

Combating the Trafficking in Human Beings

Policies of the Republic of Macedonia Reviewed

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Due to a growing demand, the market for prostitution of women is growing in Europe, North America and other parts of the world. While the question to why this demand is growing is the work for cultural analysts, the horrific outcomes of these pervasive trends are evident.
Millions of women worldwide are shipped from country to country to be 'employed' in the sex-industry, often unvolunteerly and under the threat of violence against themselves or against their relatives in the country of origin.

In the world wide web of human trafficking, Macedonia is a so-called 'transit country' and thus has to deal with the fact that woman are illegally brought in from other countries like Serbia and Bulgaria and are then transfered to countries like Greece and Albania to find their destination most often in Western Europe.

The purpose of this short report is to elaborate on the Macedonian legal and institutional set up and on the Macedonian National Strategy to cope with the trafficking in human beings. Furthermore, the report aims to make a comparison between the Macedonian initiatives to combat trafficking in human beings and the strategy for tackling the trafficking in human beings as laid out in the reports of the NATO.

Macedonia in the World Wide Web of Human Trafficking

As the situation regarding Human Trafficking on a global scale is worsening because more and more forms of human trafficking are developing, it is clear that the governments of all countries need to undertake appropriate and firm actions in order to contribute to joint efforts of suppressing this threat to the global security and humanity. The need for systematic and prompt action stems from the seriousness of the issue as also is reflected by the statistics on this field that show that the number of people in slavery in the world today is more than 27 million[1]. The trafficking in human beings, according to the same statistics, is the second largest criminal industry with an annual revenue of more than 10 billion U.S. dollar. Bearing in mind how lucrative the trafficking in human beings is for the criminals involved, it is evident that the task of coping with this threat would be both challenging and tough.

South Eastern Europe is one of the regions in the world where this issue has serious proportions in terms of source, transit and the destination of human trafficking. Therefore it is important for countries in this region to develop a sustainable strategy with the emphasis on cooperation between them in order to efficiently diminish trafficking in human beings in the region.

In the world wide web of human trafficking Macedonia is primarily a transit country, though, in a recent report by the United States State Department the country occurs in the list of destination countries, as well as a source country of victims of human trafficking.

[1] Free International 2009

In the Reports of the State Department, countries are rated by tiers in their effort to combat human trafficking. In the most recent report of the State Department Macedonia is rated in the Tier 1 group, meaning that the country complies with the act's minimum standards for the elimination of human trafficking.[2] In the other groups (Tier2, Tier2 watch list and Tier3) are the countries that respectively do not fully comply with the minimum standards but are working to fulfill this compliance or do not comply with the standards at all. The victims of human trafficking, mainly coming from Moldova, Romania, Ukraine, Bulgaria are trafficked through Macedonia, Serbia, Kosovo and Albania into western European countries. The Report on Human Rights of the State Department suggests that at any given time around 2400 to 2600 women are staying in Macedonia (mainly in the Western towns of Velesta, Tetovo and Gostivar) either waiting to be trafficked[3] in to Western European countries or continue to be exploited in various ways, most commonly sexually, in the local bars and brothels. The entrance points in Macedonia are identified on the Kosovo, Serbian and Bulgarian borders (Tetovo near Kosovo, Kumanovo near Serbia and Kriva Palanka, Strumica and Delcevo close to the Bulgarian border) while for exit are used Dojran and Gevgelija near to the border with Greece and Struga area to the Albanian border[4].

The Legal Framework for Combating Human Trafficking

The Government of Macedonia has a National Strategy to tackle human trafficking. The National Strategy aims to create an effective framework that will make Macedonian institutions more efficient in the combat against human trafficking. Such framework should be in line with the Constitution of the Republic of Macedonia, the Stabilization and Association Agreement with the EU, and the UN Convention Against Trans-national Crime. The National Strategy consists of several parts. First, the strategy clearly defines what human trafficking is. Furthermore, the strategy has the purpose to change the Criminal Code to accommodate courts more efficiently to prosecute cases that involve human trafficking. . And thirdly, it extends the jurisdiction of the law over the whole territory regarding the illegal trespasses of foreigners. Changes in the Criminal Law should enable special protection of witnesses. The strategy also calls for strengthening the enforcement of legislation dealing with foreigners in general. A sixth part calls for the intensification of the inspections of businesses. Yet other activities included in the National Strategy are the development of preemptive measures that will reduce the occurrence of human trafficking cases; help and support programs for the victims of human trafficking; programs for return and reintegration of the victims; international cooperation and coordination in law execution; education of staff; coordination between different institutions in implementing the program and programs that will impact the public opinion.

