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THE RIGHTS OF VICTIMS OF HUMAN TRAFFICKING IN THE CRIMINAL TRIAL IN BULGARIA

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**STRENGTHENING LAWYERS LEGAL KNOWLEDGE AND COOPERATION
WITH PROSECUTORS AND JUDGES, TO PROTECT VICTIMS OF HUMAN
TRAFFICKING RIGHTS IN THE JUDICIAL PROCEEDINGS**

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TRAFFICKING IN HUMAN BEINGS, AIMING SEXUAL EXPLOITATION

International/Cross-border trafficking and internal trafficking

- ✓ Elite prostitution
- ✓ Club prostitution
- ✓ Internet prostitution
- ✓ Street prostitution



Victims: Women aged 18- 35, most often unemployed, without income, low educated, orphans or originating from troubled families

TRAFFICKING IN HUMAN BEINGS, AIMING FORCED LABOR

International/Cross-border trafficking and internal trafficking

- ✓ Construction
- ✓ Agriculture
- ✓ Housekeeping
- ✓ Butchers' and Fishing industry



Victims: originating from low-developed economic regions with high unemployment and low paid labor, with low social status, without professional qualification

TRAFFICKING IN HUMAN BEINGS, AIMING BEGGING AND PICKPOCKETING

- ✓ Organized crime groups built on a clan principle, operating in Bulgaria and abroad
- ✓ Victims are children who are 8-14 year old, of Roma origin;
- ✓ Victims with mental and physical disabilities;
- ✓ Pre-allocation of roles and tasks;



- ✓ The perpetrators are bound with family or personal relationships;
- ✓ Criminal habits are a family tradition of several generations



TRAFFICKING IN PREGNANT WOMEN, AIMING TRADE OF BABIES

- ✓ **Destination country:** Greece;
- ✓ **Main regions of origin:** Bourgas, Sliven, Varna, Yambol;
- ✓ **Victims:** women of low social status, uneducated, of Roma origin
- ✓ **Factors conducive to criminal activity:** social, economic, psychological
- ✓ **Modus operandi:**
 - recognition;
 - Illegal adoption



OFFICIAL STATISTICS OF THE PROSECUTOR'S OFFICE OF THE REPUBLIC OF BULGARIA

THE TOTAL NUMBER OF THE VICTIMS OF HUMAN TRAFFICKING:

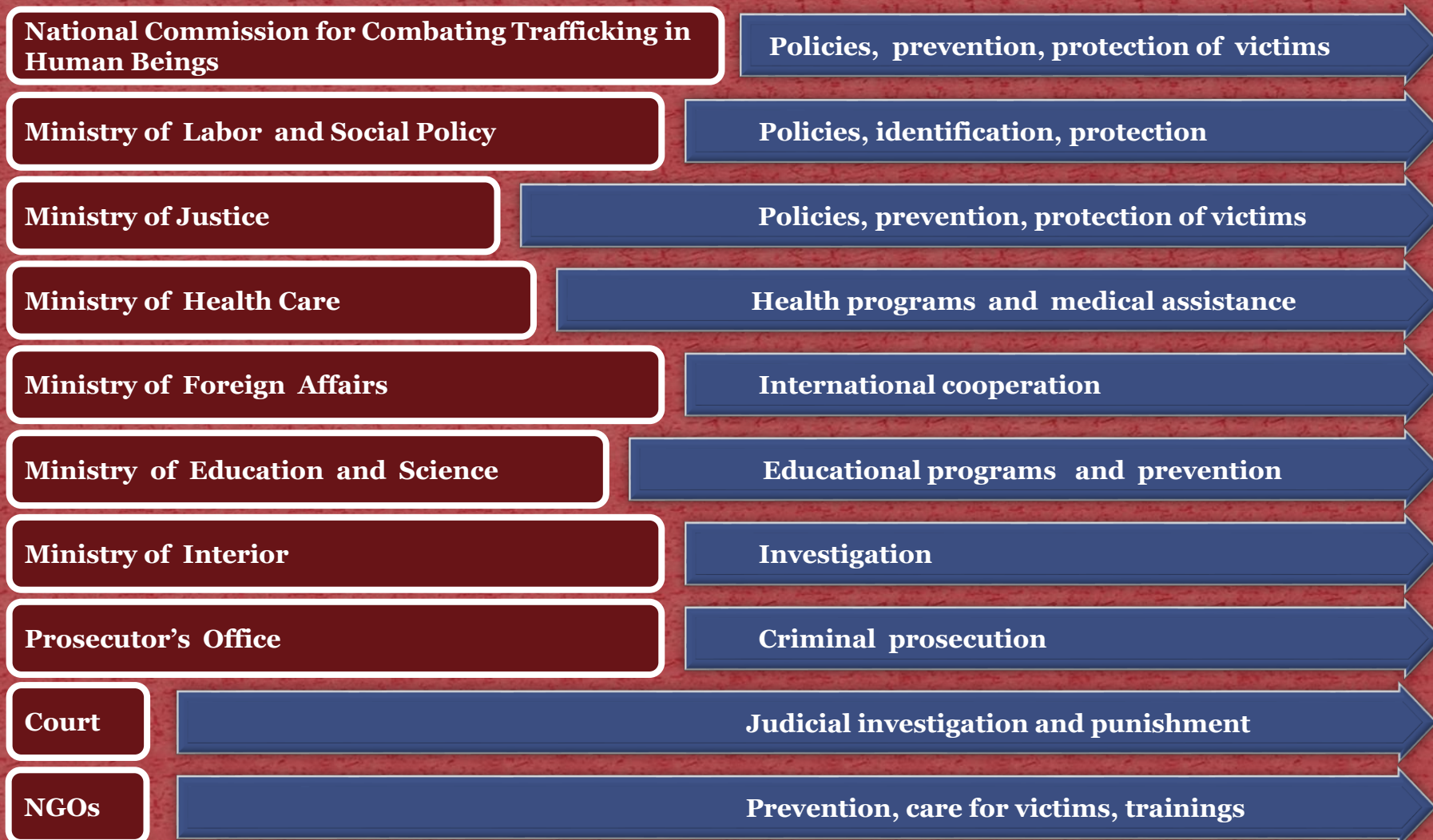
Year 2012	578
Year 2013	540
Year 2014	495
Year 2015	409



