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Assisting and reintegrating child

victims of trafficking in Bulgaria:

legal, institutional and policy framework

27

ASSISTING AND REINTEGRATING CHILD VICTIMS OF TRAFFICKING IN BULGARIA

**LEGAL, INSTITUTIONAL
AND POLICY FRAMEWORK**



**CENTER FOR
THE STUDY OF
DEMOCRACY**

The report explores the legal, institutional and policy framework of countering child trafficking in Bulgaria and assisting and reintegrating its victims. It looks at Bulgarian criminal law and criminal procedure, as well as other legal norms, relevant to the subject, and the extent to which they comply with international standards. The study presents the different stages of referral victims go through, the various institutions and organisations, involved in the process, and the policies and initiatives they pursue in improving child victims' situation. A number of recommendations are put forward in terms of possible legislative amendments, strengthening policy framework and furthering capacity building of institutions, entrusted with combating child trafficking.

Author:

Miriana Ilcheva, Research Fellow, Law Program, Center for the Study of Democracy

Editors:

Dr Maria Yordanova, Director, Law Program, Center for the Study of Democracy

Dimitar Markov, Senior Analyst and Project Director, Law Program, Center for the Study of Democracy

The Center for the Study of Democracy would like to thank the following experts for their assistance:

Antoaneta Vassileva, Secretary, National Commission for Combating Trafficking in Human Beings

Antonia Balkanska Lavine, International and Comparative Law Consultant, Member of EU Group of Experts on Trafficking in Human Beings (2007 – 2011)

Editorial Board:

Dr. Ognian Shentov

Alexander Stoyanov

Dr. Maria Yordanova

This publication is based upon research, made under the European Commission's Justice Fundamental Rights and Citizenship Programme.



ISBN: 978-954-477-196-6

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5 Alexander Zhendov Str., 1113 Sofia
Tel.: (+359 2) 971 3000, Fax: (+359 2) 971 2233
www.csd.bg, csd@online.bg

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INTRODUCTION

The Republic of Bulgaria continues to be to a large extent a source/origin country and to a lesser extent a country of transit or destination for human trafficking. Sexual exploitation has continued to be the prevailing form of exploitation of trafficking victims.¹ Within Bulgaria, women and children are most often induced into prostitution in the towns on the Black Sea coast and in the border areas. Countries of destination for Bulgarian trafficking victims are the Netherlands, Belgium, France, Austria, Italy, Germany, the United States, the Czech Republic, Finland, Greece, Spain, Norway, Poland, Portugal, Switzerland, Turkey, Cyprus and Macedonia. Different estimates place persons (mostly women and children) of Roma origin as occupying a share of 15 to 80 % of all trafficking victims in Bulgaria. Bulgarian men, women, and children are subjected to conditions of labour exploitation in Greece, Italy, Spain, Denmark, Slovenia, and the United Kingdom. Some Bulgarian children are induced into street begging and petty theft within Bulgaria and also in Greece, Italy, and the United Kingdom.²

Bulgarian citizens are susceptible to trafficking largely due to economic reasons – financial crisis, poverty, unemployment and underdeveloped economy. Illiteracy, lack of education, the disintegration of moral values, the existence of racism and ethnic discrimination, the lack of social experience and awareness of migration realities are among the socio-cultural reasons for trafficking. Oftentimes trafficking victims are subjected to mental harassment or sexual violence or are drug addicts. The geographical location of the country, international organised crime and the growing migration pressure are also pre-requisites for Bulgaria to be part of the problem.³

¹ GRETA(2011)19. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria (GRETA Report), paragraph 11.

² US Department of State, Trafficking in Persons Report 2011, p. 101 (2011 US State Department Report), Василева, А. „Трафик и сексуална експлоатация на деца” In: Проституция и сексуална експлоатация в България [Vassileva, A. ‘Trafficking and Sexual Exploitation of Children’], Risk Monitor, 2010, p. 5 and Kukova, S. Trafficking of Roma in Eastern and Central Europe: Analysing the effectiveness of national laws and policies in prevention, prosecution and victim support, 2011, p. 6-7.

³ Василева, А. „Трафик и сексуална експлоатация на деца” [Vassileva, A. ‘Trafficking and Sexual Exploitation of Children’], Risk Monitor, 2010, p. 5.

Bulgarian Parliament ratified⁴ the *United Nations Convention against Transnational Organised Crime* in 2001,⁵ the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (Palermo Protocol) in 2001⁶ and the *Council of Europe Convention on Action against Trafficking in Human Beings* (CoE Convention) in 2005.⁷

In 2002,⁸ the *Criminal Code* (CC)⁹ was amended to criminalise human trafficking by adding Section IX 'Trafficking in People' in Chapter II 'Crimes against the Person' of its Special Part. The *Law on Combating Human Trafficking* (LCHT) was adopted in 2003.¹⁰ As an EU Member State, Bulgaria is also bound by, *inter alia*, the new *Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*,¹¹ to be transposed by 6 April 2013 (Article 22 of the Directive), and *Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities*,¹² as well as by the EU legal acts, concerning victims of crime in general.

The major sources of information on trafficking in children, used for this publication, have been the information, collected by the National Statistical Institute on crimes, defendants and sentenced persons,¹³ the reports and programmes of the Bulgarian National Commission for Combating Trafficking in Human Beings (National Anti-

⁴ Besides those key standards, as reiterated by the GRETA Report (paragraph 13), Bulgaria is also Party to a number of other international treaties relevant to action against human trafficking, in particular the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on Extradition; the European Convention on the Transfer of Proceedings in Criminal Matters; and the Council of Europe Convention on Cybercrime.

⁵ Ratified by Law, adopted by 38th National Assembly on 12 April 2001, Law promulgated in the SG, No. 42 of 2001, in force for the Republic of Bulgaria as of 29 September 2003, text promulgated in the SG No. 98 of 6 December 2005.

⁶ Ratified by Law, adopted by 38th National Assembly on 12 April 2001, Law promulgated in the SG, No. 42 of 2001, in force for the Republic of Bulgaria as of 25 December 2003, text promulgated in the SG No. 98 of 6 December 2005.

⁷ Ratified by Law, adopted by 40th National Assembly on 7 March 2007, Law promulgated in the SG No. 24 of 2007, in force for the Republic of Bulgaria as of 1 February 2008, published by the Ministry of Justice, text promulgated in the SG No. 63 of 3 August 2007, corrected in the SG No. 101 of 25 November 2008.

⁸ Amendments promulgated in the SG No. 92 of 27 September 2002.

⁹ Criminal Code (promulgated in the SG No. 26 of 2 April 1968, effective 1 May 1968, last amendments in SG No. 60 of 5 August 2011).

¹⁰ Law on Combating Human Trafficking (promulgated in SG issue 46 of 20 May 2003, last amendments SG issue 74 of 15 September 2009).

¹¹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011, p. 1-11.

¹² Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, OJ L 261, 6.8.2004, p. 19-23.

¹³ Available online at <http://www.nsi.bg/otrasal.php?otr=25> (access date 4 November 2011).

Trafficking Commission), guiding and summarising the work of all institutions and organisations, involved in combating human trafficking, prepared since 2006,¹⁴ as well as the websites of the other governmental institutions and NGOs involved in anti-trafficking work. Also, special questionnaires were developed, which were sent to all institutions, forming part of the combat against child trafficking. Information was supplied, as kept in institutions' databases,¹⁵ resulting in a fragmented picture with the necessary disaggregations (adult/child trafficking, trafficking of girls/boys) often impossible to make.

¹⁴ Available online at <http://antitraffic.government.bg/en/> under 'Programs' (access date 10 January 2012).

¹⁵ A difficulty, as claimed by the GRETA Report (paragraph 96), also encountered by the National Anti-Trafficking Commission in building its databases.

1. KEY DOMESTIC LEGISLATION ON CHILD TRAFFICKING

1.1. CONSTITUTION

Bulgarian *Constitution* of 1991¹⁶ contains several provisions on children's rights in its chapters "Fundamental Principles" and "Fundamental Rights and Duties of Citizens". Children enjoy the protection of the state and society (Article 14). In Article 47, paragraph 1, the Constitution proclaims that 'Children, having been left without the care of their relatives, shall enjoy the particular protection of the State and society'.

Everyone's right to education is specially provided for (Article 53). School attendance up to 16 years of age is compulsory. Primary and secondary education in state and municipal schools is free. The State exercises control over all kinds and levels of schooling.

Pursuant to Article 5, paragraph 4 of the Constitution, international treaties, ratified under the constitutional procedure, promulgated and having entered into force for the Republic of Bulgaria, are part of the country's domestic legal order and have primacy over those norms of domestic legislation, which contradict them. The Interpretative Decision No. 2/16.07.2009 of the Bulgarian Supreme Court of Cassation (the SCC Interpretative Decision)¹⁷ upholds, with the necessary caveats, the **principle of direct applicability of international standards on human trafficking, including child trafficking**. The Decision aims to resolve inconsistencies in the application of criminal law provisions on human trafficking. Supreme Court justices, *inter alia*, make a succinct review of applicable international standards and, in connection with the Palermo Protocol and the CoE Convention, state that 'The concepts of criminal acts, provided for in international treaties, have found their expression in our legislation with due regard to the sovereignty of our country to define the elements of crimes and to the... particularities of the country... the Constitutional Court of the Republic of Bulgaria has postulated that the direct applicability of international treaties in the area of criminal law is limited to a large extent due to the particularities and structure of criminal law norms'. Further on, justices use international standards to interpret the different forms of human trafficking, provided for in Bulgarian criminal law, and affirm Bulgaria's international commitments in the fight against trafficking.

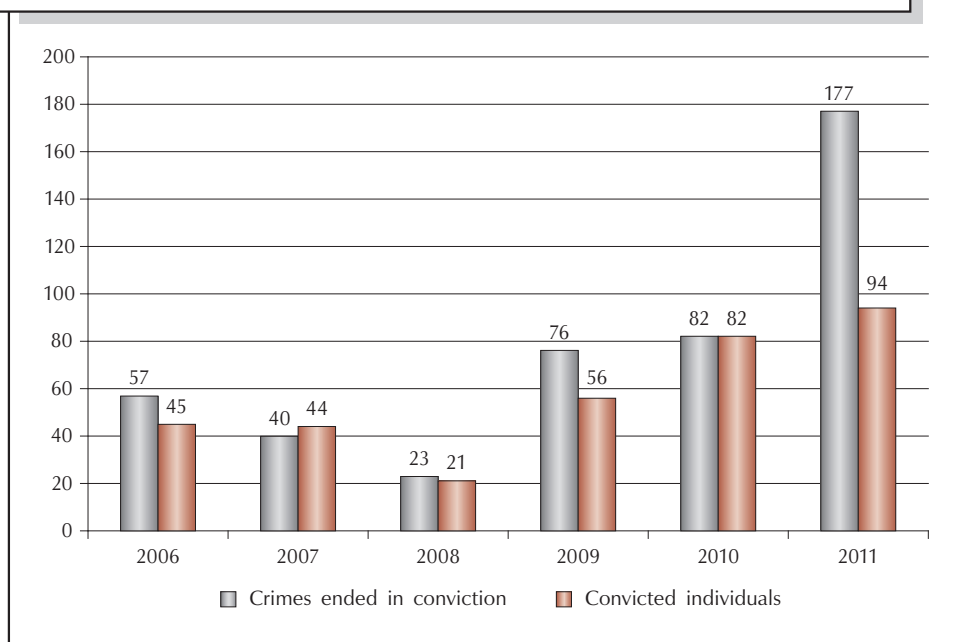
¹⁶ Constitution of the Republic of Bulgaria (promulgated in the SG No. 56 of 13 July 1991, last amended in SG No. 12 of 6 February 2007).

¹⁷ Върховен касационен съд. Тълкувателно решение № 2/16.07.2009 [Supreme Court of Cassation. Interpretative Decision 2 of 16 July 2009]. Although not being legislative acts, such decisions are binding for the bodies of the judiciary and the executive.

1.2. SUBSTANTIVE CRIMINAL LAW

Bulgaria's criminal law **definition of human trafficking** is contained in Article 159a of the CC, paragraph 1: 'Anyone, who recruits, transports, harbours or receives particular individuals or groups of people for the purpose to exploit them for illicit sexual activities, forced labour, removing of bodily organs or to be held in forced obedience regardless of their consent...!'

Figure 1. Crimes ended in conviction and convicted offenders for human trafficking (2006 – 2011)



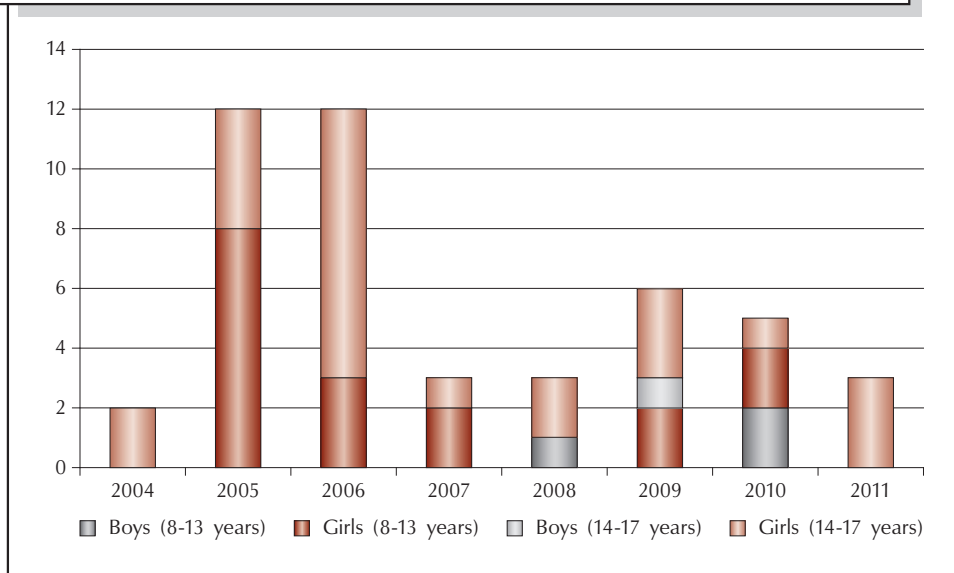
Source: National Statistical Institute.

In light of international developments in criminalising trafficking, it is worth noting that Bulgarian CC does not make a difference between sexual exploitation and other purposes of trafficking. It does not mention expressly slavery and similar practices, or domestic servitude, as purposes of trafficking, but those concepts are covered by the notions of forced labour and forced obedience.

Trafficking of a child, when the offender is aware of the age of the victim, is criminalised as an **aggravated case of trafficking** in the second paragraph of the Article: '[w]hen the act under paragraph 1 is committed: 1. against a person, not having completed eighteen years of age'. It is one of the aggravated cases of human trafficking together with cases of using coercive and other special means, namely coercion, deception, abduction or illegal deprivation of liberty, abuse of position of vulnerability, abuse of power, promising, giving or receiving benefits.

