers to the victims.
- Right to education – Victims can participate in general integration measures in Flanders together with some other categories of people (i.e. refugees). They

²⁹ Presently 582 EURO.

often take Dutch language classes since this facilitates their integration, enhances their chances to find employment and to have their status regularised at the end of criminal proceedings. There is no special public financing for education.

- Right to work. Temporary employment authorisation may be given to victims of trafficking in human beings. From the moment the victim is issued a three-months residence permit, the victim can apply for a work permit, usually assisted by the support centre.
- Future prospects of victims. Victims can live for several years in Belgium (while their trafficking case is pending) under insecure personal circumstances. The victim's residence status is directly dependent on the investigations of the police and public prosecutor. If the proceedings do not end with a conviction of a trafficker, this has a direct effect on the victim's existential situation. In this case, the victim protection centre can draw up a social-economic report on that person's situation and present it to the Ministry of the Interior for an individual decision. If the victim has followed integration programmes, speaks the language, found employment, she or he can be considered as an integrated foreigner and can get a residence permit valid for one year, automatically renewable three times. After three years the victim can apply for Belgian citizenship.

3.4.3 Others

Following the report of the Parliamentary Committee on trafficking in human beings in 1994, the Belgian senate installed a Sub-commission on trafficking in human beings and prostitution including all forms of exploitation.

In 1994, again following the report of the Parliamentary Committee, the Centre for Equal Opportunities and Combating Racism³⁰ was established as an independent public service, funded by the government. It has the mandate to combat all forms of xenophobia, to promote anti-racist policies, to observe migration policies and to investigate the situation on trafficking in human beings in and out of Belgium. Each year it issues an annual report on trafficking in human beings, thus keeping the issue on the political agenda. The Centre supports victims through the three NGOs and cooperates with other services on anti-trafficking issues.

The Aliens Office of the Ministry of the Interior is responsible for issuing temporary residence permits to trafficking victims during the period of investigation. Therefore it cooperates with the relevant police agencies, justice departments and specialised shelters in the protection and assistance to victims. This function is performed by the Victims Protection Unit.

Recently, the Belgian Minister of Foreign Affairs initiated a more integrated and pro-active approach through its embassies in vulnerable countries. Embassies should identify new trends and stimulate prevention and reintegration activities in the countries of origin. In order to achieve this the function of the so-called 'visa-agent' was established with the task to deal with sensitive cases, not only with regard to potential sexual exploitation but also to prevent trafficking related to sports.³¹ In fact, this visa-agent serves as an anti-trafficking liaison officer.

³⁰ <http://www.antiracisme.be/>

³¹ Mainly in football.

The Department of Social Inspection went through a major reorganisation in 1995, when its most important task became the targeted regular control of the use of foreign labour in general and in specific high-risk sectors.³² In order to obtain a better overview, in each judicial district an annual plan was drawn up of the sectors to be controlled and a protocol on cooperation between the Department and other services in the area of employment was concluded, allowing among others the Department to access different databases. The annual plan of the sectors is based on the cooperation and inputs by local actors involved in the control of trafficking in human beings, that is, in particular the police and the liaison magistrates. The most effective method of cooperation proved to be the multidisciplinary structure of on-site inspection teams.

3.5 EFFECTIVENESS OF COOPERATION

The Belgium response to trafficking in human beings has been developed over a period of some ten years and keeps on evolving further. The approach is marked by a culture of cooperation involving a range of institutions at different levels. Such cooperation against trafficking is facilitated through:

- Policies against trafficking in human beings based on the understanding that victims of trafficking require protection and assistance, and that measures against traffickers require the cooperation of victims.
- The adoption of legislation against trafficking, and of legislation facilitating the protection of victims and assistance.
- Institution building and specialisation at different levels. Some 20 institutions are directly involved in measures against trafficking.
- A clear role – defined in regulations – for the three NGOs in victim assistance and protection.
- A range of mechanisms to ensure cooperation at different levels and to collect and exchange information and expertise.

The approach can be considered effective in that it offers victims of trafficking an appropriate level of protection and assistance and in that it encourages victims to cooperate against traffickers. Victims seem to make use of the opportunities offered and cooperate with the criminal justice process. At the same time, there appear to be no cases so far where cooperating victims have been physically harmed.

It would seem that the advantages of this approach for victims and the criminal justice process outweigh possible risks, such as abuse of the system by illegal immigrants or opportunistic cooperation of witnesses in exchange for residence permits and social benefits.

