

SERBIA

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SERBIA¹¹⁰**I. Introduction**

Serbia is located in SE Europe and borders Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, the Former Yugoslav Republic of Macedonia, Romania and Montenegro. Trafficking in human beings is a serious and complex problem in Serbia. It is difficult to delineate with accuracy its exact scope and characteristics due to the fact that it is only a very small number of victims that seek help from the police or other organizations specialising in victims' assistance. Since a unified system for monitoring and analysis does not exist, there are different numbers provided by a multitude of sources: governmental, non-governmental and international organizations. Additionally, the available data on trafficking concerns largely the trafficking of women, while data on children and men are sporadic and insufficient to provide any general conclusions.

Serbia is mainly a country of transit, but also a country of origin and temporary destination for victims of human trafficking, depending on whether the victims are women, men or children.

Regarding women victims, Serbia is a country of transit, origin and temporary or permanent destination, as well as a country with internal trafficking, mostly of Serbian women. Most women victims are foreign citizens and usually they come from Romania, Russia, the Ukraine, Moldova and Serbia. The most

¹¹⁰ When this research started, Serbia was one of the members of the State Union of Serbia and Montenegro (S&M). Provisions of the Constitutional Charter and the Charter on Human and Minority Rights and Civil Liberties (hereinafter, the HR Charter), which were adopted in 2003, applied in the Serbia and Montenegro State Union and provided a more comprehensive legal protection of human rights. However, the incompatibility of Serbia's and Montenegro's individual constitutions and laws with the S&M State Union's constitutional provisions (Constitutional Charter and HR Charter) continue to pose a major obstacle to the enjoyment of the rights guaranteed by the HR Charter. Although the HR Charter envisages its direct applicability, and thus partly addresses the above-mentioned incompatibility problem, the delays in the adoption of new Constitutions, especially in Serbia, have resulted in a slower and inefficient harmonisation of the member states' legislation with international and European standards. Currently, the Constitution, which was created and adopted during Milosevic's term, tailored to fit a totalitarian and dictatorial regime and not a democratic state, is still in force in Serbia. However, Serbia is in the process of drafting a new constitution that aspires to democratic standards and civil society principles. Hopefully, the new Constitution will provide the basis and mechanisms for full respect of human rights and freedoms.

common routes of women's trafficking start in countries of the former Soviet Union (the Ukraine and Moldova), lead across Romania, Bulgaria and occasionally Hungary and end up in S&M. Victims enter Serbia legally or illegally, either on foot or by various other means of transportation. Networks of trafficking extend, via Serbia, from north to south (to Kosovo and the Former Yugoslav Republic of Macedonia or to Montenegro and then to Italy or Albania), from east to west (to Republic Srpska and Croatia) or to the north (to Hungary). Belgrade is a common stop for victims of trafficking. Serbian women are victims both of internal and transnational trafficking, usually ending up in Bosnia, in the Former Yugoslav Republic of Macedonia and Italy. Notably, internal trafficking of women (both of Serbian and foreign nationals) is conducted through the same routes used for transnational trafficking. The main links in this chain are big cities, especially Belgrade and Novi Sad, as well as cities situated close to the borders, such as Novi Pazar that is considered a place of temporary, but also permanent destination, mostly for Serbian women.

Concerning men victims, Serbia is mostly a transit country for victims of human trafficking, although there are some indications that it is a country of origin as well. According to research conducted by the NGO *Victimology Society of Serbia*, Chinese citizens and men from Eastern European countries are often used as illegal labourers. However, available data do not provide sufficient information on whether these are also trafficking cases or not.

Regarding child trafficking, Serbia is both a country of origin (especially concerning Roma children), but also a country of transit and temporary destination for underage girls, who, together with adult women, are included in organised channels of trafficking for sexual exploitation. There is also internal child trafficking that mainly involves children of Serbian nationality. Victims usually come from small towns and the main destinations are Belgrade, Novi Pazar and Nis. Child trafficking in Serbia has assumed serious proportions and constitutes a dangerous form of organised crime. Victims are usually young girls of Serbian nationality, both of Roma and non-Roma origin. Victims are also foreign children involved in transnational trafficking.