[2] State Department 2009a
[3] US State Department 2009b
[4] US State Department 2009b

Articles 418-a, 418-b, and 418-v of the Criminal Code define human trafficking as a crime and thus form the legal base for institutions to combat this kind of crime. These articles mention a wide range of activities that are considered as illegal and that are connected with human trafficking activities. Art.418-a of the law mentions 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 includes the prostitution of people or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs as criminal offenses that will be penalized with a minimum of four years of prison.[5]
Art.418-b of the law refers to similar conditions as described in 418-a, but this part applies to migrants. Art. 418-v defines the offenders and includes any person who is member of a criminal group or supported or assisted a criminal group. However, those members of a criminal group who will turn in the group before it commits any crime will be released from charges. The penalties for the offense of Article 418-a,b,v are severe and range from one up to ten years of imprisonment.
Article 418-a is the most crucial article in the Macedonian legislation system to combat human trafficking. The article has been adopted as a change to the existing Criminal Law and is in line with Article 3 of the the Palermo Protocols. The Palermo Protocols are two protocols adopted together with the UN Convention against Trans-national Crime in 2000.[6]

However in order to strenghten the legislation in the coming period the Ministry of Justice will send proposals for changes in the Criminal Code for review to the Parliament. A new section to article 418-a is proposed that refers to holding liable officials of the Customs, Ministry of Interior or other public institutions if the evidence proves that they were engaged in human trafficking activities. Changes in the length of the punishment are wished for: eight to fifteen years of imprisonment. Other changes refer to Article 418b that refers to smuggling of immigrants and regulates the liability of officials.[7]

The Ministry of Interior has adopted a 'prescription' to deal with foreigners that are victims of human trafficking based on the Law on Organization and Function of Public Institutions. The purpose of this prescription is to strengthen the institutional capacity of the police to cope with this problem. The Government has also issued Standard Operating Procedures to deal with the victims of human trafficking.

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[5] Article 418a, 418b, 418v of the Criminal Code of the Republic of Macedonia 2009
[6] According to the Annual National Program of the Republic of Macedonia for NATO membership, "the pre-ratification procedure, commenced in September 2007, for the ratification and implementation of the Convention on Action against Trafficking in Human Beings of the Council of Europe is underway." Government of the Republic of Macedonia.
Annual National Program of the Republic of Macedonia for NATO membership 2008-2009, 2009
[7] Branislav Zakev. Драконски казни за полицајци вмешани во трговија со луѓе (Draconian punishments for police officers iinvolved in human trafficking). Нова Македонија август 2009

The National Commission; Streamlining the Work of the Ministries

Human trafficking goes hand in hand with complex forms of organized crime. Therefore it is not a sufficient measure to prosecute only those who are directly involved with the crime. In well organized networks that involve many trans-national actors, often those who are captured are just a part of a much bigger chain of people that are involved in this kind of shady business.

Besides striving for justice for the victims of human trafficking, the government of Macedonia needs to provide medical care, re-integration programs, and social security, to the victims. Thus, the combat against human trafficking is cross institutional: it involves different institutions at different stages. All these institutions play important roles in the process of the prevention of human trafficking. Institutions should act in an integrated way to deal with this problem. Therefore, the institutional setup is important and should aim to provide the necessary integration.

In Macedonia, the Ministry of Interior controls the borders together with the Customs, but is also responsible for the application of Article 418a,b,v on the whole territory of Macedonia. The Ministry of Labor and Social Policy has the duty to perform regular and strict inspections of different businesses to ensure that nobody is exploited. In addition this Ministry should ensure programs that will help with the re-integration of victims. The Ministry of Justice prepares appropriate legislation and is responsible for the protection of witnesses and for the processing of cases. The Ministry of Education acts as an institution that spreads public awareness of this kind of crime and the Ministry of Health provides suitable health assistance. Often the civil sector takes an important role in the process of educating the public and acts as source of policy ideas. Because it often posts a challenge to deal with the bureaucracies of these ministries, and thus there would be the grave danger that tackling human trafficking remains ineffective, a special coordination body has been established: the National Commission. The commission acts as an umbrella that brings together different institutions that should ensure one integrated set of actions against acts that fall under human trafficking. The highest authority in the National Commission is the National Secretary that coordinates the work of the commission.

The National Commission and the Standard Operation Procedures; the Main Pillars of the Macedonian Strategy in Combating Human Trafficking

In most recent report of the U.S. State Department the name of Macedonia appeared in the TIER 1 group, only accompanied by Croatia from the countries of the region. Thus, according to this report, Macedonia has improved its performance of combating human trafficking. This is an acknowledgement for the success of Macedonia's strategy so far, as well as a

stimulus for the country to continue with the positive results and make improvements on it. Hence Macedonia can become a good example for the other countries in the region.