The various cases of trafficking, using coercive and other special means, are all separated from child trafficking in different items of the same second paragraph. This means, as affirmed by the Interpretative Decision, that under Bulgarian

Figure 2. Child victims of human trafficking (2004 – 2011)

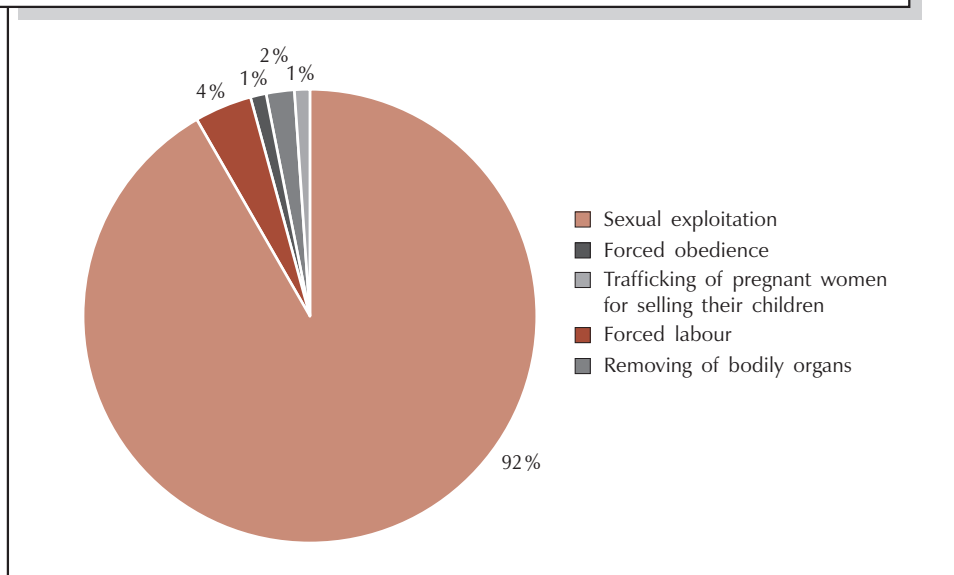


Source: National Statistical Institute.

legislation there can be **child trafficking even if the child is not subjected to any of those means.**

Like for all trafficking victims under Bulgarian CC, the **consent of the child would never matter** for him/her being considered as victim of human trafficking.

Figure 3. Forms of exploitation of victims of human trafficking



Source: Public Prosecutor's Office of Cassation.

The SCC Interpretative Decision elaborates on the meaning of each of the components of the offence of human trafficking and, therefore, of child trafficking.

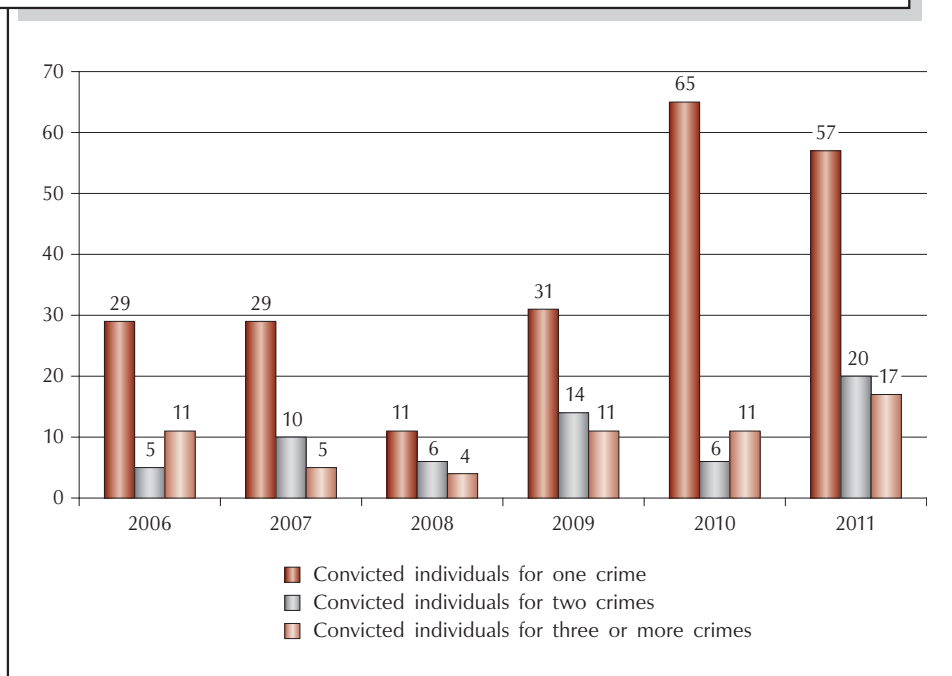
Recruitment is the most widespread form of committing human trafficking and covers attracting, collecting, enrolling, convincing or persuading a person or group of people, or motivating them through influencing their will, with the purpose to involve them in achieving the goals of trafficking, using unlawful or even perfectly lawful methods.

Transportation means driving or moving of persons from one place to another using a vehicle, but it would be enough for the offender only to secure the transportation, not do it himself/herself.

Harbouring is hiding the person from the people that are allowed to know where he/she is or simply giving him/her shelter.

By **receiving** the victim, the offender agrees to exploit the victim for the purposes indicated in the law, regardless of whether he/she harbours the victim or not.

Figure 4. Convicted offenders for human trafficking and number of offences (2006 – 2011)

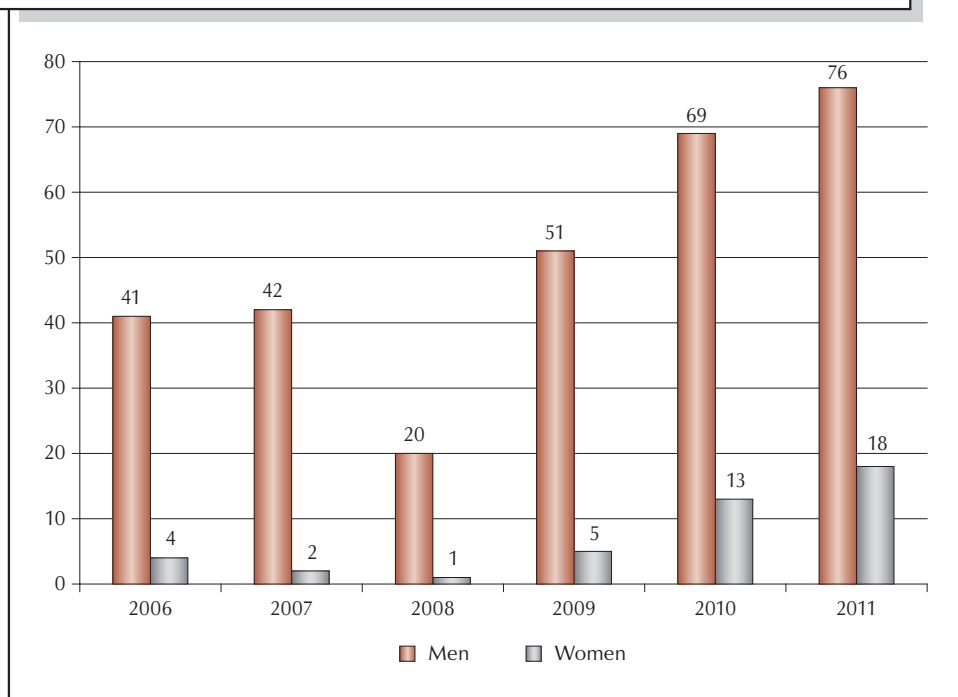


Source: National Statistical Institute.

Bulgarian *Criminal Code* also criminalises **trafficking of pregnant women with the purpose of selling their children** (Article 159a, paragraph 3) as an **aggravated case of trafficking**, if the offender is aware of those circumstances: 'if the act

under paragraph 1 is committed against a pregnant woman with the aim of selling the child...’ It is a relatively newer provision, dating back from 2006.¹⁸

Figure 5. Gender of offenders convicted for human trafficking (2006 – 2011)



Source: National Statistical Institute.

Article 159b criminalises **transnational trafficking** by adding to the four forms of trafficking the act of **transferring victims through the border of the country** with the enlisted trafficking purposes. The aggravated cases under the main hypothesis, including child trafficking, are aggravated in transnational context as well by referral to the main hypothesis. There is no need for the act to also constitute a violation of the border regime, but the crime can be combined with smuggling of people through state borders. Outside the transborder element, the provision on transnational trafficking is considered identical in meaning and elements to the main hypothesis and rather provides a technical division to show that trafficking within the state borders is criminalised too.

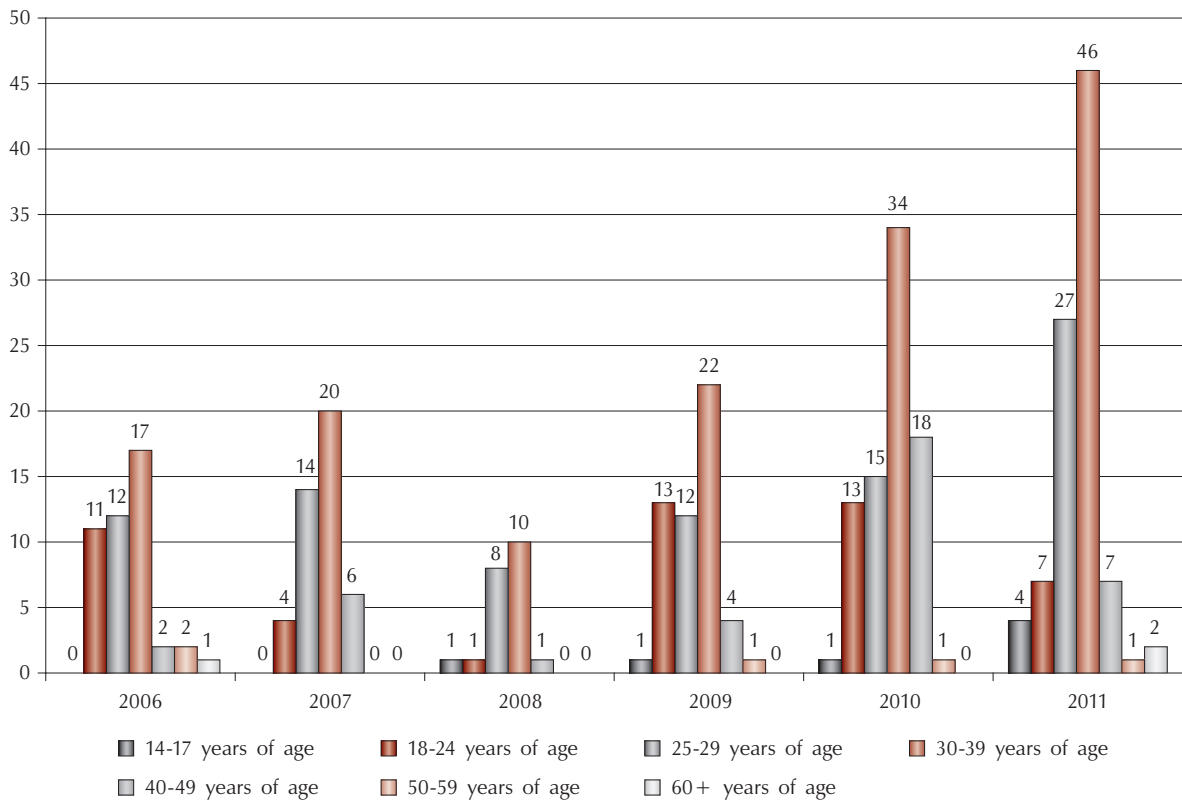
Article 159c, adopted in 2009,¹⁹ criminalises as such the **use of services of a victim of trafficking** for illicit sexual activities, forced labour, removing of bodily organs or to be held in forced obedience regardless of their consent.

Article 159d introduces **human trafficking, linked to organised crime, as an aggravated case** of the crime – when committed by assignment or in implementation of a decision of an organised criminal group.

¹⁸ Amendments promulgated in the SG No. 75 of 2006, effective 13 October 2006.

¹⁹ Amendments promulgated in the SG No. 27 of 2009.

Figure 6. Age of offenders convicted for human trafficking (2006 – 2011)



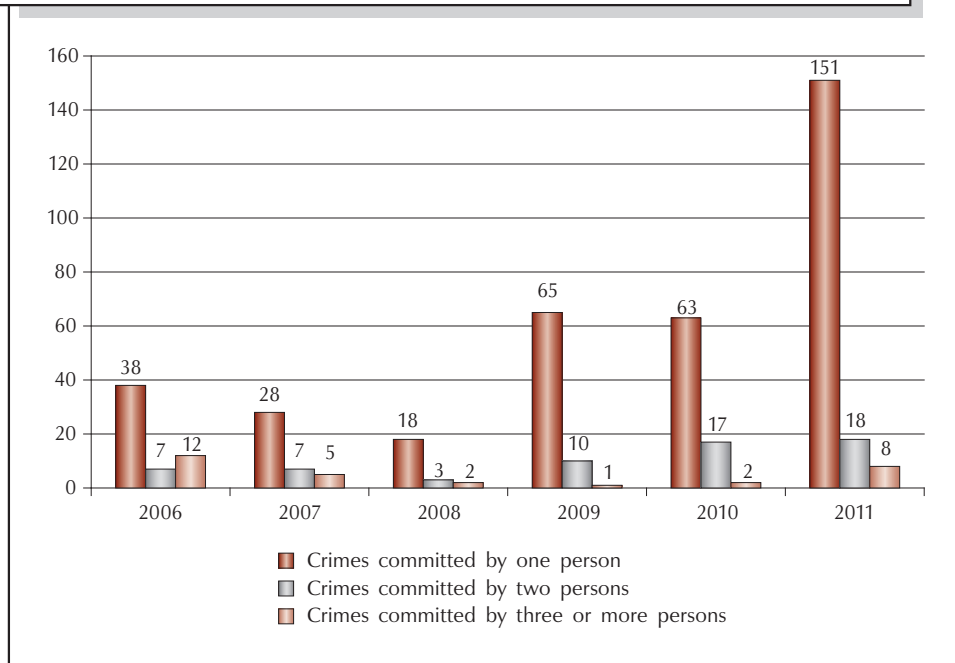
Source: National Statistical Institute.

Bulgaria has not expressly provided for endangering the life of the victim or human trafficking committed by public officials in the performance of their duties²⁰ as circumstances aggravating the penalty for trafficking, as stipulated by Article 24 of the CoE Convention²¹ and Article 4 of Directive 2011/36/EU.

²⁰ The country ‘did not take sufficient steps to address public officials’ complicity in human trafficking’ either. ‘Government complicity in human trafficking remained a problem. There were continued reports of trafficking related complicity of government officials during the reporting period, including reports of government officials who provided sensitive law enforcement information to traffickers and intentionally hindered the investigations of high-level traffickers. The government did not show appreciable results in combating this complicity.’ Source: 2011 US State Department Report, p. 101-102

²¹ Bulgarian authorities assured GRETA observers (GRETA Report, paragraph 200) that these circumstances could be subsumed under the categories of criminal offences committed by public officials in violation of or failure to fulfil their duties (Article 282, CC) and murder/causing death by negligence/causing death through ignorance or negligent performance of professional activity (Articles 115/122/123, CC). GRETA, however, pointed out that ‘the purpose of the aggravating circumstance of “deliberately or by gross negligence endangering the life of the victim” is to cover situations when victims of trafficking are, for example, transported in conditions which are so bad as to endanger their lives.’ In this sense, GRETA concluded that this aggravating circumstance is not adequately reflected in Bulgarian law and urged the Bulgarian authorities to include it in the CC.