According to recent data and reports of domestic and international organizations and agencies, trafficking of children in Serbia (and especially of Roma children) shows trends of increase. Internal trafficking is increasing as well. According to

the data of the NGO *ASTRA*, 70% of victims of human trafficking are Serbian nationals; and 44% of those are children. Also, the latest State Department report concludes that during the last year Serbia did not make progress in the fight against human trafficking.

Nevertheless, Serbia's legislation made some progress towards this direction in 2005. For example, new laws incorporating some of the fundamental international and European standards have been adopted. However, the implementation of the laws remains problematic in Serbia and lack of implementation impedes the enjoyment of the guaranteed rights. The courts and administration in Serbia apply international norms only sporadically, partly due to the fact that for years they applied only national legislation and partly because they are not acquainted with the international treaties that are binding on Serbia and Montenegro.

A serious point that has to be taken into account when reading this report is the adoption of new legislation in Serbia: the ***Criminal Code***, which came into force on 01.01.2006, the ***Law on the Programme of Protection of Participants in Criminal Process***, which came into force on 01.01.2006, and the new ***Criminal Procedure Code*** (CPC), that will enter into force on 01.06.2007. The recent adoption of this new legislative framework means that facts and figures presented in this report refer mainly to provisions and practices developed under the previous legislative framework. However, an analysis of the new provisions is also included. A final point to bear in mind is that after the 2006 referendum in Montenegro, the State Union of Serbia and Montenegro ceased to exist. This raises a multitude of questions relating to the rights guaranteed in the Constitutional Charter and the Charter on Human and Minority Rights and Civil Liberties.

NGOs active in the field of human trafficking consider that the main obstacle in the combat against this crime lies with the judiciary. Although in the past few years police made significant progress, the judiciary remains a weak point in the fight against trafficking because it fails to implement effectively the existing legislation.

Comments

- Presently, the existing legal framework, in spite of the inclusion of some new provisions, is not sufficient to provide full

and efficient protection to citizens' rights and freedoms. The Serbian system suffers from ongoing weaknesses, as in numerous instances institutions do not function properly and fail to enforce the law.

- While the police has made progress concerning trafficking cases, the judiciary still remains a weak point in the implementation of anti-trafficking legislation. The task of assisting victims of human trafficking and raising awareness is undertaken solely by NGOs.

II. National Legal Framework

a. The main characteristics of the national legal system

This section presents the main characteristics of national legislation, which impacts on the enjoyment of human rights in general, but also on the protection of victims of trafficking and the punishment of perpetrators.

In 2005, Serbia adopted new criminal, civil and enforcement procedure codes, but some of this new provisions came into force only in 2006. The Serbian Criminal Code is in conformity with international standards, although it deviates from them in provisions dealing with human trafficking, human smuggling and forced labour. It has also reduced the penalties and lowered the minimum sanctions for some serious crimes, including human trafficking, something that is all the more questionable in view of the burgeoning problem of modern slavery and the fact that Serbia has a high incidence of human trafficking and smuggling.

Furthermore, the Criminal Code lowers the criminal sanctions for some other crimes, notably illegal deprivation of liberty and extortion of a confession. This is of particular concern, given the practise of the courts to impose lighter or suspended sentences in criminal cases.

Comment

The overall characteristics of the national legislation is that it does not envisage effective legal remedies against unreasonably long trials¹¹¹ and that there is a rising mistrust towards the judiciary.¹¹²

¹¹¹ The Supervisory Board within the Supreme Court of Serbia is authorised to try cases not resolved within a reasonable period of time, but is not empowered to award compensation of damages.

b. Anti-trafficking legislation

Important steps have been taken over the previous years in order to change the penal policy with regard to the gravest criminal offences.