The National Strategy for combating human trafficking has been carried out by the National Commission formed by decision of the Government of the Republic of Macedonia (published in the Official Gazette No.: 18/20010). In accordance with the decision the National Commission has following competences[8]:

- To analyze the situation concerning human trafficking and illegal migration and to supervise actions to be taken
- To coordinate the activities of the competent institutions
- To cooperate with the international organizations and nongovernmental organizations involved in the process of problem solving in this area

The endeavors of the National Commission in combating human trafficking are based upon existing legislation as well as on the two most important documents that the commission has prepared and has adopted: the 'Standard Operative Procedures' and the 'Practicum for Combating Human Trafficking'.

Standard Operative Procedures is based upon several key documents, both domestic and international, which deal with the issue of human trafficking in various fields and on different levels, such as laws passed in national legislation, conventions, and handbooks issued by the OSCE and the International Organization for Migration.

SOP measures concern following areas[9]:

- Identification of victims of human trafficking
- Legal Status of the victims of human trafficking
- Returning of the victims of human trafficking to their country of origin
- Providing help to the victims of human trafficking before their return to their country of origin
- Providing help with the reintegration of victims after their return to their country of origin
- Prosecution process in which the victims are involved as a witnesses

As SOP is comprised of five parts: Identification and giving information; Initial help; Returning; Reintegration and Legal Process; in every part SOP provides useful information and answers the key questions:

- **Which** measures should be employed?
- **When** will the measures be employed?
- **Who** will be responsible for the described measures? and

[8] National Commission 2009a
[9] National Commission 2009b

- **How** will the described measures be employed? and How will the governmental institutions and organizations from the civil sector help in this employment[10]

The initiative for making the 'Practicum for Combating Human Trafficking' is an initiative of the International Organization for Migration, an institution which has substantial experience in combating human trafficking. The Practicum is seen as a practical handbook for the training of civil servants, judges and employees in the non-governmental sector, with a special emphasis of the human rights and status of the victim after their identification as a victim of human trafficking. The goal of the Practicum is increasing the level of professionalism and ethical conduct of the competent persons. Hereby the enforcement of the law is served and people are made more aware of what is a just treatment of victims of human trafficking[11]. As the Practicum is prepared in cooperation with the competent persons with substantial experience in this field, it will help those involved in combating human trafficking in dealing with the everyday challenges that they will be face with.

The strategic priorities of the National Commission for the coming year are as follows[12]:

1. Adoption of the National Action Plan for the period of 2009-2012 by the Government and its implementation
2. Continuous coordination in cooperation between all relevant institutions and organizations which combat human trafficking
3. Continuous training and development of the skills of the competent persons which work in this field
4. Intensified regional and international cooperation
5. Improving the conditions for more efficient detection and punishment of infringements of criminal acts related to human trafficking

The improvement of the National Strategy continued in 2009; according to the International Organization for Migration:

"the process of revision of the National Action Plan for Combating Trafficking in Human Beings and Illegal Migration (NAP), which was initiated in 2008, has continued in 2009, including revision and preparation of a new Strategy for the period 2009-2012."[13] *"The National Commission for Combating Trafficking in Persons and Illegal Migration undertook an intense process of working meetings and consultations with National and International stakeholders and finalized the draft of the NAP for the period 2009-2012 in April 2009."* [14]

[10] National Commission 2009b
[11] National Commission 2009c
[12] National Commission 2009d
[13] International Organization for Migration 2009
[14] Ibidem

The changes in the National Strategy should provide the government with an improved framework that will enable the institutions to deal with human trafficking and illegal migration in more efficient manner.
The country has made substantial progress in the field of institutional coordination and legislation adoption to deal with human trafficking but there is still a deficiency in the implementation of laws. Although the report of the State Department, classifies Macedonia in the Tier1 group, Macedonia needs to make more efforts in the application of the existing laws and procedures.

NATO Policy on Combating Trafficking in Human Beings

NATO's primary mission is not to combat human trafficking. Yet, because human trafficking undermines the basic human rights and has a big impact on the stability of a country, NATO has adopted a policy of zero-tolerance on human trafficking, which was endorsed at the Istanbul Summit in June 2004. Because of the fact that human trafficking is the second largest organized crime activity, it can be a factor for weakening and destabilizing the sometimes fragile stability in a country. Human Trafficking thus forms a contradicting force to the endeavors of NATO to assist governments in creating and maintaining a state in which the principles of rule of law and respect of human rights are guaranteed. Therefore, NATO takes the responsibility to contribute in the global war against human trafficking. In order to achieve the goals regarding the combat of human trafficking NATO emphasizes on the need of further deepening of the cooperation between NATO and other relevant institutions, such as, OSCE, IOM, UN and the NGO sector.

