

HUMAN TRAFFICKING - CRIME AGAINST THE PERSONALITY

Abstract: In recent decades trafficking in human beings is becoming increasingly threatening worldwide. Globalization and free trade, as major factors, opens the roads for all kinds of illegal trafficking: weapons, drugs and people. Trafficking in human beings can be defined as a modern form of slavery. Worldwide, trafficking can be considered as a gross violation of human rights and the misuse of human dignity. As a form of organized crime, it attacks the fundamental principles of the legal order and democratic standards of society.

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Introduction

In recent decades, human trafficking acquired alarming proportions worldwide. Most of the experts dealing with this issue define it as a modern form of slavery. The social and criminal phenomenon "human trafficking" is a problem with multiple dimensions. This is a crime against individuals aimed at exploitation of the victims. It is associated with cruelty and violence exercised by people on people, with severe violation of basic human rights, as is the right of life; the right of dignity and safety; the right of just and favorable conditions of work; the right of access to health care and equality [6].

The negative effects of human trafficking extends far beyond individual victims - ranging from medical aspects of human trafficking [2, 3, 4] it comes to increased crime, which inevitably affects the whole society. This type of crime threatens the safety and security of almost all countries in the world, as each of them, to a greater or lesser extent, is affected by trafficking - as a country of origin, transit or destination. So the answer against it must be global.

This report will reveal the essential features of human trafficking as a complex cross-border criminal activity which can serve as a basis for development and implementation of mitigation measures and more effective counteraction.

Exposition

Human trafficking in the international legal sphere began to be considered as a separate offense around the year 2000. It is recognized as a problem not only to individual countries but also as transnational crime affecting at least two countries in every single case. With the adoption in 2001 and the entry into force in 2003 of the Protocol for Preventing, Suppressing and Punishing of Human Trafficking, especially of women and children, supplementing the UN Convention against Transnational Organized Crime (Palermo Protocol), was defined human trafficking, which countries that had ratified

the Protocol were obliged to adopt in their national laws. It is fully embraced and art. 4 of the Convention of the Council of Europe to fight human trafficking reads: "Human Trafficking" shall mean the recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability of certain persons or of the giving and receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, as a minimum, exploitation, prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs".

In this regard, in 2002 Bulgaria adopted a new Chapter IX "Human Trafficking" in the Criminal Code, criminalizing "human trafficking". In 2003 Human Trafficking Act was passed, which created the institutional framework for the development, implementation and monitoring of national policy and strategy to fight human trafficking.

Legal definition of "human trafficking" according to Bulgarian Penal Code (PC) [5] is given in Art. 159a, para. 1. "The person who gathers, transports, hides or admits individuals or groups of people to be used for sexual activities, forced labor, removal of organs or holding them in servitude regardless of their consent, shall be punished ..."

Under that provision, the trafficker can be punished even if they did not use special methods - coercion, deception, etc., which are listed in the next paragraph as special elements of the offense leading to a more severe punishment. According to Article 159, Paragraph 1, the trafficker would be held criminally liable even in cases where the victims were aware of the activities they would be involved, and given their consent - which often happens in practice.

To determine whether a person is a victim of trafficking should exist simultaneously the three main elements of the crime:

1. Activities – recruitment, transportation, transfer, harboring or receipt of persons;
2. Means – coercion, fraud, threat, use of force or power, abduction, deception, abuse of dependence, etc.
3. Purpose related to exploitation – prostitution or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. Consent is not valid if used coercion or fraud.

In cases with children it is not necessary to be present any element of coercion. It is not necessary border crossing to qualify the crime as trafficking. Traffic covers all the objectives that may be trafficked people for - labor and sexual exploitation, pickpocketing and begging, organ harvesting, selling babies, etc.

Another legal definition of "human trafficking" is given in the additional provision of the Law on Combating Trafficking of Human Beings (State Gazette, issue 46 / 05.20.2003, amended issue 74 from 15.09.2009, effective from 15.09.2009). In the same additional provision of the Law on Combating Trafficking of Human Beings are also given and other legal definitions of "victim" ("any person who has been the subject of human trafficking"); of "risk group" ("group of individuals who because of their age, sex, social status or location of the area in which they live, are potential victims"); of "risk area" ("area in which are concentrated groups at risk").

Reasons for human trafficking in Bulgaria

The evolution of the crime of human trafficking in Bulgaria conditionally can be distinguished in several time phases [7]:

- Initial Phase: first half of the 90s, during which were established first contacts of Bulgarians with Western Europe, but during that time Bulgarians did not actively participate in the exploitation;
- Episodic traffic : from the mid90s until the beginning of the XXI century, when isolated cases of Bulgarian citizens involved in human trafficking were observed, while the methods used at that time were extremely violent (recruitment through abduction and beatings);
- Massive trafficking: observed since the beginning of the XXI century, the most intense noted in 2003, when visas for Bulgarians to travel to Schengen countries drop out. Data collected for this

period [8], nevertheless, is not reliable due to the lack of a uniform and reliable system for collection. In this period Bulgarian traffickers create connections and networks in Western Europe, and the methods used are no longer violent but of "business relations" with the victims;

- Consolidation: after 2007, which coincided with the entry of Bulgaria into the EU. Bulgarian organized crime groups occupied a growing "market share" in Europe and displaced from the market "brutal Albanian groups that were in control" [1].