The criminal act of trafficking in human being was introduced in the Serbian legislation by the recent Criminal Law of the Republic of Serbia, in Article 111a. The definition of trafficking used in this article is largely based on the Palermo Protocol. Inclusion of this article in the Serbian Criminal Law, which set the basis for the development of anti-trafficking legislation, was a result of the joined efforts and the continuous cooperation between the Ministries of the Interior, Social Affairs and Justice, local NGOs (e.g. *Victimology Society of Serbia, ASTRA, Counseling Against Family Violence*) and the international community (OSCE, IOM and UNOHCHR).

The new Serbian Criminal Code (CC) comprises a slightly modified and amended definition of the crime of human trafficking (Article 388). It includes some new methods of committing the criminal offence (by withholding identity papers or giving or accepting money or other benefit), and some new reasons for committing the crime (to gain profit, forced labour, other forms of sexual exploitation, for slavery or a status akin to slavery).

If the said criminal offence has been committed, the perpetrator shall be punished by imprisonment from two to ten years; if the victim dies, the punishment shall be no less than ten years of imprisonment and if the crime has been committed within a criminal organization, the punishment shall be no less than five years of imprisonment. While the old Criminal Code prescribed that if the victim was under the age of 14, the perpetrator would be punished even if she/he did not use force, threat or any other of the stated means in perpetrating the of-

¹¹² The rising mistrust towards the judiciary creates serious concerns. According to research conducted by the *Belgrade Centre for Human Rights*, over half of the respondents thought that judges were ineffective and dependant on politicians and, if their rights were violated, they would turn for help to influential people or people in power rather than go to courts. Also, according to the latest survey of the *Centre for Free Election and Democracy (CeSID)*, citizens have more trust in NGOs than in the Government, the Parliament, the Judiciary or political parties. There is a growing impression that the executive branch often interferes in the work of the judiciary and that the legislative branch influences the decisions of courts. In addition, the public believes that the laws adopted are the result of a compromise between political parties and not part of a general strategy for reforming the legal and economic system.

fence, the relevant provision of the new Criminal Code extends this protection to all minors, which represents a noteworthy improvement. The new Serbian Criminal Code also proscribes, as a separate offence, trafficking in children for adoption purposes (Article 389). This act is punished with one to five years of imprisonment and if this crime is committed on a regular basis, as a profession or in an organised manner by more than one individuals, punishment will be no less than three years of imprisonment.¹¹³

Provisions on human trafficking include as purposes of committing the crime, *inter alia*, the removal of a body organ (Article 388 (1) of the Serbian CC) for transplantation. The separate provision on violent removal of human organs or body parts that existed in Serbian criminal legislation since April 2003 (Article 54a of the previous CC) is not included in the new Serbian CC, whereby the latter deviates from the international standards set out in Recommendation No. 1611 (2003) of the CoE Parliamentary Assembly on Trafficking in Organs. The Recommendation highlights the importance of amending the legislation and punishing of the traffickers of human organs as well as the medical personnel involved in transplantations of illegally obtained parts of the human body. Trafficking in human organs is, however, explicitly prohibited only by the former federal Act on Conditions for Removal and Transplantation of Human Body Parts (Sl. list SFRJ, 63/90, 22/91; Sl. list SRJ, 28/96).

The Movement and Residence of Aliens Act (Article 34, paragraph 4, Sl. list SRJ, 68/02) does not contain any provision allowing for the issue of temporary residence permits for victims of trafficking in human beings, although by-laws granting them residence were adopted in 2004. However, legislation on aliens and asylum needs to be modernised and conformed to relevant international standards to provide a higher degree of protection.¹¹⁴

¹¹³ Similar provisions exist for the crime of enslavement (Article 390 of the Serbian CC), where the minimum sentence of 3 year imprisonment was reduced to one to 10 years of imprisonment.