Macedonia works towards achieving the goals as set out by NATO policy. Macedonia's annual National Program for NATO Membership outlines the most important activities in the field of combating human trafficking in order to comply with NATO's recommendations. So far a considerable part of the documents recommended by NATO has been ratified and thus has become part of the Macedonian legislation. Some of the most important activities outlined in the National Program are[15]:

- New provisions introduced in the Criminal Code regarding human trafficking
- The adoption of the Standard Operative Procedures
- The establishment of databases on the perpetrators of human trafficking in the Ministry of Interior (Sector for trafficking in human beings and smuggling of migrants) and a database for the victims in the the Ministry of Labor and Social Policy (National Referral Mechanism)
- The improvement of the system for providing social help to the victims

[15] Government of the Republic of Macedonia 2009

Full implementation of NATO recommendations will have a double positive effect. On one hand, it will contribute to building a closer relationship between NATO and Macedonia, and on the other hand it is essential in the combat of human trafficking.

Policy Recommendations

Despite the positive results of implementing legislation and providing the right institutional set up for combating human trafficking, the number of cases of human trafficking that police has discovered in 2008, in comparison with the estimated number of victims of human trafficking in Macedonia, is modest. Also the number of accused people for human trafficking in Macedonia does not fit with the real number of persons involved in this form of organized crime. It remains of essential importants that a much bigger percentage of the offenders gets caught.

The fact that just a small number of offenders are getting caught is partially related with the complexity of the criminal act. Judges often choose to treat the victims of human trafficking as illegal migrants and therefore their traffickers do not get the right punishment or are not caught at all. In that sense, appropriate and additional training for judges to deal with this issue is required.

The trans-national dimension of the human trafficking requires full cooperation between countries in order to successfully combat this problem. According to the Report on human trafficking issued by the US State Department the only countries in the TIER 1 group are Macedonia and Croatia. In order to enhance the regional combat against human trafficking, the other countries in the region must increase their performance in this field by complying with the act's minimum standards for the combat and of trafficking, and thus make progress to the TIER 1 group. Therefore, Macedonia should actively be involved in the process of sharing its positive experience with the countries in the region. This could be done with government meetings and intensified cooperation between civil sectors from the region.

References:

Annual National Program of the Republic of Macedonia for NATO membership 2008-2009 (2009). [http://www.mfa.gov.mk//Upload%5CContentManagement%5CFiles%5CNATO-2009-final-za-pecat.pdf] August 2009

Article 418a, 418b, 418v of the Criminal Code of the Republic of Macedonia(2009) . *Criminal Code.* [http://www.nacionalnakomisija.gov.mk/?Zakoni] August 2009

Branislav Zakev (2009). *Драконски казни за полицајци вмешани во трговија со луѓе (Draconian punishments for police officers iinvolved in human trafficking)*. Нова Македонија август 2009 [http://www.novamakedonija.com.mk/NewsDetal.asp?vest=81891018481&id=12&setIzdanie=21766] August 2009

Free International (2009). [http://free-international.org/stats.htm] August 2009

International Organization for Migration (2009). *News release.* [http://www.iomskopje.org.mk/index.php?option=com_content&task=view&id=19&Itemid=60] August 2009

Government of the Republic of Macedonia (2009). *Annual National Program of the Republic of Macedonia for NATO membership 2008-2009*. [http://www.mfa.gov.mk//Upload%5CContentManagement%5CFiles%5CNATO-2009-final-za-pecat.pdf] August 2009

National Commission for Combat Against Human Trafficking and Ilegal Migration of the Republic of Macedonia (2009a). *Annual report of the National Commission for 2008.* Published 2009 [www.nacionalnakomisija.gov.mk] August 2009

National Commission for Combat Against Human Trafficking and Ilegal Migration (2009b). *Standard Operative Procedures*. [www.nacionalnakomisija.gov.mk] August 2009

National Commission for Combat Against Human Trafficking and Ilegal Migration (2009c). *Practicum*. [www.nacionalnakomisija.gov.mk] August 2009

National Commission for Combat Against Human Trafficking and Ilegal Migration (2009d). *Duties, responsibilities and authority of the Commission*. [http://www.nacionalnakomisija.gov.mk/] August 2009

US State Department (2009a). *Trafficking in Persons 2009 report*. [http://www.state.gov/g/tip/rls/tiprpt/2009/] August 2009

US State Department (2009b). *Human Rights Report*. [http://www.state.gov/g/drl/hr/] August 2009

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