Figure 7. Cases of human trafficking ended in conviction and number of offenders (2006 – 2011)



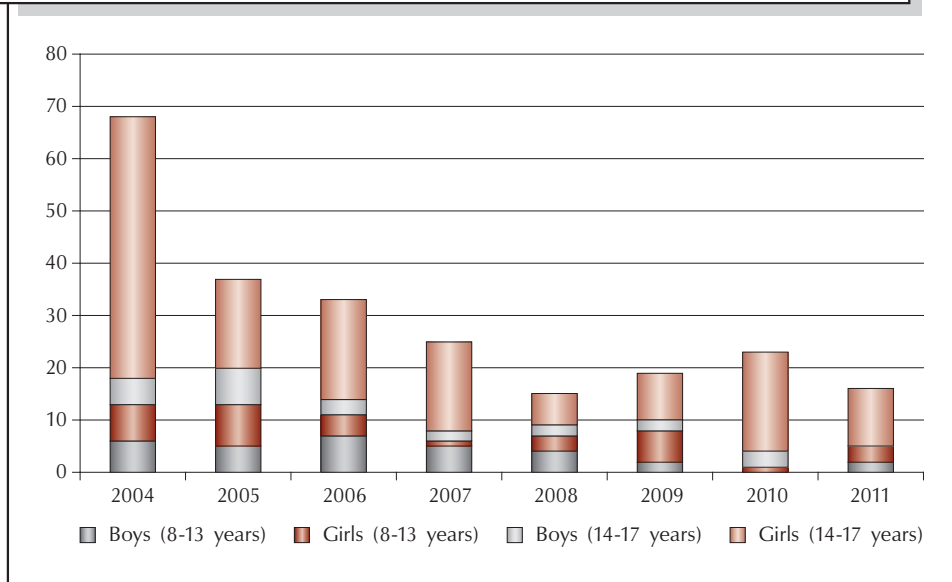
Source: National Statistical Institute.

Incitement to, aiding and abetting human trafficking would be penalised, as required by, *inter alia*, Directive 2011/36/EU, under the general provisions of the Bulgarian *Criminal Code*. As regards **attempt**, the SCC Interpretative Decision states that participation in one of the forms of crime (recruitment, harbouring, transportation or receiving) is enough for the person to be considered a trafficking offender. Although the Code does not incriminate attempt to trafficking as such, it incriminates each act of the process of human trafficking thus practically criminalising the preparation towards using the services of the victims under Article 159c.

Bulgarian *Criminal Code* establishes as criminal offences also a number of other actions, related to human trafficking, and child trafficking in particular.

Simple **soliciting for prostitution and soliciting for prostitution for obtaining benefit** are criminalised in Article 155 of the CC and are both aggravated, if the person solicited is under 18 years of age. Soliciting for prostitution for obtaining benefit is a lot similar to trafficking by recruitment for sexual exploitation. However, as affirmed by the SCC Interpretative Decision, trafficking in human beings has wider scope and a permanent and systematic character, while soliciting concerns only incidental cases of obtaining benefit through another's prostitution. This is why, if an incident can be considered both as trafficking and soliciting, the offenders should always be charged with the more serious crime – trafficking – in accordance with the assessment of the competent authorities in the particular case. However, pimping or providing premises for illicit sexual activities, criminalised under the same provision, cannot be absorbed by trafficking and can only accompany it in an aggregation.

Figure 8. Child victims of soliciting for prostitution or homosexual activities (2004 – 2011)



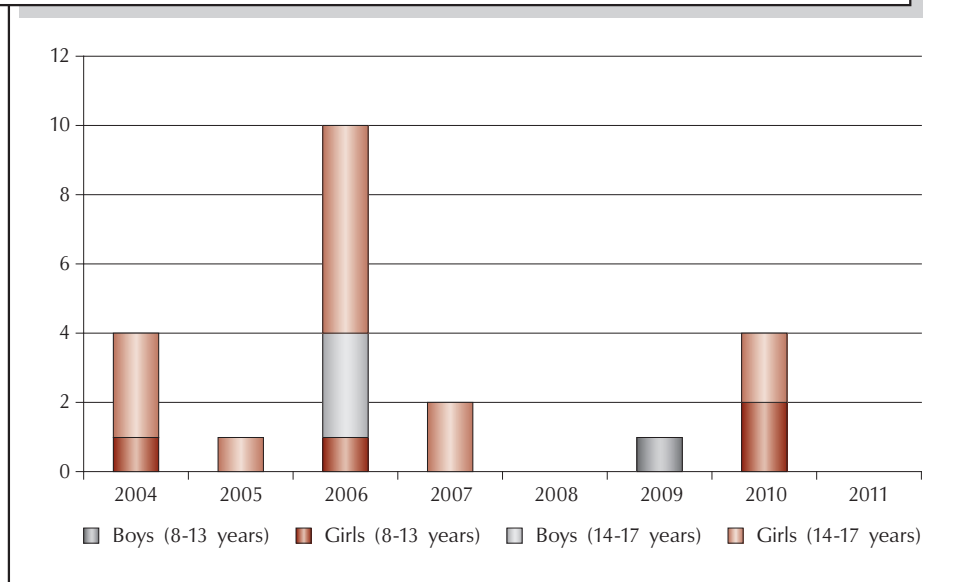
Source: National Statistical Institute.

Trafficking in human beings by using abduction (Article 159a, paragraph 2, item 3, CC) and **abducting someone with the purpose to be provided for illicit sexual activities** (Article 156, CC, again aggravated, if the victim is under 18 years of age – paragraph 2) also often come as two possible qualifications of one criminal act. However, as stipulated by the Interpretative Decision, abducting for illicit sexual activities includes providing the victim to a third person, while in the case of trafficking the victim is used (by the offender or by a third person) as a commodity in a repetitive activity with different subjects, who cannot be individualised.

In the same section of the CC, called ‘Illicit sexual activities’, various **other forms of sexual exploitation of children** are criminalised, which can accompany or be absorbed by trafficking for the purpose of illicit sexual activities/sexual exploitation. Carnal abuse or a sexual intercourse with a 14-18 years old person, engaged in prostitution, against a given or promised benefit, is criminalised (Article 154a, CC). According to the legal doctrine, if the child victimised is a trafficking victim and the offender is aware of that fact, the act should be penalised under Article 159c.²² Providing online or otherwise information about a person under 18 years of age to establish a contact with him/her for carnal abuse, sexual intercourse, prostitution or creating pornography, and also using such information about a person under 14 years of age for the same purpose is a criminal offence as well (Article 155a, CC). Whoever solicits a person under 14 years of age to participate or observe actual, virtual or simulated sexual intercourses or other sexually-related acts is also criminally liable (Article 155b, CC). Criminal sanctions are provided for those, recruiting or forcing, or observing, persons 14-18 years of age to commit

²² Пушкарова, И. Трафикът на хора. Проблеми на наказателноправния режим [Pushkarova, I. Human Trafficking: Problems of Penal Law Regime], Sofia: Sibi Publishing House, 2012, p. 92.

Figure 9. Child victims of abduction with the purpose of being provided for illicit sexual activities (2004 – 2011)



Source: National Statistical Institute.

sexual intercourses or other sexual acts, aggravated if done for material benefit (Article 158a, CC).²³ Child-related pornography is criminalised in Article 159, paras. 3, 4 and 5 in the form of distributing pornographic material to persons under 16 years of age, using a person under 18 years of age or one looking like such for creating pornography and keeping or obtaining such material.

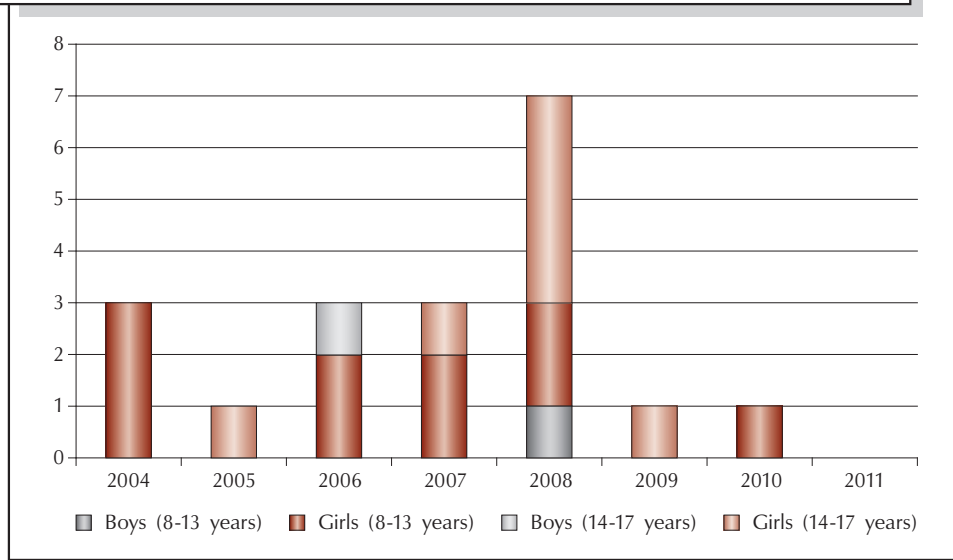
Another crime to be possibly absorbed by human trafficking, if its special elements are in place, is contained in Article 185 of the CC: whoever wilfully takes or keeps another person's child under 14 years of age and does not inform the authorities or return the child to his/her parents or guardian is liable to a criminal sanction, aggravated case in case of use of force, threat, deception or with the intention to use the child for mercenary or immoral purposes.

Some of the **criminal offences against the marriage, family and youth** (Article 176-193, CC) are also related to trafficking in persons. Forcing someone into marriage, which can often accompany trafficking, is criminalised (Article 177, paragraph 1, CC), as well as abducting a female to force her into marriage (Article 177, paragraph 2, CC, can sometimes be absorbed by trafficking²⁴ and is aggravated, if the victim is underage). It is also a criminal act if a parent or another relative receives

²³ A provision, within the scope of which, according to the legal doctrine, persons under 14 years of age should also be put, and which is absorbed by trafficking in children as regards its object. The implementation of this provision is also said to be blocked by the norms on trafficking because of its generally inaccurate phrasing – Пушкарова, И. Трафикът на хора. Проблеми на наказателноправния режим [Pushkarova, I. Human Trafficking: Problems of Penal Law Regime], Sofia: Sibi Publishing House, 2012, p. 37, 93.

²⁴ Пушкарова, И. Трафикът на хора. Проблеми на наказателноправния режим [Pushkarova, I. Human Trafficking: Problems of Penal Law Regime], Sofia: Sibi Publishing House, 2012, p. 117.

Figure 10. Child victims of pornography (2004 – 2011)



Source: National Statistical Institute.

ransom for allowing his/her daughter or another female relative to marry, or a person mediates for such a transaction – which can appear into aggregation with trafficking (Article 178, CC). Persuading a parent with the aim of getting a property benefit through donation, promise, threat or abuse of official position to abandon a child or give agreement for his/her adoption, or persuading an underage person to give agreement for his/her own adoption, if such is necessary, is criminalised (Article 182a, paragraph 1-2, CC) – all acts possibly preceding or accompanying trafficking in children. Mediating for unlawful property benefit between a person/family wishing to adopt a child and a parent, wishing to abandon his/her child, or a woman, willing to give birth to a child and give him/her for adoption is a criminal offence (Article 182a, paragraph 3, CC) – and can possibly lead to subsequent trafficking. A woman, or a pregnant woman, who gives her consent for the selling of her (unborn) child – which can accompany trafficking of pregnant women – is also penalised (Article 182b, CC). Substituting, hiding or exposing a small child is a criminal offence, aggravated by mercenary motives (Article 184, CC) – and can also lead to subsequent trafficking of the child.

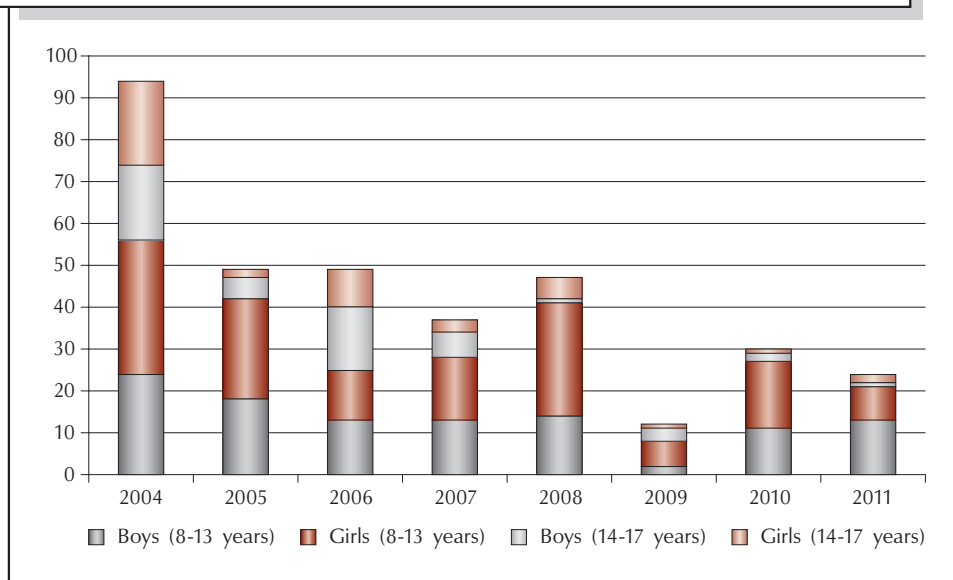
A special section of the Bulgarian *Criminal Code* is devoted to the **crimes against youth**, which are all potentially related to child trafficking:

- forcing a minor or underage person into committing a crime or into prostitution (Article 188) – here, exploitation for committing crimes (including theft or pick pocketing) is regulated as a crime, separate from human trafficking, and differs from it as its intention is narrower than the purpose of exploitation in trafficking;²⁵

²⁵ Here, the recommendation for absolving of the victim from criminal responsibility for the crimes he/she may have committed, generally applicable in cases of trafficking, is also valid. The crime differs from trafficking as its intention is narrower than the purpose of exploitation in trafficking – Пушкарова, И. Трафикът на хора. Проблеми на наказателноправния режим [Pushkarova, I. Human Trafficking: Problems of Penal Law Regime], Sofia: Sibi Publishing House, 2012, p. 155.

- using systematically for mendicancy a person under the offender's care, aggravated if the offender is the parent or guardian of the victim (Article 189); here, exploitation for begging is regulated as a crime, separate from trafficking;
- forcing one's child under 16 years of age, by abusing one's parental powers, to live in common law marriage with someone (Article 190);
- living, on the part of an adult, in common law marriage with a female person under 16 years of age (Article 191, paragraph 1), aggravated if the victim is under 14 years of age (paragraph 3);
- employing without due permission a person under 18 years of age, aggravated when the victim is under 16 years of age (Article 192a);
- intoxicating with alcohol a person under 18 years of age (Article 193).

