



**CENTER FOR
THE STUDY OF
DEMOCRACY**

IMPROVING POLICY AND PROGRAMS FOR ASSISTANCE AND REINTEGRATION OF CHILD VICTIMS OF TRAFFICKING IN BULGARIA

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The issue of trafficking in human beings and the protection and assistance of victims has come to the attention of policy makers in Bulgaria within the last decade. Since then, Bulgarian authorities have succeeded in laying the foundations for a comprehensive approach for countering trafficking. To a great extent this approach is in compliance with the international legal standards and practical mechanisms for support of victims.

The main strategic documents developed by the Bulgarian government such as the annual National Program for Countering Trafficking in Human Beings and Protection of Victims (HPCT), the National Strategy for the Child (2008 - 2018) and the annual National Program for Protection of the Child (NPPC) treat child trafficking as part of the general phenomenon of trafficking in persons. The documents also address children who have fallen victim to this crime as part of the group of children at risk. The specific needs of child victims of trafficking (child VoT) are dealt with in the Coordination Mechanism for Referral and Assistance of Cases of Unaccompanied Minors and Child Victims of Trafficking Returning from Abroad and the National Mechanism for Referral and Assistance of Victims of Trafficking. In addition trafficked children are provided support through a network of specialized crisis centers for children victims of violence and trafficking. The crisis centers operate under their own Methodological Guidelines.

Two key factors exert influence over the development of measures for protection and assistance of

trafficked children in Bulgaria. First, these measures are designed and implemented in the context of

KEY POINTS

- Bulgaria is one of the few countries in Europe to develop a National referral mechanism for victims of trafficking, including children.
- A network of 14 crisis centers for children victims of violence and trafficking have been developed in the country, which plays a key role at interim care stage.
- The main financial and human resource of the system for assistance of child VoT is directed at the stage of crisis intervention.
- The National Referral Mechanism has no guidance for the implementation of durable solutions for child VoT.
- The country currently has no specialised programs for long term reintegration of child VoT.
- The existing programs for assistance of child VoT do not include measures, mechanisms and resources for adequate work with parents.
- The prevailing durable solution regarding child VoT is the return of the child to the family. However, in the absence of adequate monitoring of the long term reintegration however, this practice leads to increased risk of re-trafficking.
- There is no centralized data collection for victims of trafficking, including children, in the country.
- There is no practice of conducting monitoring and evaluation of the programs for reintegration of child VoT.

reform in the child protection system in the country which aims at de-institutionalization and decentralization of child service provision. Second, protection programs are implemented in the absence of knowledge about the effectiveness and efficiency of these programs with regard to the group of trafficked children. This is the outcome of the absence of a centralized data collection system and of mechanisms for monitoring and evaluation of the policies and measures in the field of counter-trafficking in general and child trafficking in particular.

The data collected by various institutions about the volume of trafficking in children, the recruitment methods, the types of exploitation and the profiles of the child victims, is not systematic and is often contradictory. There is lack of systematic data on the reintegration measures offered to child victims of trafficking and their effect on reintegration.

Legal framework and legal protection of child victims of trafficking

In terms of substantive criminal law, Bulgaria is considered to have largely complied with the standards of the CoE Convention and the Palermo Protocol. Beyond the limits of internationally agreed definitions, under Bulgarian law the consent of the victim is never relevant to the criminal nature of the act of trafficking. In terms of means used, Bulgaria is considered to have exceeded the standards of the key international documents, as trafficking is criminalized even without using any of the coercive means listed in the Convention and the Protocol – and when used, the coercive means are an aggravating circumstance.

Regarding the standing of child victims in criminal procedure, they are given a range of entitlements as full-bodied participants in the criminal procedure. In this context balance should be made between the

allocated entitlements and the potential re-victimisation they might lead to, if not used with a victim-centered approach.

Child VoT are not adequately protected in the process of investigation and court proceedings and specialized legal services do not exist. The implementation of effective criminal investigation measures is of high importance in the cases of trafficked children in view of the frequent involvement of parents or close relatives in this crime.

Better guarantees for basic child rights of trafficked children

To better guarantee the implementation of the principle that ‘child’s best interest’ should guide any actions or measures taken on his/her behalf, formal provisions for best interest determination need to be developed.

The legal protection of child VoT must be improved. Legal representatives of child VoT have to have relevant legal background and specialised training in children’s and child VoT’s rights. They should operate under carefully designed professional terms of reference and their work should be monitored regularly.

It is worthwhile to consider the establishment of a professional body of independent legal guardians for child victims of trafficking. Such professionals will guarantee the formulation and the implementation of reintegration measures to the best interest of the child. They should have adequate educational qualifications and experience as well as specialized training in children’s rights and rights of trafficked children.