¹¹⁴ The provisions on illegal crossing of the state border (Article 350, paragraph 1 Serbian CC) prescribe a maximum of one year imprisonment for a person who attempted or succeeded in crossing the S&M border without possession of authentic travel documents and who was armed or resorted to violence. The new Serbian CC prohibits human smuggling (Article 350, paragraph 2), prescribing that anyone who for the purpose of gaining profit enables any person without S&M citizenship to illegally enter, transit or stay in S&M, shall be sentenced to imprisonment between 3 months and 6 years. Endangering the life or health of

Comments

- The HR Charter (Article 13) prohibits servitude and the Constitution of Serbia, which does not proscribe slavery, should be harmonised in this respect with the HR Charter. Prohibition of slavery will probably be incorporated in the new Constitution.
- Considering the increase in modern forms of slavery, it remains unclear why Serbian policy makers took the edge off the law by decreasing the sentences. In addition, the Serbian CC stipulates transport of enslaved persons 'from one country to another' as a precondition for committing this crime. This, by implication, means that the transport of slaves is not a crime if it is committed internally, within the borders of the country.
- Additionally, analyses of the practice of the Serbian police (in relation to Article 14 of the Law on Public Peace and Order and Articles 106 and 107 of the Law on the Movements and Residence of Foreigners) show that cases of prostitution and (il)legal migration may often hide cases of human trafficking

B. National Action Plan

A **National Action Plan (NAP)** against human trafficking does not exist yet in Serbia, nor (at this point) are there any plans for the development of a long-term comprehensive NAP.

Working groups have met several times to prepare plans for their areas, which when combined were supposed to form a NAP to combat human trafficking. The first draft of the NAP was presented to the Stability Pact Task Force in 2001. This draft NAP intended to provide a model for cooperation between various agencies and describe areas of action at a federal level. The Initial Board also developed and accepted a model referral system for victims of trafficking in the form of the so-called 'National Referral Mechanism and Mobile Team'. In April 2002, the FRY anti-trafficking agency introduced a **National Coordinator against Trafficking in Human Beings for the Republic of**

an illegal migrant is prescribed as an aggravating circumstance and is punishable by between 1 and 10 years imprisonment (Article 350 (3)). The new Serbian CC fails to exonerate illegal migrants of their criminal responsibility if they become the victims of the crime described in the paragraph 3 of Article 350, which represents a deviation from international standards.

Serbia, who was appointed within the Serbian Ministry of Interior, to be responsible for creating an anti-trafficking structure for Serbia. In May 2002, this new appointee called a meeting of the newly established **National Team against Trafficking in Human Beings**. The Team, which as of April 2003 has met 3 times, comprises representatives of government, NGOs and international organizations. With the new State Union of Serbia and Montenegro, the work on anti-trafficking was carried out by two teams, each with their own National Coordinator. The Serbian Team for combating trafficking in human beings adopted a programme of work which, *inter alia*, anticipated the aforementioned activities within the Serbian Ministry of the Interior. Following this programme, **Special Police Teams to combat trafficking** were formed within the Ministry of Interior in July 2002, comprising representatives from all departments of the Ministry. However, as already mentioned above, Serbia does not have a comprehensive NAP to combat trafficking.

III. General Framework

A. Capacity building

The Human Rights Committee of the United Nations in its concluding observations on the Initial Report of Serbia on the implementation of the ICCPR during the period 1992-2002, noted the apparent lack of awareness regarding trafficking in women and children on the part of law enforcement officials, prosecutors and judges. There is no state-organised training on human rights and human trafficking for law enforcement officials. Human rights are not part of the curriculum in schools and university faculties, and whether someone will receive this kind of education is a matter of personal choice. Lack of awareness was particularly pronounced regarding trafficking of children and men. Access to information and to educational courses was readily available to officials from Belgrade, but not those coming from other parts of Serbia. However, the situation in this respect has improved slightly, at least as far as police representatives are concerned.

During 2001 and 2002, about 350 members of the Serbian Ministry of Interior participated in training sessions on trafficking in human beings. These seminars were organised by international organizations (OSCE, IOM, UNFPA and the International Committee for Migration Policy Development), by domestic NGOs and the Serbian Ministry of Interior. The number of participants rose, by the end of 2005, to 800.