Figure 11. Child victims of soliciting for mendicancy (2004 – 2011)



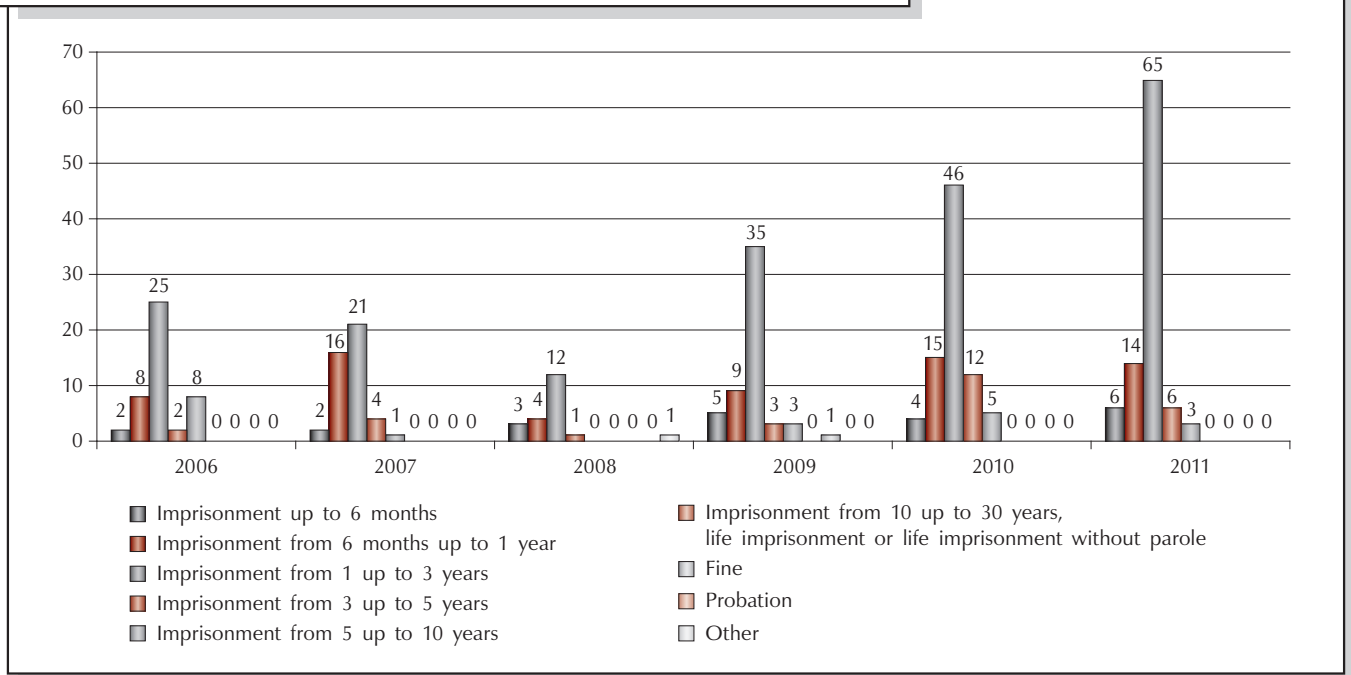
Source: National Statistical Institute.

Sale of organs is criminalised separately in Article 349a of the Bulgarian *Criminal Code* as 'violating the rules, established for taking and giving human organs or tissues for transplantation', mercenary motives being an aggravating circumstance (paragraph 2).

1.3. CRIMINAL, CIVIL AND ADMINISTRATIVE SANCTIONS FOR TRAFFICKING IN CHILDREN

In its section on human trafficking, the Bulgarian *Criminal Code* provides for sanctions of **imprisonment of different length and fines, applied cumulatively**. It is so also for child trafficking, which, as mentioned above, is always an aggravated case of trafficking, when the offender is aware of the age of the victim, and carries a penalty of deprivation of liberty from three to ten years and a fine of BGN 10,000 to 20,000 (appr. 5,000 to 10,000 Euro). All sanctions for human trafficking, including the ones for child trafficking, were raised substantially in 2009,²⁶ especially the fines. Before the amendment in 2009, child trafficking was penalised by deprivation of liberty from two to ten years and a fine of up to BGN 10,000 (appr. 5,000 Euro). The court decides on the duration of imprisonment and the amount of fine for each specific case.

Figure 12. Sanctions imposed on individuals convicted for human trafficking (2006 – 2011)



Source: National Statistical Institute.

The sanctions for trafficking of pregnant women with the purpose of selling their babies were also raised in 2009 from three to ten years to three to fifteen years of deprivation of liberty and from BGN 5,000 to 15,000 (appr. 2,500 to 7,500 Euro) to BGN 20,000 to 50,000 (appr. 10,000 to 25,000 Euro) of fine.²⁷

²⁶ Amendments promulgated in the SG No. 27 of 2009.

²⁷ According to the legal doctrine, trafficking of pregnant women with the purpose of selling their babies carries a heavier penalty than trafficking in children, because the legislature's will is to cut off the criminal activity from its very beginning – Пушкарлова, И. Трафикът на хора. Проблеми на наказателноправния режим [Pushkarova, I. Human Trafficking: Problems of Penal Law Regime], Sofia, Sibi Publishing House, 2012, p. 26.

Transnational trafficking of children or pregnant women, again an aggravated case of transnational trafficking, when the offender is aware of those circumstances, is penalised by deprivation of liberty of five to twelve years and a fine of BGN 20,000 to 50,000 (appr. 10,000 to 25,000 Euro). Sanctions before 2009 used to be deprivation of liberty of five to ten years and a fine of up to BGN 15,000 (appr. 7,500 Euro).

The use of services of a trafficking victim is sanctioned by three to ten years of deprivation of liberty and a fine of BGN 10,000 to 20,000 (appr. 5,000 to 10,000 Euro).

The punishment for trafficking, being a case of dangerous recidivism or committed by assignment or implementing a decision of an organised criminal group is deprivation of liberty of five to fifteen years and a fine of BGN 20,000 to 100,000 (appr. 10,000 to 50,000 Euro; before 2009, up to BGN 20,000 – appr. 10,000 Euro). It is the only case, where the court can also impose cumulatively confiscation of all or part of the property of the defendant.

US State Department considers those sanctions ‘sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape’.²⁸

Bulgarian law does not provide for the possibility to take into account previous convictions made by another country when determining the penalty for trafficking. However, according to Bulgarian authorities,²⁹ although a **previous sentence by another country does not provide ground for, *inter alia*, heavier punishment** for dangerous recidivism, it can show increased degree of social danger of the offender and thus lead to increase of the punishment within the framework of the law.

Bulgarian CC contains **no provision, absolving from criminal responsibility child victims of trafficking, having been compelled to commit criminal offences**. Such a provision would be required, *inter alia*, by the transposition of the new Directive 2011/36/EU (Article 8) and is envisioned in Bulgaria’s Concept on State Policy in the Area of Juvenile Justice (Concept on Juvenile Justice).³⁰ Otherwise, in the view of EU institutions, ‘victims of child trafficking might not develop a relationship of trust with state authorities, which would permit them to escape dependency on their traffickers’.³¹ However, they would be treated in accordance with the ‘Special Rules Concerning Underage Persons’ (Articles 60-65 of the *Criminal Code*), providing for a limited number of penalties and obligatory rules for substituting them with lighter ones. A number of educational measures are applied in certain cases instead of criminal sanctions and, if deprived of liberty, underage offenders serve their sentence in reformatories until 18 years of age (Article 65, CC). For lesser crimes,

²⁸ 2011 US State Department Report, p. 102.

²⁹ Bulgarian reply to GRETA evaluation, p. 40.

³⁰ Концепция за държавна политика в областта на правосъдието за детето [Concept on Juvenile Justice], p. 12.

³¹ European Union Agency for Fundamental Rights. Child Trafficking in the European Union: Challenges, perspectives and good practices. 2009, p. 146.

under certain circumstances, they could be exempted from criminal liability (Article 78a, paragraph 6, CC).³²

The *Law on Combating Anti-Social Acts of Minors and Underage Persons*,³³ severely criticised by the Concept on Juvenile Justice³⁴ as purely repressive and contradicting Bulgaria's international commitments, may potentially cover offences, having been committed by child trafficking victims. It regulates a separate system for combating anti-social acts of minors of 8-14 years of age and underage persons of 14-18 years of age, as well as crimes of underage persons, for which they have been exempted from criminal liability under Article 61 of the CC.³⁵ The system includes a Central Commission for Combating the Anti-Social Acts of Minors and Underage Persons and local commissions, participating, respectively, in the National Anti-Trafficking Commission and its local commissions. Pursuant to the Law, 'educational measures', including placement in specialised institutions, are imposed upon minor and underage offenders by the local commissions and, in cases of placement, by the regional courts.

According to the latest *National Strategy on Children for the Period 2008 – 2018*³⁶ the system for combating anti-social acts and the system for protection of children operate relatively separately and independently. However, their target groups – children at risk and children, having committed anti-social acts – often overlap, so the cooperation mechanism between two systems should be optimised. This is reiterated by the recent Concept on Juvenile Justice, which talks about the 'conflict between the repressive and protective function of the state, where one and the same child is at the same time a victim and an offender'.³⁷

As regards assets forfeiture, Bulgarian legal framework is in transition, but human trafficking is included among the crimes, covered by both previous Bulgarian *Law on Forfeiture to the State of Assets, Acquired through Criminal Activity*³⁸, and the *Law on Forfeiture of Illegally Acquired Assets to the State*³⁹ in force since November 2012.

³² In practice, some of the Roma victims are also perpetrators of other crimes and this is another reason why they do not want to testify in trafficking cases – they do not want to be investigated themselves and to be sentenced, as it is clear that they are more easily sentenced than other persons. The practice shows that while they are treated by the police and the magistrates as perpetrators of crimes like theft, the judicial system is 'blind' to the fact that they are victims of a more serious crime like trafficking. So it is more likely that they are sentenced for theft than their traffickers – for the trafficking crime – Kukova, S. Trafficking of Roma in Eastern and Central Europe: Analysing the effectiveness of national laws and policies in prevention, prosecution and victim support, 2011, p. 24.

³³ Law on Combating Anti-Social Acts of Minors and Underage Persons (promulgated in the SG No. 13 of 14 February 1958, effective 15 March 1958, last amendments SG No. 50 of 2 July 2010).

³⁴ Концепция за държавна политика в областта на правосъдието за детето [Concept on Juvenile Justice].

³⁵ When the crime was committed due to aberration or thoughtlessness and does not present considerable social threat.

³⁶ Национална стратегия за детето 2008 – 2018 [National Strategy on Children 2008 – 2018], p. 27-28.

³⁷ Концепция за държавна политика в областта на правосъдието за детето [Concept on Juvenile Justice], p. 2.

³⁸ Law on Forfeiture to the State of Assets, Acquired through Criminal Activity (promulgated in the SG No. 19 of 1 March 2005, last amendments SG No. 60 of 5 August 2011).

³⁹ Law on Forfeiture of Illegally Acquired Assets to the State (promulgated in the SG No. 38 of 18 May 2012, effective 19 November 2012).

Box 1. Forfeited assets acquired through human trafficking

The Asset Forfeiture Commission has filed five claims for the forfeiture of assets acquired from human trafficking. The court decision on one of these claims, ordering the forfeiture of assets equal to BGN 107,019 (approximately 53,500 Euro), has already entered into force. Three more court decisions, ordering the forfeiture of assets to the total amount of BGN 402,280 (approximately 201,140 Euro), have been passed on first instance. The last case, where the claim for forfeiture of assets amounts to BGN 1,493,446 (approximately 53,500 Euro) is still pending at the court of first instance.

Source: Commission for Establishment of Property Acquired from Criminal Activity.

Under the general provisions of Bulgarian *Criminal Code* (Article 53, CC), regardless of the criminal liability of the offender, goods, which belong to him/her and were meant or used for the commission of an intentional crime are forfeited to the benefit of the state, as well as those, object or instrument of the crime, whose possession is forbidden.

Legal entities, involved in human trafficking, can be subject to administrative sanctions under the *Law on Administrative Violations and Sanctions*.⁴⁰ According to its Article 83a, a legal entity, which has acquired or would acquire benefit from, *inter alia*, human trafficking, when the crime is committed by a person, authorised to form the entity's will, to represent the entity or a person from the entity's control or supervision body, or its official during the course of his/her work, is imposed a monetary sanction of up to BGN 1,000,000 (appr. 500,000 Euro), but not less than the equivalent of the benefit, if it is of property nature, or BGN 5,000 to 100,000 (appr. 2,500 to 50,000 Euro), if the benefit is not of property nature or its value cannot be established. The sanction is also imposed if the entity's leaders (not the officials) have instigated or aided the commission of the crime or the crime reached only the stage of attempt. The monetary sanction is imposed irrespective of the criminal liability of the perpetrator. The benefit or its equivalent is forfeited to the benefit of the state, if it is not subject to return or restitution, or forfeiture under the *Criminal Code*. Data on the application of those sanctions has been kept since the beginning of 2010 and there is still no information on cases instituted under those provisions.⁴¹

1.4. CRIMINAL PROCEDURE LAW

The standing of child victims of crime is regulated in several provisions of the *Criminal Procedure Code* (CPC).⁴²

⁴⁰ Law on Administrative Violations and Sanctions (promulgated in the SG No. 92 of 28 November 1969, last amendments SG No. 77 of 4 October 2011).

⁴¹ Source: Letter of the Supreme Cassation Prosecutor's Office to author, dated 25 August 2011.

⁴² Criminal Procedure Code (promulgated in SG No. 86 of 28 October 2005, effective 29 April 2006, last amendments SG No. 61 of 9 August 2011).

In Bulgarian criminal procedure, **a victim is a person, having sustained property or non-property damage from the crime** (Article 74, CPC). Human trafficking is a crime of *general nature* where proceedings are initiated *ex officio*, but victims' complaints can be a 'legal ground' for authorities (Article 208, CPC) to start action.

Children can be represented by a lawyer, their parents or grandparents. When the interests of the child victim and his/her parent or guardian are contradictory, the respective authority appoints him/her a special representative – attorney-at-law (Article 101, CPC). There is no specific training in legislation or in practice for lawyers representing children, including child victims of trafficking.⁴³ For child victims of trafficking with no families present, including unaccompanied foreign children, the authorities under the *Law on the Protection of Children*⁴⁴ (Social Assistance Directorates) take measures to ensure representation. In practice, researchers fear that the varied and excessive workload of social workers may not allow them sufficient time to prepare for representing child trafficking victims.⁴⁵ Authorities, shelters and centres under LCHT also take immediate measures to find the children's families (Article 24, LCHT).