Steps should be undertaken for harmonizing the policy on child offenders and on child victims of trafficking. It is often the case that the same child falls under both categories but is treated ambiguously under the Laws for Child Protection and for Combating Anti-Social Acts of Minors.

Court proceedings need to include special guarantees in order to fully protect the rights of child victims of trafficking. Interviewing and repeated hearings of child victims of trafficking in front of various bodies in the course of court proceedings against the perpetrators should be restricted.

The development of special Codes of Ethics for interviewing child VoT for law enforcement and service providers is highly recommended to guarantee child's rights and the proper consultation of child's views and opinions in the interviewing process.

More efforts should be invested in ensuring child friendly surroundings and procedures for interviewing purposes. It is highly recommended to continue the establishment of blue rooms for interviewing children and the establishment of separate entrances for children in courts in order to avoid re-victimisation.

Better legislation

Steps should be made towards absolving child victims of trafficking, who have been compelled to commit a criminal offence in their condition as victims, from criminal responsibility, since otherwise "victims of child trafficking might not develop a relationship of trust with state authorities, which would permit them to escape dependency on their traffickers".¹

Amendments should be introduced in the Bulgarian Criminal Procedure Code in order to limit the interviews of child trafficking victims as witnesses and their encounters with traffickers to avoid re-victimisation; such amendments should expressly limit the use of direct confrontation between offenders and victims in such cases, as well as expand the options for the victim witness not to appear in court.

It is highly recommended to introduce regulation of a formal victim status in the Law on Combating Human

Trafficking (LCHT), distinct from the special protection accorded after the reflection period to formally and expressly postulate protection of child victims of trafficking regardless of their cooperation with law enforcement authorities.

It is highly recommended to introduce, in the relevant laws, express and detailed regulation of national and foreign child victims' access to education and healthcare, as well as protection of personal data.

It is highly recommended to regulate a sound return of victims and reintegration normative framework in the Law on Combating Human Trafficking, as well as in the Laws on Foreigners and on Asylum and Refugees, which takes into account Bulgaria's specifics as a country of origin, as well as empirical data on the dimensions of the problem of child trafficking.

Better harmonization of the normative frameworks of the Laws on Combating Human Trafficking and Child Protection should be achieved especially with regard to the accommodation of child victims in shelters and/or crisis centers.

MANAGEMENT, PLANNING AND COORDINATION

Two institutional structures have key responsibility with regards to countering trafficking in children: the first dealing with combating trafficking presented by the National Commission for Combating Trafficking in Human Beings (NCCTHB) and the other dealing with the protection of children and social assistance, presented by the State Agency for Child Protection (SACP), the Agency for Social Assistance (ASA) and its territorial departments.

The two key strategic documents that set forth measures for the reintegration of trafficked children (NPCTHB and NPCP) respond to the complexity of the phenomenon of trafficking in persons. They also take into account the fact that trafficked children

¹ Child Trafficking in the European Union: Challenges, Perspectives and Good Practices, European Union Agency for Fundamental Rights, 2009, p.146.

are included in the group of children at risk. These documents allow for an inter-sectoral approach to countering child trafficking as they include various institutions and agencies in the planned interventions.

Although the key program documents set goals and specific measures for the reintegration of child victims of trafficking, the realization of these goals is not specified through a system of indicators for impact and lacks clear deadlines for implementation. Moreover, the financial resources for the realization of the specific actions are not clearly defined.

Establishment of centralized data collection mechanisms

It is recommended that the competent institutions develop coherent and centralized data collection mechanisms regarding trafficking in persons. to rely on uniform and detailed indicators to be collected by all responsible institutions. It will also allow for the aggregation of reliable and comparable data by gender, age, type of exploitation, country of origin/ or destination. The establishment of such a database has to go hand in hand with the provision of measures to guarantee the right to personal data protection, including in the cases of provision of data by nongovernmental organisations (NGO) working with victims of trafficking. Such a data base will have key importance for the analysis of the tendencies in the trafficking in children (including recruitment methods, forms of trafficking and profiles of victims) as well as for the effective monitoring and evaluation of the policies for combating trafficking in human beings and the programs for victim assistance.

Establishment of monitoring and evaluation mechanisms

The adequate counter trafficking (CT) response could be formulated and enacted on the basis of an analysis of the effectiveness, efficiency and impact of the CT measures and those aimed at assisting the victims. For this purpose efforts have to be invested in the

design of adequate monitoring systems – based on well formulated indicators – that will serve the regular monitoring and evaluation of the CT programmes.

The efforts of the NCCTHB as the institution de facto implementing the functions of National Rapporteur have to be strengthened to streamline constructive criticism and offer well informed solutions for improvement of policy implementation in the area of combating child trafficking and assisting child victims of this crime.