A number of issues may nevertheless be raised:

- Although trafficking in human beings is considered an issue of transnational organised crime, according to information available, investigations and prosecutions focus on individual traffickers rather than criminal organisations. The impact of this approach on organised crime would thus require further analysis.

³² Exotic restaurants, cleaners, horticulture industry, garment workshops, prostitution,...

- Cooperation among all public institutions against trafficking is to be ensured by the Task Force established in 2001. The question arises on coordination, communication and jurisdiction in cases where several of the 32 liaison magistrates and perhaps even the federal prosecution office prosecute the same case.
- With the Joint Directive of 1997 defining the role of the NGOs in general terms, the NGOs have concluded more detailed cooperation agreements with some government institutions, in particular the social services. The question has been raised whether such agreements should not also be concluded with other public services in order to put cooperation on a stronger footing.
- The financing of NGOs appears to be a particular concern. It would seem that the annual procedure for the application of funding by the same three NGOs – which after all have been assigned responsibilities for victims protection and assistance through a public act – causes delays and uncertainties for several months in the beginning of each year, thus making the task of these NGOs more difficult .
- Considering the complexity of the anti-trafficking work, the number of institutions involved and a certain fluctuation of persons involved in this work, the suggestion has been made to carry out more joint training of representatives of different institutions. Such inter-agency training may provide a better understanding of each other's strengths, limitations, concerns and approaches and thus further improve cooperation against trafficking.

The Belgium approach as a whole – with its culture of cooperation and its policy framework and its legislative and institutional foundations – could be considered good practice. However, this approach has evolved over time within the specific context of Belgium and may therefore be difficult to replicate in other countries as such. At the same time, the solutions to specific problems found in Belgium – some of which have been mentioned in the present report – could certainly provide useful insights and encourage similar action in other countries.

4 Bulgaria

4.1 NATURE AND EXTENT OF THE TRAFFICKING PROBLEM

As in most countries, reliable data on trafficking in human beings in Bulgaria are not available. However, information gathered by the law enforcement Task Force against trafficking in human beings suggests a strong link between trafficking and organised crime. In 2002, the Task Force identified:

- 42 organised criminal groups involved in the trafficking of women for the purposes of sexual exploitation, 14 groups in illegal migration abroad, 5 groups hiring labour for abroad, and 2 involved in the forgery of documents
- 177 victims of which 71 were minors
- 270 traffickers.

Intelligence shows no pyramidal, hierarchical organisations, but cell-wise structures which are networking in a loose manner to exploit opportunities. These networks reach across international borders. Information provided by the Task Force to counterpart agencies in European Union countries in 2002 reportedly led to 69 investigations and the dismantlement of 24 criminal groups abroad.

Trafficking in human beings appears to be primarily a question of sexual exploitation and closely related to prostitution. NGOs working with victims of trafficking underline the link between prostitution and organised crime and point at the violence used in connection with prostitution.³³

Bulgaria is believed to be a country of origin and transit. Foreign victims are trafficked primarily across the north-eastern and south-eastern borders into Bulgaria and from there across the south-western borders to Greece. However, increasingly Bulgaria is also a country of final destination and of internal trafficking. The Task Force estimates the number of prostitutes in Bulgaria at 3500 to 4000, mostly from Bulgaria, but also from Ukraine, Moldova, Russia, Romania, Belarus and Georgia. Furthermore, about 300 Bulgarian prostitutes are believed to work in Germany, about 100 in Austria, 160 in France and 300 in Belgium.

4.2 ANTI-TRAFFICKING POLICIES AND LEGISLATION

4.2.1 Policies

In Bulgaria, trafficking in human beings as an issue of concern and requiring a response appeared in the late 1990s. The anti-trafficking effort was initially driven by NGOs but soon also taken up by law enforcement agencies. In 1999, the Ministry of Interior developed an Action Plan for the Prevention and Control of Trafficking in Women.

In May 2003, the Act on Combating Trafficking in Human Beings was adopted. This law brings Bulgarian legislation in line with the trafficking protocol of the Palermo convention. Among other things, the law provides for the creation of a National Commission which in turn is tasked to prepare an annual work programme. Thus, the law is to lead to the development of national policies against trafficking in human beings.

³³ Animus Association Foundation, p. 14.

4.2.2 Legislation

In October 2002, articles 159 a, b, and c were included in the Penal Code criminalizing human trafficking. To some extent, these provisions go beyond the minimum requirements of the Palermo Protocol, for example, in that the 'means' referred to in the Protocol's definition (force, deception, giving/receiving benefits etc.) are not necessarily required under article 159a (1), but if they are used this will lead to more severe penalties under 159a (2).