Victim support groups cannot participate in the criminal proceedings against traffickers as third parties, but provide legal aid and representation to victims, as well as witness statements as to the health and psychological condition of the trafficking victims.⁴⁶

Minor (under 14 years of age) victim witnesses are interviewed in the presence of a person of teaching background or a psychologist and, if needed, in the presence of their parents or guardians, who can ask questions with the permission of the relevant authority. The same is valid for the underage (between 14 and 18 years of age) witnesses, if the relevant authority finds that necessary. The authority explains to the minor witness the need to give truthful testimony, but does not warn him/her about possible criminal liability in case of lying. If needed, interviewing minor or underage witnesses within the country can be done via videoconference (Article 140, CPC).⁴⁷ In practice, according to concerns of NGOs, expressed before GRETA,⁴⁸ in cases of child victims 'the only person present at the questioning is

⁴³ Kukova, S. FRA Thematic Study on Child Trafficking – Bulgaria, European Union Agency for Fundamental Rights, 2008, p. 30.

⁴⁴ Law on the Protection of Children (promulgated in SG No. 48 of 13 June 2000, last amendments SG No. 51 of 5 July 2011).

⁴⁵ Kukova, S. FRA Thematic Study on Child Trafficking – Bulgaria, European Union Agency for Fundamental Rights, 2008, p. 31.

⁴⁶ GRETA Report, paragraph 224.

⁴⁷ At the beginning of 2009, a special place for hearing of children was established within the building of Sofia Directorate of Interior. The place consists of two rooms – one is especially furnished for children and the other is separated by glass mirrors behind which the child can recognize the suspects. Another special room for hearing of children exist at the crisis center for child victims of violence and human trafficking in Pazardzhik. Source: Bulgarian reply to GRETA evaluation, p. 6. A letter of the State Agency for the Protection of Children, dated 24 November 2011, cites information by the Ministry of Interior, according to which there are two more such premises, in Shumen and Veliko Tarnovo, where children can be interviewed in an appropriate manner – the aim is for children to be interviewed not more than once by law enforcement authorities.

⁴⁸ GRETA Report, paragraph 223.

an inspector from the Child Pedagogical Department (a policeman with pedagogic training who deals with the anti-social behaviour of juveniles).'

In court, a minor or underage victim witness could be interviewed behind closed doors (Article 263, paragraph 3, CPC). After giving their testimony, underage witnesses are taken out of the court room, unless the court rules otherwise (Article 280, paragraph 4, CPC). A minor witness, who has been questioned in the pre-trial proceedings, is called to testify in court only if his/her testimony cannot be read pursuant to the special procedure provided for in law (pre-trial questioning in the presence of a judge, the prosecutor, the defendant and his/her counsel) or a new questioning would be of extraordinary significance for revealing the truth (Article 280, paragraph 6, CPC).

Foreign child victims would also benefit from the general rights, given to foreign victim witnesses – to use free of charge the services of an interpreter, if they do not speak Bulgarian (Article 142, CPC) and be interviewed via videoconference or telephone conference, if outside Bulgaria (Article 139, paragraph 7, CPC).

According to anti-trafficking practitioners,⁴⁹ the Bulgarian **Criminal Procedure Code does not allow full compliance with internationally endorsed recommendations** that trafficking victims should not be interviewed as witnesses and should not encounter traffickers even in court in order to avoid re-victimisation. Victims' procedural capacity gives them a range of entitlements and they cannot easily be eliminated as participants in the criminal procedure. This is reiterated by the Concept on Juvenile Justice,⁵⁰ which states that 'the norms in the Criminal Procedure Code alleviating the stressing impact of proceedings upon a child... are lacking, when he/she is a victim'.

In fact, field researchers notice that '... once the victims agreed to testify they need to do so three times: before the policemen, before the prosecutors and before the court. Thus, they often meet the perpetrators several times and again experience the trauma and fear they would be re-victimised after they testify. None of the policemen, the service providers or the Roma interviewees mentioned any measures applied during the investigation to hide the identity of the witness or to prevent her/him from meeting the perpetrator. Some of the service providers mentioned they had victims fainting in the court room because of the stress, or changing their statements several times during the same hearing before the court because of the insecurity of their protection'.⁵¹

⁴⁹ Наръчник за борба с престъплението трафик на хора [Manual for combating the crime of human trafficking], Varna: Steno Publishing House, 2008, p. 38.

⁵⁰ Концепция за правосъдието за детето [Concept on Juvenile Justice], p. 8.

⁵¹ Kukova, S. Trafficking of Roma in Eastern and Central Europe: Analysing the effectiveness of national laws and policies in prevention, prosecution and victim support, 2011, p. 23.

1.5. LAW ON COMBATING HUMAN TRAFFICKING

The *Law on Combating Human Trafficking* (LCHT) gives an **emphasis to the protection of child victims of trafficking** at its very beginning, postulating (Article 1, paragraph 1, item 4) that it regulates, *inter alia*, the measures for protection and support to victims of human trafficking, especially women and children.

The LCHT additional provisions are considered to nearly repeat the definitions from the CoE Convention and the Palermo Protocol. According to them, trafficking in human beings means ‘... the recruitment, transportation, transfer, harbouring or receiving of human beings, regardless of the will they have expressed, by means of coercion, abduction, unlawful deprivation of liberty, fraud, abuse of power, abuse of a state of dependence, or by means of giving, receiving or promising benefits to obtain the consent of a person who has control over another person, when it is carried out for the purpose of exploitation’.

The other additional provisions of the LCHT present **definitions of exploitation, child, victim, risk group and risk region**. Exploitation is defined as ‘unlawful use of people for illicit sexual activities, removal of physical organs, forced labour, slavery or similar practices’. A child is any person under the age of 18 (same as in the *Law on the Protection of Children* – Article 2) and his/her recruitment, transportation, transfer, harbouring or receiving for exploitation is deemed trafficking regardless of using or not using coercive means. A victim is any person who has become subject to trafficking in human beings – a definition, seen to be in conformity with the CoE Convention.⁵² A risk group is a group of people, who, due to their age, sex, social status or location of the area, where they live, are potential victims of trafficking, while a risk region is an area, where risk groups are concentrated.

The LCHT also provides the **strategic and institutional framework for combating trafficking**, which will be dealt with in the following sections. Being outside the penal legislation, it does not qualify the crime of human trafficking as such, but gives the grounds for the state to provide to trafficking victims specific protection.

1.6. LAW ON THE PROTECTION OF CHILDREN

In its Additional Provisions (paragraph 1, item 11b), the *Law on the Protection of Children* (LPC) defines **children at risk** as children, who are victims of ‘abuse, violence, exploitation or any other inhuman or degrading treatment or punishment’ within or outside their families. Victims of trafficking would undoubtedly fall into the category of children at risk and are, as such, entitled to special protection (Article 3, item 4, LPC).

⁵² GRETA Report, paragraph 67.

The LPC's Chapter Two 'Rights of Children' lists some of the entitlements, which children have in terms of protecting them against potential trafficking or against its consequences, if they are already victimised.

Every child has the right to protection of his/her normal physical, mental, moral or social development and of his/her rights and interests and discrimination in this area is prohibited (Article 10, LPC). The protection stands also against degrading methods of upbringing, physical, mental or other violence (Article 11, paragraph 2, LPC), as well as against the child being used for mendicancy, prostitution, distribution of pornographic materials and receiving unlawful material benefits, as well as against sexual violence (Article 11, paragraph 3, LPC). Disclosing information or data about a child is generally prohibited (Article 11a, LPC). Children are free to express opinions on all issues of their interest, they can seek the assistance of the authorities and persons, tasked with their protection (Article 12, LPC) and can be informed or consulted even without the knowledge of their parents or guardians, if that is necessary for the best protection of their interests (Article 13, LPC).

As regards **children's participation in administrative or judicial proceedings**, where their rights or interests are concerned, the child is always heard, if he/she is over 10 years of age, unless that would harm his/her interests, and is heard, depending on his/her development, if he/she is under 10 years of age (Article 15, paragraph 1-2, LPC). Before the hearing, the authority provides the child with information to help him/her form his/her opinion, about the possible consequences of his/her wishes and opinions and about each decision of the authority (Article 15, paragraph 3, LPC). Children are heard in a setting, appropriate for their age, in the presence of an officer from the Social Assistance Directorate or another appropriate specialist; also in the presence of a parent, guardian or another person, taking care of the child, or a relative, unless that is not in the interest of the child (Article 15, paragraph 4-5, LPC). Social Assistance Directorates are notified about each procedure, concerning a child, and they send a representative, who expresses an opinion or presents a report. They can also represent the child in the cases, provided for in the law (Article 15, paragraph 6-7, LPC).

Children have a right to free legal aid and appeal in all proceedings, affecting their rights or interests (Article 15, paragraph 8, LPC).⁵³ The Social Assistance Directorate provides legal aid to the child, his/her parents, guardians and people, taking care of him/her by giving advice and consultations on issues, related to children's rights (Article 31, *Regulation on the Implementation of the Law on the Protection of Children*⁵⁴). The information, received in administrative or judicial proceedings, concerning a child, cannot be disclosed without the consent of his/her parents or statutory

⁵³ According to practitioners, this is an 'empty' norm with no specific legal consequences in case of non-compliance – Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 10.

⁵⁴ Regulation on the Implementation of the Law on the Protection of Children, adopted by a Decree of the Council of Ministers No. 153 of 14 July 2003 (promulgated in the SG No. 66 of 25 July 2003, last amendments SG No. 57 of 24 July 2009).

representatives or without his/her own consent, if he/she is over 10 years of age, unless the use is dictated by the interests of the child or for measures for his/her protection.

Further in its regulation, the LPC provides for a number of measures to protect children at risk, including child victims of trafficking, which will be elaborated upon in the following sections.

2. IDENTIFICATION OF CHILD VICTIMS OF TRAFFICKING, RISK ASSESSMENT, AND REFERRAL TO APPROPRIATE SERVICES

Under the LPC (Article 7), each person, coming to know that a child needs protection, should immediately notify the Social Assistance Directorate, the State Agency for the Protection of Children or the Ministry of Interior. In particular, when information appears about a child victim of trafficking, the Ministry of Interior and the State Agency for the Protection of Children, which undertakes measures under the LPC, are notified within 24 hours (Article 21 of the LCHT and National Referral Mechanism – see below).

As already mentioned, Bulgarian institutions collect data on, *inter alia*, child victims of trafficking identified in accordance with their own criteria, making uniform, centralised and reliable statistics hardly available.

The Ministry of Interior provides information on child victims it identified in the framework of completed pre-trial proceedings, but mentions expressly that some of the data has been provided by other institutions.⁵⁵

As outlined by the GRETA Report,⁵⁶ official statistics on trafficking victims collected by the Supreme Prosecutor's Office of Cassation are limited to persons who have taken part in criminal proceedings and this significantly narrows the understanding of the problem and the resources allocated to the protection and assistance of victims.

The Agency for Social Assistance reports on child victims, whose cases it oversees (23 for 2009, 23 for 2010 and 26 for the first nine months of 2011).⁵⁷

The State Agency for the Protection of Children provides data for 2009 and 2010⁵⁸ under the following headings:

- unaccompanied Bulgarian children abroad and child victims of trafficking (25 girls and 5 boys for 2009 and 34 girls and 12 boys for 2010 – out of the latter, 14 were sexually exploited and 32 were used for mendicancy or pickpocketing);
- children, whose repatriation the Agency co-ordinated (16 for 2009 and 11 for 2010).

⁵⁵ Source: Letter of the Ministry of Interior to author, dated 29 November 2011.

⁵⁶ GRETA Report, paragraphs 98, 153.

⁵⁷ Source: Letter of the Agency for Social Assistance to author, dated 15 November 2011.

⁵⁸ Source: Letter of the State Agency for the Protection of Children to author, dated 24 August 2011.

NGOs provide information on children they have worked with. For example, the Animus Association informs⁵⁹ that in 2009 the crisis centre it manages worked with 3 girls and 3 boys, while in 2010 there were 3 girls and 2 boys.

The GRETA Report recommends⁶⁰ that institutional data collection be broadened to include victims identified by NGOs and other relevant structures, as well as those reluctant to cooperate with authorities.

The LCHT does not provide for a formalised process of identification of victims of trafficking as such, or for a formal victim status. No specific policy for age assessment is applied either or giving persons, whose age is uncertain, the benefit of doubt in order to be accorded the entitlements under child protection legislation.⁶¹

More details on the process of victim identification as such are found in two **non-legislative documents**, which give detailed and binding regulation on the work of institutions and organisations, involved in protecting trafficking victims.

A special *Co-ordination Mechanism for Referral and Care of Unaccompanied Children and Child Victims of Trafficking, Returning from Abroad* is in place, regardless of whether the children are Bulgarian citizens or not (the Co-ordination Mechanism).⁶² In accordance with the Co-ordination Mechanism, **signals about unaccompanied children or child victims of trafficking** could be received:

- via the Ministry of Foreign Affairs from the diplomatic and consular representations of the Republic of Bulgaria abroad;
- via the Ministry of Interior from the police representatives with the diplomatic and consular representations of the Republic of Bulgaria abroad;
- via the International Organisation of Migration (IOM);
- via the International Social Service (ISS);
- via the National Anti-Trafficking Commission;
- via the National Hotline for Information, Consultation and Assistance to Children (116-111), to which calls can be made free of charge and where specialists can also perform initial risk assessment;

⁵⁹ Source: E-mail of Animus Association to author, August 2011.

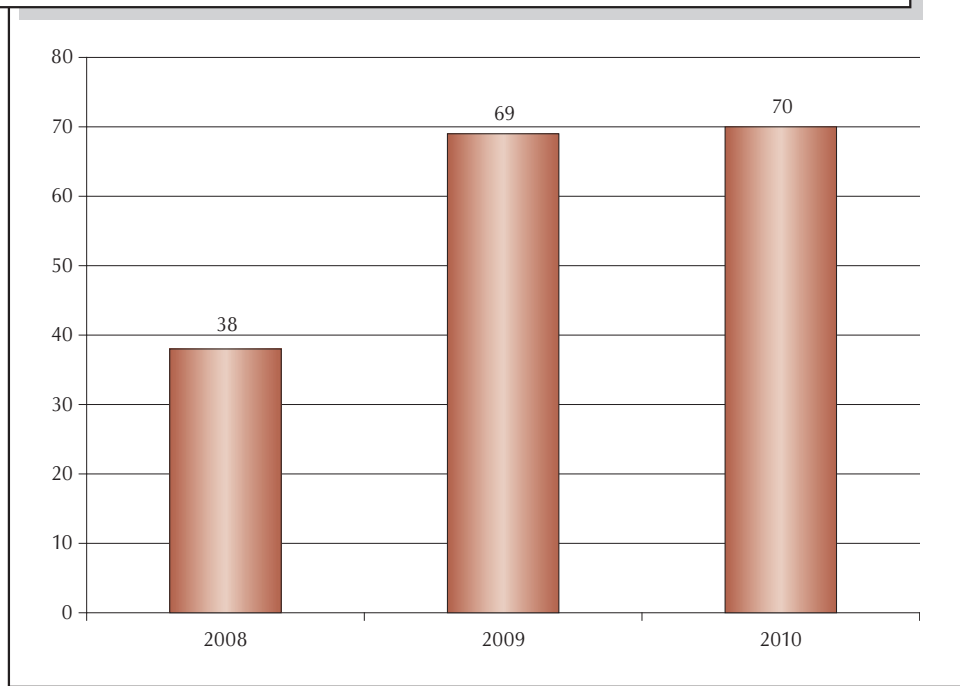
⁶⁰ GRETA Report, paragraphs 98, 153.