National Commission for Combating Human Trafficking divides the causes for Bulgarian citizens to be trafficked into the following groups:

- Sociocultural - low level of literacy, breakdown of the system of moral values, racism and ethnic discrimination, media influence, including the Internet;
- Economic - poverty, rudimentary economy, unemployment;
- Psychological - a sense of helplessness and insecurity, previous experience with domestic and / or sexual violence, unrealistic life planning, unsatisfactory personal and social relationships, drug abuse, violence at school or general social violence (isolation, ignoring) and others;
- Geopolitical - labor mobility, refugee flows, international organized crime, geographical location.

Methods of carrying out human trafficking

These are the involvement of victims, transportation and exploitation.

Involvement of the victims is the first phase of the trafficking process, which is done by fraud or force. Deception may consist in false promises of marriage or the type and conditions of employment that the victim agrees. While if there is forced involvement, the victim cannot freely express their will. There are cases where schemes of traffic are applied to voluntarily arriving illegal immigrants who are vulnerable because of irregular status. Another mechanism for involvement in trafficking is the so called phenomenon of the second wave - already trafficked women returning to their homeland to recruit other girls. They are often threatened by their traffickers that if they fail to do this their relatives will be hurt.

Transportation is the second stage in the process of trafficking. The main objective is to make tracing the victim harder, to break their connections with family, friends and especially to meet market demand. The victims are usually directed to countries where there is high demand.

Exploitation is the last element of human trafficking. Human traffickers use a range of coercive measures to strengthen control over victims:

- Violence – traffickers use violence as the most effective mechanism to maintain control over the victim. Victims are often beaten, raped, imprisoned, left with no food, drugged and even killed in front of other victims. The aim is for victims to be placed in extreme conditions in order to exercise full control over them - both physical and mental. Another control mechanism for sexual exploitation is the threat of reporting to the victim's family that she deals with prostitution. The victim may be threatened and blackmailed by threats of violence against her family.

- Isolation – victims are placed in places and conditions that do not allow communication and implementation of any socializing. Victims are forbidden to communicate with other people and are closely monitored. This method enhances control over the victims and prevents their escape. Most of the trafficked victims usually live where they work.

- Financial dependency – one of the main tactics of traffickers is to restrict the chances of escape of their victims by depriving them of funds. The aim is for victims to work to redeem their freedom.

Difference to other similar criminal groups – trafficking people (smuggling)

Similar to the offense of "human trafficking" crime is Art. 280 of the Penal Code (effective from 08/08/1997) "Whoever guides through the country's border individuals or groups of people without permission from the respective authorities or with permission but not in designated areas, shall be punished with imprisonment of one to six years and a fine of five hundred to one thousand leva". No

doubt both crimes - smuggling and trafficking of persons - are forms of illegal migration and have similar components and features.

There are, however, several significant differences, the most important of which is that in human trafficking there is a special purpose of the trafficker - exploitation of the victim after crossing the border, whereas the connection traffickers - "victim" in smuggling ends with the transfer across the border and after payment by the "victim" for the "service" of the smuggler. Some other differences are:

- Human trafficking is a separate section in Chapter II "Crimes against the person" of the Criminal Code. At the same time art. 280 of the Penal Code is in Chapter VIII "Crimes against the activity of state bodies and public organizations," Section I "Crimes against the order of the state management." Internationally differences are fixed in separate documents too - while smuggling is regulated in the UN Protocol against the Smuggling of Migrants by Land, Water and Air, supplementing the UN Convention against organized crime, on human trafficking was signed a Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime;

- Human trafficking includes movement of persons within the country (internal trafficking), while a necessary element in smuggling is crossing the state border.

Conclusion

The conditions in Bulgaria in recent decades - economic, social, and political - create a favorable environment for the emergence and development of organized criminal networks, taking advantage of the aspirations of the people for a better life, and earn huge sums from their exploitation. From single cases of fraud Bulgarians working abroad, human trafficking has become a well-functioning international network, providing for its participants imposing economic power.

Human trafficking is a crime with multiple and diverse dimensions. Understanding that it is a complex and complicated phenomenon is the first step towards more effective counteraction.

References:

1. **A conversation with Ch.** Inspector Svetozar Georgiev, sector "Trafficking in persons" DG "Combating Organized Crime", MI, 2012, p13.
2. **Venelinova, R.** Medical aspects of human trafficking. Sofia, Center "Nadia", 2003, 108p.
3. **Popov, H.** Trafficking in women. Sofia, Publishing House "Lik", 2007, 368p.
4. **Petrova, D., Kojuharova, N.** Victims of human trafficking: Is identification possible? Trafficking in human beings. Questions and Answers. Sofia, Foundation "Animus", 2007, 45p.
5. **Penal Code Section IX Trafficking in Persons, art. 159a-d (New - SG. 92 from 2002).**
6. **Kojuharova, N.** Helping women survivors of trafficking. Trafficking in human beings. Questions and Answers. Sofia, Foundation "Animus", 40p.
7. **Petrunov, G.** The phenomenon of human trafficking in Bulgaria. Collection Due process for victims of trafficking, 2009, 216p.