Training of law enforcement officials, on human rights in general and on human trafficking in particular, is conducted and organised mainly by NGOs and international organizations. In that respect, we can note that training of prosecutors and judges is carried out by the Judicial Training Centre (Belgrade), the OSCE Mission in S&M and the Association of Judges for Misdemeanour Offences; training of police personnel is offered mainly by the OSCE Mission in Serbia and Montenegro; training of other state officials (representatives of relevant ministries) is mostly done by NGOs. The leading NGO in that respect is *ASTRA* which conducted training sessions not only for state officials, but also for students and young people, other NGOs and journalists.

Comments

- In general, the government is taking a passive rather than a proactive approach in the area of capacity building and raising awareness regarding human trafficking.
- Recent surveys by the *Victimology Society of Serbia* show a significant imbalance in awareness on human trafficking among relevant government officials. Among those with particularly law knowledge on human trafficking, were employees in student residences and in welfare centres. Very low awareness and knowledge on human trafficking was also detected among members of the judiciary, the prosecution service and police at a local level.

B. Analysis, research and monitoring mechanisms

No accurate research and analysis on the implementation of anti-trafficking legislation and its compliance with existing international standards, has been conducted by the State with the exception of the *Survey on the practice of the misdemeanour authority in Belgrade with regard to prostitution and (ii) legal migrations as incidents which may hide human trafficking*. This Survey was conducted by the Association of Misdemeanour Magistrates of the Republic of Serbia. The survey was based on the final rulings of the Belgrade Misdemeanour Authority during 2002, pursuant to Article 14 of the Law on Public Order and Peace of the Republic of Serbia (regarding prostitution) and Articles 106 and 107 of the Law on Movement and Stay of Foreigners on the Territory of FRY (regarding illegal migration). It should be noted though, that the focus of such analyses in Ser-

bia is on trafficking of women, while aspects of trafficking of men and children are usually neglected. Even surveys relating to women's trafficking have a limited scope since they focus mostly on the factors which contribute to this phenomenon and on attitudes towards it. For that reason, it should be remembered that data from such surveys do not provide adequate and comprehensive information on the scope and characteristics of trafficking.¹¹⁵

C. Regional cooperation and networking

This section will focus on national and regional networks of cooperation between NGOs in the area of human trafficking. At the **national level** the following networks exist: *ASTRA Network* (it includes women's groups from Vojvodina, Central and South Serbia), *The Trust Network* (this network was formed several years ago at the initiative of the *Incest Trauma Centre* from Belgrade and includes NGOs working against violence, especially violence against women and children), *CHRIS Network* (includes 6 Committees for Human Rights around Serbia, active in providing *pro bono* legal aid and legal representation to victims of human rights violations).

At the **regional level**, there are two active networks. The first one is the *ACTA network* (Balkan initiative against trafficking and corruption), founded in June 2004. It is a regional, non-governmental organization advocating a society free from trafficking and corruption. It comprises eleven national NGOs from the region. The second one is the *ARIADNE network* against trafficking in human beings in Southeast and Eastern Europe. It was founded in 2005, uniting 17 NGOs and its aim is to combat

¹¹⁵ Main surveys in this area include: 'Human trafficking in Serbia' (conducted by the *Victimology Society of Serbia* with the support of the OSCE); 'Child trafficking' (in cooperation with the organization *Save the Children-Romania*. *ASTRA* conducted the first national survey and reported on the situation of trafficking in children in Serbia); 'Survey on attitudes of Belgrade students and high school pupils about sex trafficking' (conducted by *ASTRA* in 2002); 'Survey on the image of sex trafficking in mass media' (conducted by *ASTRA* and based on 240 articles published in daily newspapers in the period 1998-2002); *ASTRA's* 'Biannual Reports' 2002/03 and 2004/05; 'Alternative Report to the UN Human Rights Committee' (on the initiative of the international coalition *World Organization Against Torture*, *ASTRA*, the *Child Rights Centre-Belgrade* and the *Humanitarian Law Centre-Belgrade*); 'Alternative Report to the Committee for Economic, Social and Cultural Rights on the implementation of the International Convention on Economic, Social and Cultural Rights in Serbia and Montenegro', presented before the Committee on 13.05.2005 (*Child Rights Centre, Belgrade Centre for Human Rights, Group 484* and *ASTRA*).

human trafficking through cooperation between countries of origin, transit and destination.