⁶¹ In this line, unaccompanied children, placed in Homes for Temporary Placement of Foreigners, complain about being wrongfully documented as adults, while the underage persons sector hosts adult male foreigners, claiming that they are under 18 years of age. Source: Гражданско наблюдение в Специалните домове за временно настаняване на чужденци на МВР за периода януари – юни 2011 г.: обобщен доклад [Civil Monitoring in the Special Homes for Temporary Placement of Foreigners of the Ministry of Interior for the period January – June 2011: Summary Report], Open Society Institute – Sofia, Sofia, 2012, p. 30, 33.

⁶² Координационен механизъм за рефериране и обгрижване на деца – жертви на трафик, завръщащи се от чужбина [Co-ordination Mechanism for Referral and Care of Unaccompanied Children and Child Victims of Trafficking, Returning from Abroad], updated version signed by respective authorities in December 2010. When the child is a foreign citizen, has double or no citizenship or benefits from special protection under the Law on Asylum and Refugees, the Co-ordination Mechanism is applied, adapted for each particular case, and notifications are given to the State Agency for Refugees and the Migration Directorate of the Ministry of Interior, which gives residence permits, as well as to the National Anti-Trafficking Commission.

- via the National Hotline for Victims of Violence (+359 2 981 7686);
- via e-mail and the web form on the specialised website of the State Agency for the Protection of Children – www.stopech.sacp.government.bg;
- via Bulgarian or foreign NGOs;
- directly at the State Agency for the Protection of Children via other sources, including every citizen.

Figure 13. Child victims of human trafficking identified by the Ministry of Interior in the framework of completed pre-trial proceedings (2008 – 2010)



Source: Ministry of Interior.⁶³

Bulgaria also has a *National Mechanism for Referral and Support to Trafficked Persons* (the National Referral Mechanism),⁶⁴ prepared by an interinstitutional working group, including also NGOs.

Identification of (child) victims of trafficking is included under the Mechanism's standard operating procedures⁶⁵ and is divided into **informal**, made by different institutions and organisations, having established initial contact with the victim, and **formal**, done by the pre-trial authorities in order to start investigation.

Identification is done through initial informal conversation with the victim; observations on his/her conduct and looks; information, given by a referring

⁶³ Source: Letter of the Ministry of Interior to author, 29 November 2011.

⁶⁴ It was approved by the National Anti-Trafficking Commission in November 2010 and has been applied by all stakeholders since the beginning of 2011.

⁶⁵ National Referral Mechanism, p. 25 et seq.

person or citizen; observation and analysis of the circumstances, under which the victim was found; self-identification of the victim (rarely).

The **identification** is done in accordance with specially developed indicators:⁶⁶

- related to the criminal activity against the victim and including categories like personal freedom, work and living conditions, violence, dependence, sexual and labour exploitation;
- describing the victim by his/her conduct, looks and surroundings and including categories like behaviour, appearance and environment.

Subsequently, the identity and place of residence of the child victim and his/her family/relatives should be established, if unknown, by the police.

In practice, as described by the GRETA Report,⁶⁷ the majority of Bulgarian victims trafficked abroad are identified either by law enforcement agencies in the country of destination (e.g. during a police raid) or by foreign NGOs doing outreach work. In such cases, either the Bulgarian police or a Bulgarian NGO are contacted by their foreign counterpart in order to assist the victim's return to Bulgaria. In more rare cases, identification takes place following preventive and investigative work. As regards internal trafficking, the identification of victims often depends on proactive investigative work by the police through periodic raids in nightclubs, bars and massage parlours.

Then, **risk assessment** should be performed.⁶⁸ It is considered a permanent process, starting from the identification of the trafficking victim and continuing through the phases of investigation, prosecution and reintegration.

Specifically, for each case of a national child victim, the State Agency for the Protection of Children should notify in writing the Social Assistance Directorate in the area, where the child permanently/currently resides, to form a multidisciplinary team to review the family and social environment of the child, to assess the risk of him/her being re-trafficked and to design an action plan together with the crisis centre team, where the child might be placed. The action plan may include family support measures to minimise the risk of re-trafficking.

According to the Co-ordination Mechanism, the Ministry of Interior provides information on the parents' criminal records to support the process of risk assessment. If there is sufficient data that the child is being involved into unlawful activities, the State Agency for the Protection of Children may propose to the Ministry of Interior to impose a ban on the child leaving the country, not issue him/her a passport or take away his/her existing one (Article 76a, *Law on Bulgarian Identity Documents*⁶⁹).

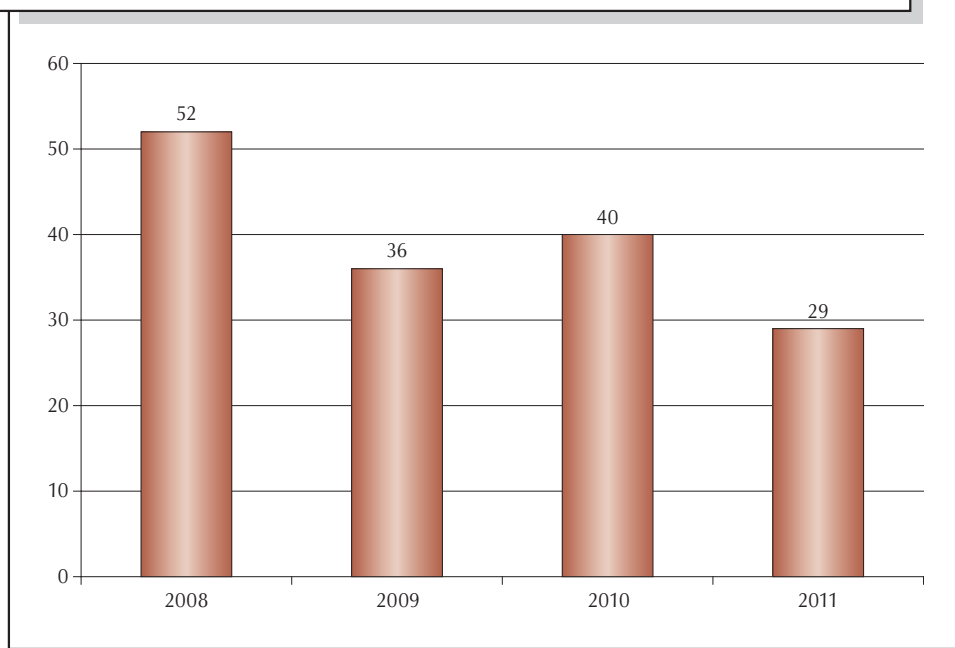
⁶⁶ National Referral Mechanism, p. 89 et seq.

⁶⁷ GRETA Report, paragraph 146.

⁶⁸ National Referral Mechanism, p. 30 et seq.

⁶⁹ Law on Bulgarian Identity Documents (promulgated in SG No. 93 of 11 August 1998, effective 1 April 1999, last amendments SG No. 55 of 19 July 2011).

Figure 14. Measures under Article 76a of the Law on Bulgarian Identity Documents imposed on children by the Ministry of Interior (2008 – 2011)



Note: Data for 2011 cover the period from 1 January to 15 November.

Source: Ministry of Interior.⁷⁰

According to the Co-ordination Mechanism, the Social Assistance Directorate may present motions for deprivation or limitation of parental rights, if there is enough data on the parents' participation into the child's trafficking.⁷¹

According to the Co-ordination Mechanism, in case of a child victim, returning to the country, Bulgarian diplomatic and consular representations through the Ministry of Foreign Affairs notify the State Agency for the Protection of Children and the Ministry of Interior. The Ministry of Foreign Affairs requires additional written information or documents from the local authorities, all available data on the health and emotional status of the child, on his/her attitude to the fact that he/she is returning to Bulgaria, opinions from the experts involved and information on the child's departure to Bulgaria. Diplomatic and consular representations issue temporary passports for children, not possessing valid identity papers, and organise, together with other institutions, the repatriation of the child to Bulgaria. The Social Assistance Directorate sends a representative to the child's reception at the border.

⁷⁰ Source: Letter of the Ministry of Interior to author, 29 November 2011.

⁷¹ Parents have their parental rights restricted or taken away by the Regional Court if their conduct presents danger for the child or the parent consistently fails to take care of the child or give him/her support with no justifiable reason (Article 131 et seq, Family Code). If one of the parents is deprived of parental rights and the child has no other parent or his/her exercise of parental rights is detrimental to the interests of the child, the court places the child outside the family; the Social Assistance Directorate proposes institution of guardianship, if need be.

Referral⁷² denotes referring the victim to the relevant programmes and services, included in the National Mechanism, if they are not in place at the institution, having identified him/her. The main referral rule is for it to be safe – services and care by other offices and organisations should not threaten the health and security of the person. Referral is often done via the National Hotline for Information, Consultation and Assistance to Children, which keeps a database of relevant institutions, services and programmes.

For child victims specifically, the Social Assistance Directorate in the area, where the child permanently/currently resides, undertakes an appropriate protection measure in accordance with the needs and interests of the child – most often, placement into a crisis centre.

As regards foreign child victims, citizens of other EU Member States have the same rights as Bulgarian citizens. Children from countries outside the EU may rely on Article 28a of the *Law on Foreigners in the Republic of Bulgaria*,⁷³ which regulates the status of unaccompanied foreigners under 18 years of age, who have entered the country on a legitimate basis and have not requested protection under the Law on Asylum and Refugees. Such children can have their stay on Bulgaria's territory prolonged.

According to the National Referral Mechanism, all dealings with foreign (child) victims are done through interpreters, who have to be familiar with the specificities of human trafficking and be instructed into tolerant conduct towards the victim and complete confidentiality.

Pursuant to the *Law on Foreigners*, the State Agency for the Protection of Children temporarily provides unaccompanied foreign children with the necessary material support and care for meeting their basic needs, medical aid and due guardianship, including legal aid and representation. The Agency also has the responsibility to provide them with access to free education in Bulgarian state and municipality-run schools until the final resolution on their stay in the country, but only until reaching 18 years of age. If the children's stay is not prolonged, they are returned to their families, or to an assigned guardian. When this is not possible or is contrary to the child's interest, the victims are directed to appropriate reception centres in their country of origin, or in a third country, ready to accept them. They could also be transferred to a country obliged to accept them under an agreement with Bulgaria, if their life or liberty are not threatened and they will not be exposed to persecution, torture or inhuman and degrading treatment.

The *Law on Foreigners* does not provide regulation for all the possible hypotheses of unaccompanied children, who may also be victims of trafficking, and governmental/NGO stakeholders may face significant difficulties, dealing with their stay in the country.

⁷² National Referral Mechanism, p. 39 et seq.

⁷³ Law on Foreigners in the Republic of Bulgaria (promulgated in SG No. 153 of 23 December 1998, last amendments SG No. 43 of 7 June 2011).

3. ASSISTANCE, PROTECTION, MEDICAL CARE

When providing assistance, protection and medical care to child victims of trafficking, as in all dealings with children, the principle of the child's best interest is observed. On a national level, it is proclaimed in the *Law on the Protection of Children* (Article 3, item 3 and a definition in paragraph 1, item 5 of the Additional Provisions) and in the *Law on Asylum and Refugees* (Article 6a).

As the sections below will show, child victims of trafficking in Bulgaria benefit from a **twofold protection** – under the anti-trafficking and the child protection legislative framework – which, however, may leave lacunae in certain areas, creating difficulties for victims and protection authorities.

3.1. SPECIAL PROTECTION OF VICTIMS OF TRAFFICKING UNDER THE ANTI-TRAFFICKING LEGISLATION

The LCHT postulates that, after having identified victims of trafficking, pre-trial authorities should immediately inform them about the possibility of getting special protection, if they, within a one-month reflection period (not defined explicitly as such), declare their consent to cooperate with authorities for uncovering the respective criminal activities (Article 26, paragraph 1, LCHT). Upon proposal of the State Agency for the Protection of Children, the reflection period can be extended to two months, if the case concerns a child victim (Article 26, paragraph 2, LCHT).⁷⁴ The special protection, provided for up until the end of the criminal proceedings, includes a long-term residence permit for foreign citizens and prolongation of the stay in the shelters (Article 25, LCHT).

According to the GRETA Report (paragraphs 174, 181), no trafficking victim received a recovery and reflection period, or was issued a residence permit in 2008 and 2009.

Pursuant to the National Referral Mechanism,⁷⁵ **all trafficking victims are entitled to support during their reflection period**, regardless of their wish to cooperate as witnesses or whether there is prosecution against the traffickers. During the reflection period, the victim should get psychological consultation. He/she should

⁷⁴ Making Bulgaria one of the few EU countries, having extended the reflection period for minors – source: Report from the Commission to the European Parliament and the Council on the application of Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, Brussels, 15.10.2010, COM(2010) 493 final, p. 9.

⁷⁵ National Referral Mechanism, p. 54 et seq.

also get legal consultation and information on the opportunities for starting prosecution against the traffickers and the victim's role and possible cooperation in the investigation. The victim should be aware of the benefits of cooperating (special protection), of his/her right to obtain free legal aid, of the functions of pre-trial authorities and his/her rights in the criminal procedure, of his/her right to financial compensation. During the reflection period, the victim is not obliged to cooperate with the pre-trial authorities or give testimony.

The reflection period runs automatically from the moment of identification of the victim as such on Bulgarian territory. It ends when its term expires or when the victim decides to cooperate with criminal justice authorities. The prosecutor rules on the request of the trafficking victim for special protection within 3 days after receiving it. His/her refusal can be appealed within 3 days before the superior prosecutor, who should rule immediately (Article 27, LCHT).

The **long-term residence permit**, as part of the special protection status, is issued pursuant to the *Law on Foreigners in the Republic of Bulgaria* for up to 1 year or until the end of the criminal proceedings by the authorities of the Ministry of Interior, based on the prosecutor's ruling (Article 28, paragraph 1, LCHT). Persons, having received the permit, have all the rights of permanent residents, except the right to leave and return to the country without a visa for the term of the permit (Article 28, paragraph 2, LCHT). No permit is issued to persons, having no identity documents and refusing cooperation in the establishment of their identity (Article 28, paragraph 3, LCHT).

The **stay in the shelter is prolonged** in accordance with the term of the special protection, but cannot exceed the term for completing criminal proceedings (Article 29, LCHT). Special protection is terminated pre-term by the prosecutor, if the victim has renewed his/her contacts with the offenders, if the prosecutor considers the victim's consent ostensible or there is a danger for public order and national security. In these cases the prosecutor issues a ruling, which can be appealed within 3 days before the superior prosecutor, who rules immediately (Article 30, LCHT).

The special protection under the LCHT carries no prejudice to the witness protection under the *Criminal Procedure Code* (Article 31, LCHT).