ACCORDING TO THE TYPE OF EXPLOITATION OF THE VICTIMS OF TRAFFICKING IN 2015:

Sexual exploitation	314
Compulsory labor	26
Compulsory obedience	6
Pregnant women, aiming trade of babies	17

THE BULGARIAN POLICY FOR COMBATING TRAFFICKING IN HUMAN BEINGS



LOCAL COMMISSIONS FOR COMBATING TRAFFICKING IN HUMAN BEINGS

- Blagoevgrad
- Bourgas
- Varna
- Veliko Tarnovo
- Montana
- Pazardzhik
- Plovdiv
- Ruse
- Sliven



LEGAL FRAMEWORK – NATIONAL LEGISLATION

- ✓ Combating Trafficking in Human Beings Act;
- ✓ Penal Code;
- ✓ Penal Procedure Code;
- ✓ Crime Victim Assistance and Financial Compensation Act;
- ✓ Law on Protection of Persons Threatened in Connection with Criminal Procedure;
- ✓ Law on Forfeiture in Favor of the State of Illegally Acquired Property;
- ✓ Legal Aid Act;
- ✓ Child Protection Act;
- ✓ Social Assistance Act;
- ✓ etc.

LEGAL DEFINITIONS

According to the Bulgarian legislation:

„TRAFFICKING IN HUMAN BEINGS“ means the recruitment, transportation, transfer, concealment or acceptance of human beings, regardless of their own will, when this is carried out for the purpose of exploitation.

„EXPLOITATION“ means the illegal use of human beings for debauchery, for deprivation of body organ, tissue, cell or body fluid from the injured, for forced labor, for begging or to be held in forced obedience, for setting in slavery or in a position similar to slavery.

„VICTIM“ means any person who has become a subject of trafficking in human beings.

„INJURED“ is the person, who has suffered pecuniary or non-pecuniary damages from the crime.

TRAFFICKING IN HUMAN BEINGS AS A CRIME

According to the provision of Article 159a, Paragraph 1 of the Bulgarian Penal Code: *“Who gathers, transports, hides or accepts individuals or groups of people in order to be used for act of debauchery, for forced labor or for begging, for deprivation of a body organ, tissue, cell or body fluid, or to be kept in forced obedience regardless of their consent, shall be punished by imprisonment of 2 to 8 years and a fine from 3 000 to 12 000 levs”*.

The perpetrator will be punished even if he/she has not used special methods- coercion, deception, etc., which are listed in the next paragraph as special elements of a qualified corpus delicti of the crime, leading to the imposition of a more severe punishment.