In May 2003, the National Assembly adopted the Combating Trafficking in Human Beings Act.³⁴ Article 1 defines the objectives of this ambitious law:

- (1) This Law shall provide for:
 1. The powers and objectives of the state authorities involved in combating trafficking in human beings, as well as the relations between them;
 2. The status and objectives of the shelters, centres and commissions established under this Act for protection and support of the victims of human trafficking;
 3. The measures to prevent and defy trafficking in human beings;
 4. The measures aimed at protecting and supporting the victims of human trafficking, especially women and children;
 5. Placing trafficking victims who collaborate with the investigation under special protection.
- (2) This Act is intended to ensure co-operation and co-ordination between the bodies of state and the municipalities, as well as between them and the non-governmental organisations (NGOs), with a view to preventing and defying trafficking in human beings, and developing the national policy in that area.

4.3 WITNESS PROTECTION MEASURES

With regard to the protection of witnesses in general, in 1997 an article was inserted into the Criminal Procedure Code (article 97a CPC, amended 1999). Under this article, the bodies of the pre-trial proceedings or the court shall take measures to protect a witness at risk as well as close relatives. Measures include maintaining confidentiality of the identity of the witness as well as physical protection.

Article 278(5) stipulates that witnesses protected under article 97a shall be interrogated in court in a way that their identity is not disclosed. The defendant or the defence can submit questions to the witness in writing and receive protocols of the interrogation.

While the provision on confidentiality are implemented in practice, measures to ensure physical protection have not yet been applied due to a lack of secondary legislation. According to information provided by the Ministry of Justice, a working group is due to be set up to fill this gap.

The anti-trafficking law of May 2003 foresees some specific measures to protect victims and victim-witnesses of trafficking. It obliges State bodies, centres and shelters to provide protection and support to victims of trafficking (article 15).

For victims of trafficking who are willing to cooperate with the investigation, the law furthermore provides for special protection status for the time of the criminal

³⁴ Published in the State Gazette no. 46/20 May 2003.

proceedings. These include long-term residence permits for foreigners in Bulgaria and an extension of the duration for accommodation in shelters (article 25). The decision to cooperate – in form of a declaration – has to be made victims within one month. Within three days of this decision, special protection status is to be granted by a prosecutor.

Protection under article 97a CPC would not block the granting of special protection status under the anti-trafficking law.

4.4 COOPERATION AGAINST TRAFFICKING

4.4.1 Task force within the NSBOP

In November 2001, the National Human Trafficking Task Force was set up to provide a unified and coordinated law enforcement response to the question of trafficking. It comprises – under the lead of the National Service for Combating Organised Crime (NSBOP) – the National Police Service, the National Border Service, the National Gendarmerie and the National Interpol Bureau. The Task Force is serviced by a section on trafficking in human beings within the NSBOP comprising eight staff. Its functions include the gathering and analysis of intelligence, coordination of police work as well as ensuring cooperation and information exchange with other authorities and NGOs. Furthermore, the Task Force is cooperating with counterpart organisations abroad.

In April 2002, regional Task Forces were created in the 28 regional directorates of the Ministry of Interior.

Currently, proposals are under discussion to expand the composition of the Task Force to include representatives from other institutions which are also members of the National Commission (see below).

Results include improved cooperation within police structures as well as improvement in international cooperation with EUROPOL, the Southeast European Cooperative Initiative, France, Germany and the Netherlands. Agreements with 28 countries have been concluded including specific reference to trafficking. 69 persons have been indicted in other countries based on information provided by Bulgaria. Bulgaria presently works on some 30 cases with Belgium and France. On 17 June 2003, a cooperation agreement was signed with EUROPOL and Bulgaria is now able to post a liaison officer in The Hague.

Law enforcement bodies underline the need for cooperation with NGOs who can provide direct support to victims. In their view, the capacities of NGOs to work directly with victims are limited to date since most NGOs focus on prevention and other types of support. A network of NGOs and shelters would be required, including separate shelters for juvenile victims.

Prosecutors report well-functioning cooperation with the NSBOB and the national investigation service in trafficking cases. When trafficking is investigated prosecutors and police specifically on indications for organised crime. The Office of the Prosecutor General maintains a database and monitors trafficking cases.