In case of non-cooperation with police/courts, the stay of child victims, who are not EU citizens, will likely be domestically regulated under the provisions of the *Law on Foreigners* and the *Law on Asylum and Refugees* (LAR),⁷⁶ combined with the protection under the LPC. Children, having been born and abandoned, or only abandoned, by their foreign parents on the territory of Bulgaria and placed in an institution or another social service of residential type as a protection measure can be granted permanent residence (Article 25, paragraph 1, items 14 and 15, *Law on Foreigners*). As mentioned above, unaccompanied foreigners under 18 years of age, who have entered the country on a legitimate basis and have not requested protection under the *Law on Asylum and Refugees*, can have their stay

⁷⁶ Law on Asylum and Refugees (promulgated in SG No. 54 of 31 May 2002, effective 1 December 2002, last amendments SG No. 39 of 20 May 2011).

on Bulgaria's territory prolonged (Article 28a, *Law on Foreigners*). Under the LAR, unaccompanied children, until reaching 18 years of age, are placed: with their relatives, in a foster family, in a specialised institution (all pursuant to the LPC) or in other facilities with special conditions for children (Article 29, paragraph 7, Article 33, Article 39, LAR).

The only provision, regulating possible detention before deportation for children, is found in the *Law on Foreigners*. Its Article 44 stipulates that in exceptional circumstances, if an unaccompanied or accompanied minor or underage foreigner has been imposed involuntary taking to Bulgaria's border or expulsion and is of unknown identity, hinders the execution of the order or there is danger of absconding, he/she may be ordered compulsory placement in a special establishment for temporary placement of foreigners for up to three months. The special establishments allocate premises for placing minor or underage foreigners with conditions suitable for their age.

In practice, as indicated by the civil monitoring over homes for placement of illegal migrant foreigners, the two facilities in Busmantsi near Sofia and in the town of Liubimets do have underage persons (unaccompanied and together with their families) placed in them, reaching 18 in Busmantsi as of February 2011.⁷⁷ In relation to underage persons, placed in the homes, the civil interviewers have also come across an administrative practice,⁷⁸ which may potentially directly facilitate child traffickers' exerting pressure over their victims. Unaccompanied underage persons, having been detained at the border, are later registered by the Border Police in the order, concerning an adult, detained with the same group, although they are not related. Then the underage persons are placed in the home, in violation of the law, for more than 3 months. Researchers found that, in the specific case of two boys interviewed, they were also placed, in further violation of the law, in the male sector in same room as their 'accompanying' adults.

In this line, a recommendation is made that the placement of children in the special homes should be stopped. Homes of free regimen should be introduced for placing families with children, unaccompanied minors and underage persons and representatives of other vulnerable groups.⁷⁹

⁷⁷ Гражданско наблюдение в Специалните домове за временно настаняване на чужденци на МВР за периода януари – юни 2011 г.: обобщен доклад [Civil Monitoring in the Special Homes for Temporary Placement of Foreigners of the Ministry of Interior for the period January – June 2011: Summary Report], Open Society Institute – Sofia, Sofia, 2012, p. 16.

⁷⁸ Гражданско наблюдение в Специалните домове за временно настаняване на чужденци на МВР за периода януари – юни 2011 г.: обобщен доклад [Civil Monitoring in the Special Homes for Temporary Placement of Foreigners of the Ministry of Interior for the period January – June 2011: Summary Report], Open Society Institute – Sofia, 2012, p. 29.

⁷⁹ Гражданско наблюдение в Специалните домове за временно настаняване на чужденци на МВР за периода януари – юни 2011 г.: обобщен доклад [Civil Monitoring in the Special Homes for Temporary Placement of Foreigners of the Ministry of Interior for the period January – June 2011: Summary Report], Open Society Institute – Sofia, Sofia, 2012, p. 37; also affirmed by *Becoming Vulnerable in Detention*, Civil Society Report on the Detention of Vulnerable Asylum Seekers and Irregular Migrants in the European Union (The DEVAS Project), country report on Bulgaria prepared by Bulgarian Helsinki Committee, p. 152.

In sum, the regulation of the stay of foreign/asylum seeking child victims of trafficking is relying on the general stipulations of foreigners'/refugee law, does not cover all the possible hypotheses and may create significant difficulties in practice.

3.2. SHELTERS AND CENTRES FOR VICTIMS OF TRAFFICKING

The Bulgarian LCHT provides for opening **shelters for temporary placement and centres for protection and assistance to trafficking victims** with funds from the state budget or NGOs. Shelters and centres are given detailed rules for functioning in the *Regulation on the Shelters for Temporary Placement and Centres for Protection and Assistance to Victims of Human Trafficking* (Regulation on Shelters).⁸⁰ Intergovernmental organisations provide services to trafficking victims pursuant to the international treaties, to which the Republic of Bulgaria is a State Party (Article 7, paragraph 3, Regulation on Shelters).

Shelters are opened by the National Anti-Trafficking Commission or by physical or non-for-profit legal persons, which are registered with the National Commission. Shelters, which accommodate children, are also registered with the State Agency for the Protection of Children (Article 7, paragraph 2, Regulation on Shelters).

Shelters receive persons, who have announced themselves to be trafficking victims before authorities and organisations under the LCHT, for a term of up to 10 days, to be possibly prolonged with another 30 days by proposal of the local anti-trafficking commissions, pre-trial authorities or the court, if the victim has wished so (Article 9, LCHT). In cases of granting special protection, the term for placement could be prolonged with a prosecutorial act until the closing of criminal proceedings (Article 21, paragraph 3, Regulation on Shelters). In other cases, the stay can also be prolonged by decision of the shelter team, if places are available (Article 21, paragraph 4, Regulation on Shelters).

The shelters provide to victims: normal conditions for accommodation and personal hygiene; food and medications; urgent medical and psychological aid; opportunities for contact with their relatives, as well as with specialised authorities and organisations (Article 10, LCHT).

As a general rule, child victims of trafficking are accommodated separately from adults (Article 22, LCHT).

Shelters work and receive victims round the clock (Article 12, 19 (1), Regulation on Shelters). Minutes are drawn on the reception of each person and pre-trial authorities are notified within 24 hours (Article 19, paragraphs 2-3, Regulation on Shelters). The shelter is staffed by social workers, medical personnel, experts with educational, psychological, legal and other background (Article 13, Regulation on Shelters). Shelters are guarded by police or private guards (Article 15, Regulation

⁸⁰ Regulation on the Shelters for Temporary Placement and Centres for Protection and Assistance to Victims of Human Trafficking (promulgated in SG No. 19 of 9 March 2004).

on Shelters). Shelters keep personal case-files of victims placed, containing a card with personal details, examination of the person's psychological status, recommendations for treatment and therapy, individual programme for assistance to the victim, notes on the end of the victim's stay in the shelter (Article 17, Regulation on Shelters).

Victims are informed in a language, understandable to them, about their rights and obligations during their stay, about their right to request asylum and about the services, offered by the centres for protection and assistance (Article 23, Regulation on Shelters). Victims, placed in the shelter, are offered 3 meals a day, suitable for their age and health condition (Article 24, Regulation on Shelters). If they do not have clothing and shoes, suitable for the season, they are provided with such for free (Article 25, Regulation on Shelters).

Centres for protection and assistance to trafficking victims are created with the local anti-trafficking commissions (Article 11, paragraph 1, LCHT). They provide: information about administrative and judicial procedures, regulating the assistance and protection of victims, in a language, understandable to them; specialised psychological and medical aid; assistance to reintegrating the victim into family and social environment (Article 11, paragraph 2, LCHT).

Medical services for persons, placed in shelters and centres, are provided by medical establishments, determined by the National Anti-Trafficking Commission or the local commissions and contracted for this purpose. Each person is given medical examination and medical aid or referral to a hospital is made, if needed (Article 26, Regulation on Shelters).

In practice, shelters for trafficking victims have started operating only recently, the two existing ones being in Varna and Burgas, and child victims are placed, since 2006, in crisis centres within the framework of social assistance legislation. The importance of crisis centres within the framework of countering child trafficking has been duly recognised by the anti-trafficking institutions.⁸¹

3.3. PROTECTION AND SUPPORT MEASURES UNDER THE CHILD PROTECTION LEGISLATION

The support under the *Law on the Protection of Children* is the second 'pillar' of the protection, afforded to child trafficking victims, which they receive regardless of their citizenship/migration status or cooperation with police.

Protection measures in the family environment (Article 23-24, LPC) are undertaken by the Social Assistance Directorates and include, *inter alia*: teaching, psychological and legal aid to parents or other persons with parental functions; referral to appropriate social services in the community; consulting and informing the child in

⁸¹ The National Programme for Countering Human Trafficking and Protection of Victims for 2012 provides for implementation of new methodology for the crisis centre social service.

accordance with his/her age and level of development; consulting and assistance on social assistance and social services issues; assistance for improvement of material conditions; social work to improve parent-child relationship and to manage crises; referring the child to a suitable educational establishment; assistance for finding jobs to children over 16 years of age pursuant to the labour legislation. According to the Co-ordination Mechanism, parents, guardians or other people, taking care of the child, should be informed about all measures, concerning the child, unless that poses a risk for him/her.⁸²

Children can also be **placed outside the family** (Article 25-26, LPC), if, *inter alia*: their parents are deceased, unknown, deprived of parental rights or with limited parental rights; their parents or guardians have consistently neglected them for no justifiable reason or are unable to take care of them; if the children are subjected to violence and there is a serious threat of harming their development. Children's placement outside the family is imposed only after all options for protection within the family have been exhausted, unless the child should be urgently taken out of the family environment.

Outside the family, children can be placed in the family of relatives, in a foster family (which does not acquire parental rights or obligations, but performs the actions, needed to protect the child's rights – Article 137, *Family Code*), within a social service of residential type or in a specialised institution.

Child victims of trafficking are placed in crisis centres for children.⁸³ Those are 'social services of residential type' under the *Regulation on the Implementation of the Law on Social Assistance*,⁸⁴ where child victims of trafficking, but also of violence and other types of exploitation are placed.⁸⁵ In practice, a social worker from

⁸² Regarding appointment of guardians, often discussed in child trafficking legal and strategic documents, under the Bulgarian Law on Persons and Family parents are considered legal representatives of their children if they are aged up to 14 and give consent to their children's legal actions if they are aged 14-18 (Art. 3-4). As for close relatives, they are appointed as guardians of children, whose parents are unknown, deceased, legally incapacitated or deprived of parental rights (Family Code, Art. 153 et seq). Cases of trafficked children with no parents or relatives are a rare exception and the overall majority of trafficked children in Bulgaria do not have guardians outside their families.

⁸³ Under the National Referral Mechanism, placement into a crisis centre is considered part of the crisis intervention (p. 46 et seq), which is urgent psychological and social aid, directed towards the victim's imminent needs in order to protect and support the victim and to prevent more serious trauma. As of September 2011, there are eleven crisis centres for children in Bulgaria with a capacity for 119 children. The annual budgetary allowance per one place in a crisis centre is BGN 7210 (appr. 3605 Euro). Source: letter of the Social Assistance Agency to author dated 15 November 2011.

⁸⁴ Article 36, paragraph 2, item 7c of the Regulation, adopted by Decree of the Council of Ministers No. 243 of 5 November 1998 (promulgated in the SG No. 133 of 11 November 1998, in force as of 1 November 1998, last amendments SG No. 63 of 16 August 2011). The normative framework, including also a regulation on social services for children, covers all social services of residential type and is not specific for the crisis centres.

⁸⁵ Notably, there are also children in the crisis centres, having committed 'anti-social acts', e.g. prostitution, mostly as a result of violence, exerted towards them, who may nevertheless interact badly with other child victims of violence – Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 15-16.

the Social Assistance Directorate and a police officer, if needed, accompanies the child to the centre and places him/her pursuant to an order of the local Social Assistance Director.

According to the National Anti-Trafficking Commission,⁸⁶ as of 31 December 2011 95 children have been placed in crisis centres, out of which 15 children were victims of trafficking.

Researchers allege that, in practice, placements are most often dependent on the subjective risk assessment by the placing authority and not on objective criteria.⁸⁷ Also, Social Assistance Directorates are not obliged to place children in centres closest to their current address and even place them in the furthest ones in order to sever them from their unfavourable environment, mostly without their consent and even against their/their parents/guardians' will.⁸⁸

According to the Co-ordination Mechanism, the centre is supposed to ensure the child's safety and security, as well as shelter and food for him/her for the duration of his/her stay. The regime in the centres is closed and children are not allowed to leave them without an accompanying social worker.⁸⁹ Material conditions in the centres are considered very good.⁹⁰ In cases of incidents during the child's stay in the centre, the personnel notifies the Social Assistance Directorate in the area, where the child permanently/currently resides, the local division of the Ministry of Interior and the State Agency for the Protection of Children.

Each child is provided with an individual crisis plan, containing the most urgent actions to be undertaken, a programme to help him/her reintegrate into society and a social worker, leading his/her case. Teams of psychologists, teaching specialists, a representative from the Local Commission on Combating Anti-Social Acts of Minors and Underage Persons and a police officer work with the children and also involve their families, unless that would be detrimental to the child's recovery and reintegration. According to the Co-ordination Mechanism, the centre also creates a social network to reintegrate the child into the family and social environment. The centre's personnel support the meetings between the child and his/her parents/relatives on the territory of the centre, unless

⁸⁶ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2011 г. [Report of the National Anti-Trafficking Commission for 2011], p. 14.

⁸⁷ Гергинова, Е. и С. Петров. Кризисните центрове за деца в България – между социалната услуга и институцията [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 14.

⁸⁸ Гергинова, Е. и С. Петров. Кризисните центрове за деца в България – между социалната услуга и институцията [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 17.

⁸⁹ Гергинова, Е. и С. Петров. Кризисните центрове за деца в България – между социалната услуга и институцията [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 36.

⁹⁰ Гергинова, Е. и С. Петров. „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 33.

the family/relatives have participated into the child's trafficking.⁹¹ Children also receive group therapy aimed at improving their social skills and preventing re-trafficking.⁹²

The personal identity papers of child victims over 14 years of age should be re-issued, if they have been taken away by the traffickers.

The centre's personnel prepare reports to the Social Assistance Directorates and the State Agency for the Protection of Children upon request and at the end of the child's stay.

According to anti-trafficking practitioners, there has not been a case so far in Bulgaria where parents who have trafficked or exploited their child have had their parental rights taken away. In fact, oftentimes after 6 months in the crisis centre children are returned to their family environment, continuing to exploit them. Sometimes crisis centres are not sufficiently protected against parents, wishing to continue exploiting their children. Children are also in difficulty testifying against traffickers, where those are their own relatives.⁹³

For all out-of-family placements, within one month of the order for temporary administrative placement (Article 27, LPC),⁹⁴ the Social Assistance Directorate makes a motion to the Regional Court for judicial placement of the child (Article 28, LPC). This term, and the necessity of applying for judicial placement, are not always complied with in practice.⁹⁵ In fact, in a very recent judgment⁹⁶ the European Court of Human Rights observed that a girl's placement in a children's crisis centre for approximately nine months had amounted to deprivation of liberty due to the centre's closed regime and the period of her stay. The Court also noted that the placement order had been issued by the municipal social assistance directorate, in breach of the LPC, which stipulated that such orders were to be issued by a regional court, and therefore held that there had been a violation of Article 5 § 1 (right to liberty and security), *Convention for the Protection of Human Rights and Fundamental Freedoms*.