D. Mobilization of resources

There are no government funds allocated for the fight against human trafficking and in Serbia the concept of private funding is still underdeveloped. NGOs are the key actors in the fight against human trafficking by initiating legislative changes and providing much needed services. However, NGOs are fully dependant on foreign aid from embassies and international agencies, and consequently their work depends on donor policies and priorities. The main donors that support activities of NGOs are: the OSCE, the Canadian International Development Agency, the Swiss Agency for Development and Cooperation, the European Commission, *Save the Children*, the British Embassy in Belgrade, the Geneva Global Inc. and the Catholic Relief Service.

IV. Implementation of Anti-Trafficking Laws

A. Prevention and awareness

The Human Rights Committee of the United Nations, in its General Comment No. 28, paragraph 12 and 30, recommends to state-parties to undertake measures at the national and international levels to protect women and children, including foreign women and children, from violations of their rights, such as cross-border trafficking, forced prostitution and other hidden forms of forced labour disguised as personal services.

The most important awareness raising campaign that took place in the past few years was called '**Open your eyes**' running from 2002 to 2003. It was one of the first campaigns of its kind in Serbia and it was initiated and run by the NGO *ASTRA*. Its main goals were to make visible the problem of women's trafficking, to raise awareness among state officials and the general public and to inaugurate cooperation between NGOs and state institutions. A second campaign '**There is a way out**' was run from 2004 to 2005. It was organised and run by *ASTRA* in cooperation with the UN Office on Drugs and Crime. Its main goals, besides informing the general public on all aspects of human trafficking, were to encourage victims, potential victims and their relatives and social surroundings to look for help and information, as well as to motivate citizens to help victims of human trafficking. A third campaign '**Save the children from**

human trafficking' is running from 2005. It is initiated by the organization *Save the Children* with the support of the British Embassy in Belgrade. This campaign is also an invitation for joint action of all agencies and officials responsible for child protection. A fourth campaign is called '**Children trafficking – our reality**' and has been running since 2006. It is run by *ASTRA* with the support of *Save the Children*. This is a wide scale media campaign aimed at combating and preventing child trafficking.

Comment

The preventive approach is not part of state practice; it is, however, used widely in the work of NGOs which are generally very active in this area and have undertaken large scale activities in raising awareness and combating human trafficking in Serbia.

B. Protection and assistance

a. Witness/victim protection

The testimony of a victim-witness at the main hearing is of particular relevance in trials of human traffickers. Amendments to the once federal Criminal Procedure Code (Sl. list SRJ, 68/02) were adopted in 2002 and include the court's duty to protect the witness and the victim from insults, threats or from any other form of assault (Article 109). The public prosecutor is given powers of special relevance when prosecuting perpetrators of offences related to organised crime, i.e. the prosecutor can order special protection for a witness, a witness collaborator and members of his/her immediate family (Article 504 p). Amendments to the **Act on Organization and Jurisdiction of State Bodies in Suppressing Organised Crime** (Sl. glasnik RS, 67/03) prescribe that the court shall decide on the protection of personal data of a witness or an injured party at the request of the interested party (Article 15 m) and if it is impossible to ensure the presence of witnesses or the injured party, they may be questioned via a video conference link or utilise the mechanism of international criminal legal aid (Article 15l j). Provisions envisaging the protection of witnesses were thus incorporated in the legislation.