4.4.2 NGO involvement in the anti-trafficking effort

Some 15 NGOs are said to work in the anti-trafficking fields providing different types of support. Examples are:

- Nadja Centre Foundation. This centre was established in 1996 as part of the first Bulgarian Programme against Violence against Women. It is an independent NGO providing medical, psychological, psychiatric and social assistance, legal advice as well as temporary shelter. The shelter is the first of its kind in Bulgaria. It was opened in 1997 with a capacity to give refuge to 18 women and children at a time. Primary beneficiaries are female victims of violence as well as of trafficking. Networking and cooperation with other partners is part of the declared philosophy of the Nadja Centre. Partners include the police, prosecutors, courts, health and social services, the Ministry of Labour and Social Policy, Ministry of Justice, Ministry of Interior, Academy of the Ministry of Interior, State Agency for Child Protection, Bulgarian Red Cross, International organisations and other NGOs. Iskar Municipality (Sofia) has provided the premises which now houses the shelter. It cooperates with IOM (Bulgaria) on trafficking in human beings. It has received support from the Dutch NGO 'Novib', and it has concluded cooperation agreements with public institutions (see below). The Nadja Centre Foundation also participated in the working group which drafted the new anti-trafficking law of May 2003.
- Animus. The Animus Association Foundation was created in 1994 as a women's NGO. The main focus of its work is on domestic violence but the share of activities related to trafficking in human beings is increasing. Since 1998 is the Bulgarian partner in the international 'La Strada' programme for the prevention of trafficking in women in central and eastern Europe involving nine countries. The Animus Foundation maintains activities in three fields: (1) rehabilitation centre for women, adolescents and children survivors of violence; (2) Work in the community: lobbying, prevention and establishing a network of partners and like-minded individuals; (3) training and dissemination of good practice through a training centre. The Foundation cooperates with a range of national and international partners. It has concluded cooperation agreements with public institutions and has been a member of the working group elaborating the anti-trafficking law.³⁵
- Gender Research Foundation. The primary aim of this NGO is to promote a gender-balanced society in Bulgaria. It consists of lawyers, researchers and women's rights activists. It's research work has focused on questions of violence against women, social and economic rights of women and advocacy of women's political representation. It cooperates with other NGOs in Bulgaria and it part of international human rights and women's networks. Recently, the Gender Research Foundation also started to address the issue of trafficking in human beings and, like the above NGOs, participated in the drafting of the anti-trafficking law.

The cooperation of NGOs in the preparation of the anti-trafficking law can be regarded as good practice ensuring that the practical experience of NGOs is reflected in the law, and enhancing ownership in view of the implementation of the law.

³⁵ See also www.animusassociation.org

Most NGOs are active in the field of prevention. Their capacities to provide direct protection and shelter to victims are limited. In view of the implementation of the new anti-trafficking law, the capacities of the NGOs in this respect would need to be expanded. NGO shelters may receive funding under this law.

With regard to Government funding of other types of support provided by NGOs – such as counselling and legal advice – reference was made to the EU Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings. Work on the implementation of this framework decision in Bulgaria will start in the very near future. This would then include provisions on the involvement of victims support services and organisations, including their funding from State budgets.

4.4.3 Cooperation agreements

NGOs and governmental institutions have been cooperating with each other for a number of years. To some extent, cooperation has been based on written agreements. The Nadja Centre, for example, has signed three such agreements:

- On 15 September 1999, the National Directorate of the Police and the Nadja Centre agreed to cooperate against violence against women and children, to develop a concept against violence through training and awareness creation, and to carry out activities complementing each other's work.
- On 19 March 2002, the Nadja Centre and the Border Police concluded an agreement aimed at preventing trafficking in human beings for sexual exploitation and protecting victims, covering the following:
 - Development of programmes for joint training on prevention of trafficking and protection of victims. The Nadja Centre is to train officials of border crossing points to enable them to identify victims, provide help and refer them to specialised institutions. It will also train them in preventive measures. At the training centre of the Border Police, the Nadja Centre will develop specific training modules related to trafficking in human beings.
 - The Nadja Centre will ensure that the police has access to documentation and information of the Nadja Centre. Telephone numbers of contact points of the Nadja Centre will be disseminated at border crossing points in order to facilitate direct cooperation.
 - The rules and principles on the treatment of victims will also be disseminated among the border police.
 - The Nadja Centre and the border police will engage in experience exchange, including information on trafficking channels.
 - The Border Police will inform the Nadja Centre on the results of measures taken.
 - The Border Police and the Nadja Centre will hold joint seminars.
 - The Nadja Centre will cooperate in the establishment of a network of female officers among the Border Police.
 - The Border Police and Nadja Centre will create working groups for specific cases of trafficking.
 - They will establish direct contact points for cooperation at the Nadja Centre and the Border Police, specifically at the relevant division on trafficking in human beings.
 - With regard to specific cases of trafficking, both parties agree to maintain confidentiality in order to protect the identity of victims, they will cooperate to ensure the protection of victims, and they will cooperate to find individual solutions to ensure the rights and interests

of victims in view of their physical and psychological needs, and facilitate their reintegration.