Strategic documents need to be more specific and backed by sufficient resources

The major national strategic documents such as NPCTHB and NPCP should offer clear delineation of resources (human, financial and technical) and detailed and realistic schedules of implementation of activities. In this way these strategic documents will serve as instrument of realistic planning of practical measures and activities and as a testament to government ownership of the CT response.

Ensuring substantive rather than formal civil society participation in the counter-trafficking response

The cooperation between public institutions and non-governmental organizations in the field of counter-trafficking should go beyond the practice of formal participation in consultative bodies. It is highly recommended that this cooperation is strengthened through more regular consultations on specific issues as well as through more active involvement of the civil society in the design and implementation of policies and programs and in their monitoring and evaluation.

The sustainability of the programs and services offered by NGOs should be guaranteed with more adequate state funding.

More solid financial involvement of the state

The currently limited provision of state resources in the field of counter-trafficking in general and in (child) victim assistance in particular should be increased. A more comprehensive funding of the crisis centres and the relevant community-based accommodation services would help achieve a better quality of care services, a better qualification of the staff, a better care for child – victims of trafficking and prevention of repeated victimisation.

Programs for assistance and reintegration

The practical efforts and resources for assisting and integrating child VoT are concentrated in the stages of reception and crisis intervention. The system of inter-institutional cooperation for identification, return and reception of child VoT from abroad is well developed. Good progress has also been achieved in the area of crisis intervention through the establishment of a network of crisis centers and targeted methodological guidelines to lead their operation. However, a number of gaps and imperfections in the implementation of crisis intervention services have become apparent. The aforementioned gaps are as follows: inefficiencies of the institutional cooperation at the local level, the insufficient involvement of parents in the reintegration process and the absence of alternative educational schemes for children with special security or educational needs.

The third and most important stage of reintegration – that of the durable solution is still underdeveloped and not supported by sufficient resources.

Crisis intervention

It is highly recommended to improve inter institutional cooperation at the local level (especially between the Child Protection Departments at the place of residence and at the place of crisis intervention of the child) by assuring sufficient financial and human resources, as well as professional

trainings. It is also important to improve cooperation within the local Multidisciplinary teams to guarantee timely and adequate service provision to child victims of trafficking.

It is highly recommended to develop programs for parental support which aim to ensure the more effective involvement of parents in the integration of their children at the stage of crisis intervention and at the stage of long term care.

More flexible educational schemes for children with special security or educational needs should also be developed.

Access to accommodation services

Social care authorities must be very careful when accommodating child victims of trafficking in mixed groups of children such as children who have committed ant-social acts or adult victims of trafficking. If child VoT are accommodated in facilities with children from various risk groups, the staff in these facilities must be trained and made aware of the issue of child trafficking and be sensitized to the specific needs of child VoT.

Long-term reintegration

Presently the prevailing long term solution for child VoT in Bulgaria involves the “return to the family”. Although this approach corresponds to the main priority of the child protection policy in the country – that of integration in the family – it is being implemented without due analysis of the capacities of the family and not to the effect of satisfactory integration of children from this group. The policy of “return to the family” appears even more unproductive in the context of the absence of monitoring of the long term reintegration of child VoT and of targeted programs for assistance of parents and support of their parental capacities.

It is highly recommended to develop effective mechanisms and procedures for long term reintegration of child VoT in addition to

accompanying monitoring mechanisms. This will help prevent the risks of re-trafficking and will contribute to more effective social inclusion of child victims.

It is highly recommended to avoid the accommodation of child VoT in institutions for the purposes of long term care and to mobilize resources for the development of community based services and foster care.

More energetic policy to counter re-trafficking

In-depth studies should be conducted to establish the factors and the social mechanisms of recruitment as well as those that lead to the involvement of families in the trafficking of their children. Such studies have to provide analysis of the advantages and disadvantages of return to the family in such circumstances. In some cases return to the family might appear the best solution for the child even if the family was involved in the trafficking. If taking such a decision however, the respective institutions have to be well informed about the circumstances and the status of the family of the trafficked child and have to plan for support and monitoring mechanisms to assure adequate parental care.

In other cases integration outside the family might appear the better decision for a trafficked child. To avoid risks of re-trafficking in these cases effective alternative services for reintegration have to be established.

In conclusion it is important to note that the programs for assistance and reintegration of child VoT in Bulgaria will be more effective if they are implemented in a context where a more determined approach in the reform of the child protection system is taken, the decentralization of child service provision is realised and a wider network of well established community based services is at place. An efficient service provision system to child VoT will not be possible without the adequate provision of resources for the Social Assistance Directorates and without the conduct of adequate trainings for social workers and of capacity building programs.