The **Human Trafficking Victim Protection Coordination Service** began operating in March 2004, and in July of the same year the Minister of Interior passed an Instruction on the

conditions for the approval of temporary residence to foreign citizens-victims of human trafficking.

On 29.09.2005, the Serbian Assembly adopted the **Act on the Protection of Participants in Criminal Proceedings** (Sl. glasnik RS, 85/05), which prescribes extraordinary protection measures to be applied only in the event of the most severe criminal offences, including organised crime cases. The Act prescribes four types of protection measures: physical protection of a person and property; change of residence or transfer to another prison facility, concealment of identity and ownership data and ultimately, change of identity. It envisages international cooperation in the implementation of the Programme, which is based on ratified international agreements or on reciprocity. The Act is being implemented as of 01.01.2006.

b. Assistance to victims

A victim is entitled to legal representation by an attorney throughout the proceedings. The attorney has the right to inspect trial documents, be involved in phases of the proceedings, present evidence, examine the defendants, witnesses, expert witnesses etc., file for damages and give the closing address. The attorney may also assume prosecution if the public prosecutor withdraws the indictment. For this reason, it is necessary to ensure the representation of the victim by experienced lawyers, who are prepared to fight against misogyny and xenophobia and take certain risks as they are often threatened. Since neither the victim nor his/her attorney has the status of a party in the criminal trial, but only the status of the participant in the proceedings, the court is not obliged to send them the indictment, forensic findings and even the final judgment. The victim does not have the right of appeal against the judgment, except against the part of the judgment concerning damages. For this reason, cooperation with the public prosecutor is vital for the protection of the rights of the victim. Legal assistance to victims of human trafficking, which are usually in a very vulnerable position and without the financial means to provide for their representation in court, is provided solely by NGOs dealing with trafficking or with human rights in general.

The Human Rights Committee of the United Nations in its concluding observations on the Initial Report of Serbia on the implementation of the ICCPR during the period 1992-2002, underlined that shelters and the SOS helpline are managed by non-governmental organizations, which have also organised

awareness campaigns, and regretted the lack of adequate involvement of state authorities in these initiatives. The Committee recommended to S&M to take decisive measures to prevent trafficking and impose sanctions on the perpetrators.

There are no state-run or state-supported shelters or SOS lines for victims of human trafficking. Direct assistance and support to victims of human trafficking in Serbia is provided by the NGO *ASTRA*, the IOM and the *Shelter for Victims of Human Trafficking*. A dedicated SOS line for victims of human trafficking, is operated only by the NGO *ASTRA*. Many other NGOs have SOS lines, but they are mostly for victims of domestic violence. An SOS line for citizens that have suffered some kind of human rights violation was established by the Ministry of Human and Minority Rights¹¹⁶, but its main activity was to refer citizen's complaints to other organizations, dominantly to NGOs providing pro bono legal aid. In 2005, many centres for social welfare opened their SOS lines, but those phone lines are either for supporting women who suffered violence or for children.

The *Shelter for Victims of Human Trafficking* coordinated by Vesna Stanojevic is unique in Serbia. This shelter played a crucial role in changing the practice of law enforcement officials regarding human trafficking and in providing direct assistance to victims, especially victims of foreign origin.

Comments

- It can be concluded that recently adopted amendments in the legislation provide adequate protection to victims of human trafficking during court proceedings and are favourable to their overall status in the trial.
- Shelters run by NGOs are not sustainable and are highly dependent on donations. The combination of lack of systematic state approach and inadequate law enforcement, threatens to jeopardise the already vulnerable position of victims of trafficking.

V. BEST PRACTICES

- Evidence for the crime of human trafficking can be provided without statement of the victim (lack of victims' testimony is

¹¹⁶ This Ministry used to exist in the former State Union of Serbia and Montenegro.

often the main obstacle to initiate proceedings or the main reason to stop already initiated proceedings.) For instance, a policeman who spotted in a bar that on the drinks menu figured a naked woman without price (implying that price should be negotiated) used this as evidence of mediation in prostitution. Another policeman noticed in a motel that room numbers started to shine on and off when a room became free/available. The same policeman remarked that the prosecutor's office and the police were not active enough since they could also investigate advertisements for sexual services placed in newspapers.