- On 29 November 2002, the Nadja Centre agreed with the Police Academy that:
 - they will cooperate against violence against women and children, and for the prevention and combating of trafficking in human beings
 - the Nadja Centre will provide trainers on domestic violence, sexual violence and violence against children
 - the Nadja Centre will train interns of the Police Academy at the Nadja Centre
 - they will develop common training projects.

4.4.4 Cooperation mechanisms foreseen under the anti-trafficking law of May 2003

The law foresees the establishment of a National Commission for Combating Trafficking in Human Beings at the Council of Ministers which is to be chaired by the Deputy Prime Minister. The multi-agency approach of this Commission is based on the experience of the National Commission on Juvenile Crime since the late 1950s.

It is to be composed of deputy ministers and deputy chairpersons of different ministries and Government bodies, as well as a Deputy President of the Supreme Court of Cassation, a Deputy Prosecutor General and a Deputy Director of the National Investigation Service. The meetings of the National Commission "may be attended" by anti-trafficking NGOs and international organisations.

With regard to this latter issue, the intention is to allow for participation of all NGOs which provide services to victims of trafficking. However, the question of the right of NGOs to vote will need to be resolved when the rules of procedure for the National Commission are elaborated.

The National Commission is to be assisted by a secretariat.

As trafficking in human beings occurs not only in Sofia but also in other areas, in particular in certain cities, the Black Sea coast and border regions, Local Commissions for Combating Trafficking in Human Beings are to be created in a number of municipalities. These local Commissions shall, among others, include NGOs as well as professional experts (teachers, lawyers, psychologists etc.).

The National Commission is tasked to organise and coordinate the work of all relevant institutions, develop an annual work programme against trafficking in human beings, contribute to international cooperation, develop training programmes, carry out awareness campaigns, and manage and supervise the work of Local Commissions.

It shall furthermore register individuals and NGOs providing shelter to victims of trafficking. In fact, the law foresees two types of shelters for temporary housing of victims, namely, shelters set up by the National Commission and shelters set up by individuals and non-profit legal entities. Terms and conditions for the establishment of shelters will require a separate regulation.³⁶

³⁶ Apparently, while shelters need to be registered with and will be monitored by the National Commission, they will not require licenses.

From January 2004, the National Commission will receive a central budget from which shelters, centres and commissions will be funded. NGOs will thus be able to apply for funding of shelters from this budget.

4.5 EFFECTIVENESS OF COOPERATION

In terms of trafficking in human beings, Bulgaria is an important country of origin, transit and destination. Recent years have seen an increasing recognition on the part of public authorities as well as civil society organisations that a comprehensive effort against trafficking is required. The anti-trafficking law of May 2003 is a major step ahead.

The conditions for a cooperative approach against trafficking would seem rather favourable:

- A number of NGOs is involved in the anti-trafficking effort and has developed subject-matter expertise.
- Some public institutions, including law enforcement bodies, have also been active in this field.
- There is past experience in multi-agency approaches, as well as experience in cooperation and the conclusion of cooperation agreements between law enforcement bodies and NGOs.
- The preparation process of this law benefited from the cooperation and contributions from a number of stakeholders.
- Cooperation and coordination is a primary objective of the law, which foresees specific provisions and institutional mechanisms in this respect.

The cooperative effort in the preparation of the law and the text of the law with its provisions on cooperation can be considered good practice which may inspire other countries.

Nevertheless, it would need to be emphasised that the law is new and has not yet been implemented. It is therefore not possible at this stage to assess its effectiveness.

Secondary legislation will need to be drafted, resources need to be made available and the capacities of shelters and NGOs as well as of other bodies need to be strengthened.

Of critical importance will be the extent to which the protection of and assistance to victims can be ensured so that they are ready to cooperate with the criminal justice process.