The perpetrator will be liable to prosecution even in the cases when the victim has been aware of the activities into which she/he will be involved, and has given his/her consent.

LEGAL STATUS OF THE VICTIMS OF CRIME

In the context of the system of the international law the crime of trafficking in human beings is considered in two ways and from two points of view.

On one side are the perspective of the perpetrator and the desire for detecting, detaining and punishing him/her, emphasizing on the methods and the means of the penal repression.

On the other side stands the perspective of the victim/the injured and the strive for the care, the protection and his/her compensation. This second aspect requires much more complex and interdisciplinary methods and solutions and requires the implementation of a whole range of reciprocally supplementing measures. *Namely the second aspect is the most vivid expression of the approach to the problem, based and viewed through the prism of the universal human rights.*

THE RIGHTS OF VICTIMS OF HUMAN TRAFFICKING

The status “victim of trafficking” provides specific rights.

1. Firstly, the identified victim has the following rights:

- the victim is entitled to a period of rumination;
- right of at least one month accommodation in a shelter for the duration of the period of rumination;
- right to a free of charge psychological assistance;
- right to a free of charge legal assistance;
- right to decide whether to cooperate with the authorities;
- the victim is also entitled to one-time financial compensation from the state budget for suffered pecuniary damages;
- the right to extend their stay in a shelter until the finalization of the criminal proceedings /for the victims who agree to cooperate and give evidence/.

2. The victims who agree to participate in the criminal proceedings as “injured” have the following rights:

- to be informed of their rights in criminal proceedings;
- to obtain protection for their security and that of their relatives;
- to be informed about the course of the criminal proceedings;
- to participate in the proceedings;
- to make requests /including on the evidence/, notes and objections;
- to appeal against the acts which lead to the termination and suspension of the criminal proceedings;
- to have a trustee /i.e. to be represented by a professional attorney-at-law;
- to be constituted as a private prosecutor and a civil plaintiff /in the trial phase of the proceedings/ i.e. he/she has the right to file a civil claim against the defendant for compensation of the damages caused.

3. Protection of the witness:

According to the Article 123, Paragraph 1 of the Bulgarian Penal Procedure Code *“The prosecutor, the reporting judge or the Court, on the witness's request or with the latter's consent shall take measures to protect him/her, where there are sufficient reasons to presume that, as a result of testifying, there has arisen or may arise a real danger for the life, health or property of the witness, of his or her ascendants, descendants, brothers, sisters, spouse or of persons that he/she is in particularly close relations with”*

The protection of the witness shall be achieved through:

- providing personal physical guarding;
- keeping in secret his/her identity.

In summary, the victims of trafficking have at disposal the following groups of rights:

1. Rights of a victim under the Combating Trafficking in Human Beings Act- period of ruminaton, accommodation in a shelter, right to stay, right to be informed by the prosecutor about their rights.

2. Rights of an “identified” victim within the meaning of the National Mechanism for Referral and Assistance of the victims of trafficking, which includes short and long term psychological and social support.

3. Right to a state-funded legal aid.

4. Right to a state-funded compensation for pecuniary damages.

5. Rights of an “injured” and “witness” within the meaning of the Penal Procedure Code.

6. Rights to file claims on compensation for pecuniary and non-pecuniary damages against the trafficker.

IDENTIFICATION OF VICTIMS

Is self-identification as a victim possible?

Actually however, self-identification as a victim in order to be provided access to the upper rights, is not possible. Although one may make a signal about the offense, in practice he/she will be recognized as a victim only after consideration of indicators for identification- the National Referral Mechanism. According to this mechanism NGOs make unofficial identification, which includes providing of psychological support and accommodation in a shelter/crisis center.

Who is competent to make formal identification?

The formal identification is carried out by the competent in this aspect state bodies- the Police and the Prosecutor's Office.

Moreover, in accordance with the international standards for protection of the rights of the victims of trafficking, the states have an obligation to duly identify the victims of trafficking, as the non-compliance of this obligation is likely to lead to a breach of the rights of the concerned persons by hindering their access to programs for protection and reintegration.

NON- LIABILITY OF VICTIMS OF TRAFFICKING

In 2013 in the process of transposition of the Trafficking Directive, the Bulgarian Criminal Code has been amended to introduce a new provision on non-punishment of victims:

- *“An act shall not be considered culpably committed if performed by a person who is a victim of human trafficking and was forced to commit such act in direct relation to being such victim.”* (Article 16a)

**THANK YOU VERY MUCH FOR
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