- The National Team against Human Trafficking as an example of cooperation between state bodies and NGOs. This example should be followed for further institutionalization of government and NGOs cooperation.
- Victim (girl) ran away from human trafficker, address police for help, police provided her adequate protection and victim testified in trial against the perpetrator.
- Judge protects the rights of the victim by providing her with a psychologist and doctor. He then takes statement from the victim on the request of another judge.

VI. DEFICIENCIES

- The judiciary is the weak point in the system because it does not implement the existing legislation. Assistance to victims of human trafficking and awareness raising is provided solely by NGOs.
- Public prosecutors fail to expose human rights violations and police investigations are long and often fail to yield satisfactory results. Court proceedings are unreasonably long, something that compromises the application of the law and exacerbates the mistrust to the Serbian legal system.
- Contrary to prior legislation, the new Serbian Criminal Code does not include a qualified form of the crime of trafficking when committed against several persons, by abduction or in a particularly brutal or degrading manner. Since victims are usually treated with brutality and as human trafficking usually involves more than one victim and as the First Protocol lists kidnapping as one of the methods of committing the crime (Art. 3 (a)), it remains unclear why the relevant provision was excluded from the new Criminal Code.

- Decreasing the minimum sentence from five to three years of imprisonment for trafficking of a minor constitutes the most serious flaw of the new Serbian Criminal Code.
- Local legislation does not criminalise the purchase of services provided by victims of human trafficking. In that respect, Recommendation 1545 (2002) of the CoE Parliamentary Assembly insists on punishing those who knowingly purchased sexual services from a woman, who is a victim of trafficking in human beings.

VII. NEEDS ASSESSMENT

Taking into account the deficiencies and comments contained in this report and the need for improvement of the situation, a list of recommendations is provided below.

RECOMMENDATIONS

1. Transport of enslaved persons should be prescribed as a crime notwithstanding whether the victims are transferred across borders or internally. Punishment should be directed not only against human traffickers, but against those availing themselves of those services as well.
2. The mandate of the Initial Board for Combating Trafficking in Human Beings, launched by the National Coordinator on Trafficking (appointed by the FRY Government in April 2001) for the 'Development of long-term coordinated and multi-disciplinary approach to trafficking', should cover the following areas: prevention, raising awareness, protection of the victims, law enforcement, and data collection.
3. A National Action Plan to combat human trafficking in order to provide comprehensive and systematic solutions in addressing this issue, should be adopted.
4. Development of preventive measures.
5. The government should adopt a pro-active approach in prevention, capacity building and related awareness raising activities in this area, with a view to:
 - Increase the number of services for assistance to victims of trafficking and develop services for witness protection;
 - Include all relevant officials in educational programmes related to human trafficking on a balanced geographic representation basis;

- Conduct further research and surveys on human trafficking in Serbia, especially regarding trafficking of children and men.
- Formalise the cooperation between the government and NGOs and adopt protocols which will clearly define their mutual obligations and duties.
- Monitor the implementation of laws and evaluate the performance of state mechanisms;
- Improve the efficiency of the judiciary in dealing with cases of human trafficking.

LIST OF ABBREVIATIONS

CC	Criminal Code
CeSID	Centre for Free Election and Democracy
CoE	Council of Europe
CPC	Criminal Procedure Code
FRY	Former Republic of Yugoslavia
ICCPR	International Covenant on Civil and Political Rights
IOM	International Organization for Migration
OSCE	Organization for Security and Cooperation in Europe
S&M	Serbia and Montenegro
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
UNFPA	United Nations Population Fund

NOTE

Currently, Serbia considers adopting a formal Act in order to confirm its succession to international human rights treaties, which the S&M State Union had ratified.