Reports from NGOs working in this field, but also from law enforcement and criminal justice bodies, including judges, suggest, that presently victims of trafficking are reluctant to cooperate with the criminal justice system as witnesses. While they may cooperate in the pre-trial stages with the police and investigation services, they are rarely ready to give testimony in court. Reasons appear to be fear for their and their families' security as well as distrust in the criminal justice system.

The measures to support and protect victims, including the special protection status, foreseen under the new anti-trafficking law may enhance the willingness of victims to cooperate as witnesses. However, this will to a large extent depend on:

- development of mutual trust and confidence between victims, NGOs and criminal justice institutions³⁷.
- increased confidence in the criminal justice system through the investigation, prosecution and conviction of traffickers³⁸.
- the capacity of police and criminal justice bodies to guarantee protection. In this respect steps to ensure the application of article 97a of the Criminal Procedure Code would seem important.

In view of these considerations, the intention to maintain the special protection status – granted to victims upon a declaration of cooperation – even if this declaration is subsequently not followed by actual cooperation, would seem to be a pragmatic solution.

³⁷ Including in particular measures against corruption within the criminal justice system (see PACO report on corruption and trafficking (Council of Europe 2002)).

³⁸ Apparently there has only been one conviction for trafficking since trafficking in human beings was criminalised in October 2002.

5 Conclusions

The present study focuses on the cooperation between criminal justice (including police) and other institutions (in particular NGOs as service providers). Such cooperation pursues a dual objective, namely:

- Assisting and protecting victims of trafficking.
- Facilitating the cooperation of victims as witnesses with the criminal justice process.

This topic has been selected against the background of increasing concern about trafficking in human beings in Europe, and initiatives at global³⁹ and European⁴⁰ levels. The PC-S-CO visits to the three countries in June 2003 – namely Austria, Belgium and Bulgaria – clearly showed that this is not a peripheral question or merely theoretical concept but a priority issue as reflected in anti-trafficking strategies, legislative developments and practical measures. In fact, all three countries have adopted, what in this study is called 'cooperative approaches':

- In Austria, this is reflected in the cooperation between LEFÖ-IBF and the police and other public institutions.
- in Belgium a comprehensive cooperative approach against trafficking has been developed and applied for some ten years.
- in Bulgaria, a new law was adopted in May 2003 containing a range of measures to ensure cooperation.

Information received from the three countries suggest, that such cooperative approaches are or can successfully meet the dual objective mentioned above. In all three countries the contribution of NGOs has been essential in the shaping of these approaches and their practical implementation.

The information on three countries which the present report provides may inspire similar action in other countries.

In more general terms, the following conclusions can be drawn:

- Measures against trafficking in human beings require cooperation not only among criminal justice bodies, but also with other public institutions and in particular NGOs.
- Such a cooperative approach can provide a sufficient level of assistance and protection of victims, subject of course to an appropriate legal framework and adequate funding.
- In contrast, regular police witness protection programmes do not seem of much relevance (at least in the three countries visited). Such programmes do not appear to be equipped to address the specific needs of victims of trafficking. However, procedural witness protection measures also benefit victim-witnesses of trafficking.

³⁹ United Nations Convention on Transnational Organized Crime and its protocols ('Palermo Protocol').

⁴⁰ Including in particular the decision by the Council of Europe to elaborate a Convention against trafficking in human beings.

- The cooperation of victims as witnesses is said to be crucial for the criminal justice process. Police, prosecutors and judges suggest that if victims cooperate as witnesses they can obtain convictions; otherwise, procedures are unlikely to succeed. The cooperative approach described in this report seems to be successful in ensuring such cooperation by victims. A major precondition in this context appear to clear regulations regarding the residence status of cooperating victim-witnesses.
- From the perspective of police officers, trafficking in human beings is closely related to organised crime. At the same time there are few investigations and prosecutions in connection with trafficking aimed at criminal organisations. Some argue that the evidence provided by the police and the testimony of victim-witnesses are insufficient. Others suggest that it is rather a question of the 'economics' of the criminal justice procedure.⁴¹ Whatever the reasons, it would seem that while the cooperative approach is successful in protecting victims and ensuring their cooperation against individual traffickers, either the opportunities it offers have not been fully exploited or other strategies would have to be pursued in order to dismantle transnational trafficking networks and organisations.

⁴¹ As stated by one judge: "If a trafficker can be convicted based on the testimony of a victim, what is the point of engaging in long-term investigations against organised crime, possibly involving difficult, costly and time-consuming international cooperation?"

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