⁹¹ In practice, a preliminary meeting is often held to assess how the child-parent meeting would affect the child – Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 36.

⁹² GRETA Report, paragraph 166.

⁹³ Василева, А. „Трафик и сексуална експлоатация на деца“ In: Проституция и сексуална експлоатация в България [Vassileva, A. 'Trafficking and Sexual Exploitation of Children'], Risk Monitor, 2010, p. 14.

⁹⁴ Administrative orders can be appealed pursuant to the Administrative Procedure Code.

⁹⁵ Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 18.

⁹⁶ Cour Européenne Des Droits de L'Homme. Affaire A. et autres c. Bulgarie (Requête N° 51776/08), Arrêt, Strasbourg [European Court of Human Rights. Case A. and others v. Bulgaria], paragraphs 90-98.

The Court rules on the motion within one month, always stating the term of the placement, and its ruling can be appealed before the District Court.⁹⁷ The Court can also amend the placement measure upon request of the Social Assistance Directorate, if that is in the interest of the child.

Placement is terminated by the Regional Court or, temporarily, by the Social Assistance Directorate until the court's ruling (Article 30, LPC). In the latter case, the Directorate may take a decision on the future upbringing and education of the child or undertake another temporary protection measure, if that is in the child's best interest. The Regional Court's ruling may be appealed before the District Court.

Child victims of trafficking can also qualify for **police protection** (Article 37-43, LPC), which is an urgent measure undertaken, when the child (Article 38, LPC) is: object of a crime or under immediate threat for his/her life and limb, or under a threat of being involved in a crime; lost or in a helpless state; left without supervision. Police protection includes (Article 39, LPC): placing the child in special premises (possibly crisis centres), not allowing contacts with persons, who would exert unfavourable influence; placing the child in specialised institutions or within social services of residential type, under guard, if need be; returning the child to his/her parents or the persons, taking care of him/her. All measures should be explained to the child in a manner, understandable to him/her. Police authorities notify about the measures (Article 40, LPC) the child's parents, guardians or the other people, taking care of him/her, the Social Assistance Directorates in the area of the protection and in the area where the child currently lives, the Prosecutor's Office and the regional police directorate in the area of the child's current address. Police protection can last for up to 48 hours (Article 41, LPC). If a child has disappeared, action on the disappearance is taken immediately (Article 42, LPC).

⁹⁷ Researchers have not registered any instances, where rulings have been actually appealed – Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 21.

3.4. ACCESS TO EDUCATION AND HEALTHCARE

Under Bulgaria's legislation, **child victims of trafficking are provided with education in state or municipality-run schools** under the *Law on People's Education* (Article 23, LCHT).⁹⁸ The LPC stipulates (Article 6a, item 3) that the Ministry of Education, *inter alia*, ensures cooperation with the management of the specialised institutions and the social services of residential type for establishing the educational needs of every child and ensuring suitable education and implements prevention activities and solutions for children, who are not enrolled in schools. According to the Co-ordination Mechanism, crisis centres are supposed to assess the educational level of the child and take measures for providing him/her with a certificate for completed education, creating also conditions for future meeting of the child's educational needs. In practice, crisis centres take a lot of effort to reintegrate children into the educational system and enrol them into the nearest schools.⁹⁹

As reiterated by the Report of the National Anti-Trafficking Commission for 2010,¹⁰⁰ according to the *Law on Health Insurance* (Article 40, paragraph 3),¹⁰¹ **Bulgarian children's health insurance is covered by the state budget** and children use the full range of services, available under the general health insurance scheme. Moreover, children under 16 years of age have right to medical aid outside the scope of the services, offered under the health insurance scheme, again covered by the state budget (Article 82, *Law on Health*¹⁰²). Under the same provision, all Bulgarian (and EU) citizens are entitled to urgent medical aid, obstetrician's services, psychiatric aid, within which psychological support may be offered, etc.

Crisis centres enrol children into general practitioners' lists in the area of location of the centre or have doctors under contract. Centres ensure that a full medical examination is performed, with testing blood samples for infectious diseases, if need be. Dental aid is usually provided pro bono by dentists, known to the centre's personnel, but is usually a problem, especially when concerning expensive manipulations.¹⁰³ The Regional Healthcare Centres participate in the work of local anti-trafficking commissions and provide logistical support to trafficking victims' access to medical aid.

⁹⁸ Law on People's Education (promulgated in SG No. 86 of 18 October 1991, last amendments SG No. 23 of 22 March 2011).

⁹⁹ Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 35.

¹⁰⁰ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2010 г. [National Anti-Trafficking Commission 2010 Report], p. 103-104.

¹⁰¹ Law on Health Insurance (promulgated in the SG No. 70 of 19 June 1998, last amendments SG No. 60 of 5 August 2011).

¹⁰² Law on Health (promulgated in the SG No. 70 of 10 August 2004, effective 1 January 2005, last amendments SG No. 60 of 5 August 2011).

¹⁰³ Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 34.

3.5. PROTECTION OF CHILD VICTIMS WITHIN THE CRIMINAL PROCEEDINGS AGAINST THE TRAFFICKERS AND VICTIM ASSISTANCE

As a general rule, trafficking victims are ensured **anonymity and protection of identity** (Article 20, LCHT).

The *Law on the Protection of Persons Endangered in Relation to Criminal Proceedings*¹⁰⁴ covers child victims of trafficking in their capacity of witnesses or private accusers/civil claimants. They can be included into a **witness protection programme**, if their testimony provides evidence of significant importance.

The programme includes personal physical protection, protection of property, temporary placement in a secure location, change of the place of residence, work, school or place of serving a sentence, full change of identity. Protection is ruled upon by the interinstitutional Council for Protection of Endangered Persons with the Minister of Justice and protection measures are implemented by the Bureau for Protection of Endangered Persons. The proposal for inclusion in the protection programme is made by the district prosecutor or the judge rapporteur, if the case is already in court. The ruling of the Protection Council is not subject to appeal.

Information provided by the Public Prosecutor's Office of Cassation, as cited in the GRETA Report, states that in 2010, a total of six trafficking victims were subject to protection, of whom five under the provisions of the Criminal Procedure Code and one under the LCHT. According to the Bulgarian authorities, in recent years there has been an increase in the use of methods of threat by traffickers and the measure of special protection should become more frequently used.¹⁰⁵

The *Law on Assistance and Financial Compensation of Victims of Crime (Law on Victim Assistance)*¹⁰⁶ provides for **assistance** to victims of, *inter alia*, human trafficking (Article 3, paragraph 3), who are Bulgarian citizens, citizens of EU Member States and citizens from other states, if that is provided in an international treaty to which Bulgaria is a State Party (Article 1).

Assistance is provided to victims, having sustained property and non-property damage from the crime. The police and the victim assistance organisations inform victims about providers and types of free psychological aid; their right to free legal aid and the authorities and procedure for providing such; the authorities to notify about a crime committed; their rights in the criminal procedure and the opportunities to participate in it; authorities to offer protection for them and their relatives; authorities to get financial compensation from; the opportunities to protect their rights and interests, if they are foreign citizens or they have been

¹⁰⁴ Law on the Protection of Persons Endangered in Relation to Criminal Proceedings (promulgated in the SG No. 103 of 23 November 2004, effective 25 May 2005, last amendments SG No. 82 of 16 October 2009).

¹⁰⁵ GRETA Report, paragraph 219.

¹⁰⁶ Law on Assistance and Financial Compensation of Victims of Crime (promulgated in the SG No. 105 of 22 December 2006, effective 1 January 2007, amended SG No. 32 of 27 April 2010).

victimised in another country (Article 6, paragraph 1). Information is given in a language, understandable to the victims (Article 6, paras. 2-3). A brochure in Bulgarian, English, German and French is also made available (Article 7).

Victims can get **free medical aid for emergencies** (Article 8, paragraph 1, item 1). **Free psychological aid** is provided by psychologists within the organisations for the protection of victims (Article 9). **Free legal aid**, is provided pursuant to the *Law on Legal Aid*.¹⁰⁷

3.6. COMPENSATION

Under the *Law on Victim Assistance*, **one-time financial compensation** (Article 8, paragraph 3) is provided to victims of crimes, having sustained property damage. In cases of child victims, financial compensation will be directed towards their parents or guardians. Financial compensation is provided after the entry into force of: the conviction, including where the case was heard in the absence of the defendant; the act, terminating the criminal proceedings or suspending them due to non-discovery of the offender (Article 12). Financial compensation is within the range of BGN 250 – 5,000 (appr. 125 – 2,500 Euro, Article 13, paragraph 1) and covers the property damage, directly resulting from the crime, namely: medical treatment expenses, except those covered by the National Health Insurance Fund, lost income, judicial and registry expenses, lost alimony, funeral expenses, other property damage (Article 14). Financial compensation is not provided, if, *inter alia*, the victim has received other compensation.

The financial compensation application form is provided to victims by the National Council for Assistance and Compensation to Victims of Crime with the Ministry of Justice, the regional governors or the authorities and organisations victims come in contact with (Article 18, paragraph 1). The application is submitted to the regional governor of the area, where the victim lives or to the National Council within two months of the entry into force of the conviction/the act terminating/suspending the proceedings (Article 18, paragraph 3). The National Council decides on granting financial compensation and on its amount.

A Bulgarian citizen, having been victimised in another EU Member State, may apply for financial compensation to the other Member State's competent authority through the National Council (Article 19).

Financial compensation is also included as a measure under the National Referral Mechanism.¹⁰⁸ The information on it should be in a language, understandable to victims, and can be given by their procedural representatives, consultants or the pre-trial authorities. The information about compensation is an obligatory component of legal consultation during the reflection period. The Mechanism notes that the administrative procedures under the *Law on Victim Assistance*

¹⁰⁷ Law on Legal Aid (promulgated in the SG No. 79 of 4 October 2005, effective 1 January 2006, last amendments SG No. 82 of 21 October 2011).

¹⁰⁸ National Referral Mechanism, p. 85 et seq.

often present difficulties for the victims, who should receive assistance from their legal and other consultants or their procedural representative – although the *Law on Legal Aid* does not provide for payment of the representative for assistance in this particular procedure. The necessity of legal representation also for claiming compensation, free of charge where the victim does not have sufficient financial resources, is also reiterated by Article 12, paragraph 2 and Article 15, paragraph 2 of Directive 2011/36/EU.

Compensation can also be obtained via a **civil claim** within the judicial proceedings against the traffickers (Article 84-88, CPC). For child victims the claim can also be submitted by the public prosecutor (Article 51, CPC).

The GRETA Report¹⁰⁹ claims that, according to NGOs, in practice trafficking victims have no access to independent and quality legal assistance and aid, which prevents them from exercising their right to compensation.

According to the GRETA Report,¹¹⁰ **there has been no compensation granted to victims of trafficking** to date.¹¹¹

These tendencies have been recognised by anti-trafficking authorities, which plan to raise the awareness of trafficking victims about their right to financial compensation.¹¹² The National Anti-Trafficking Commission cooperates actively with the National Council for Assistance and Compensation to Victims of Crime and distributes via its local structures its brochures and other information materials in order to popularise the mechanisms for financial compensation of victims of trafficking.

¹⁰⁹ GRETA Report, paragraph 185

¹¹⁰ GRETA Report, paragraph 188.

¹¹¹ The Report came out on 14 December 2011. For 2011, this is confirmed also by the Report of the National Anti-Trafficking Commission – НКБТХ. Отчет на дейността на Националната комисия за борба с трафика на хора за 2011 г. [Report of the National Anti-Trafficking Commission for 2011], p. 13.

¹¹² National Commission for Combating Trafficking in Human Beings. National Programme for Countering Human Trafficking and Protection of Victims for 2012, p. 4.

4. RETURN AND REINTEGRATION

4.1. RETURN

According to the National Referral Mechanism, return (p 74 et seq) to the region/country of origin is made, after all measures have been taken to ensure the safety of the victim and the continuation of reintegration. Return is carried out, if: the victim wishes so; if the reflection period has expired or the special protection status has been terminated; if the long-term residence permit or the prolonged period of stay in the shelter has expired.

The return should be voluntary and the victim should get from his/her consultant sufficient information about his/her opportunities to remain in the region/country of destination or to return to the region/country of origin.

Return is only carried out after an **updated risk assessment of the factors**, which may hamper the victim's social inclusion: whether the victim is at risk to be re-trafficked or subjected to other forms of violence, including in the family; whether the child victim's family is involved in the process of trafficking; whether the victim's relatives have been threatened; whether the traffickers are aware of the location of the victim and of his/her return; whether there is a risk for the victim to be socially isolated/stigmatised in his/her country/region of origin; whether there is supportive environment; what the victim's coping abilities are; whether there is a risk of continuing unemployment (for children of appropriate age) and poverty, which would lead the child into trafficking again; whether there are social, cultural or religious factors, making the return dangerous; whether there are services, organisations and programmes for support in the community; whether the child victim may rely for help and support on the state authorities in the region/country of origin; what the policy is of the state of origin regarding human trafficking; whether there is a risk of prosecution against the victim for having been a trafficking victim, an illegal migrant or having been involved in criminal activities.

The risk assessment upon return is based on the considerations of the victim himself/herself; information by the state authorities, law-enforcement or NGOs in the region/country of origin, including such obtained by official channels. The victim is given information about the organisations, which he/she can contact for support upon return. A follow-up contact may be arranged by phone or letter. The victim should be able to contact his/her consultant or the organisation, having taken care of him/her, at any time.

Next, the victim should be provided with the necessary **travel documents**: identity papers, visa, tickets, health status papers, if needed, certificates for services used, if needed. As mentioned above, the child victim's identity papers are often taken

by the traffickers. If the victim is a foreign citizen, temporary documents are issued by the respective embassy or consulate. Travel expenses can be covered by repatriation programmes of international organisations or NGOs or specialised state or international repatriation funds. All documents should be drafted in accordance with the principle of confidentiality, with no explicit information about the trafficking the victim had been subjected to. Detailed information may be supplied upon request from the authorities in the region/country of origin.

Further on, the lead consultant on the case identifies a **receiving organisation** in the region/country of origin and establishes a preliminary contact with it, all with the explicit consent of the victim. The receiving organisation is provided with information on the victim, his/her status and needs, as well as a risk assessment. Preliminary contact between the victim and the receiving organisation should be established, if possible, and the exact returning and reception details for the victim are arranged. Police authorities in the country/region of origin could be notified with the victim's consent. The consultant gives full information to the victim on the receiving organisation in an accessible and reliable form.

With the victim's consent and in view of his/her safety, **reception** is organised by the supporting organisation in the region/country of origin. In principle, the organisation should be ready to receive the victim at any time at an airport/station. Special safety precautions should be taken in view of the risk of the traffickers also waiting at the airport/station for the victim to return.

In case of a child victim, who is a Bulgarian national, after his/her stay in the crisis centre (1-6 months, maximum term not always complied with in practice¹¹³), he/she is returned to his/her family environment¹¹⁴ or placed in an institution, if the family does not have the necessary parental capacity or was involved in the trafficking. The decision is based on the assessment of the Child Protection Division about the capacity of the parents to take care of the child, about the child's status and other evidence, related to his/her security. Placement in another institution should be done, based on a court ruling.

As regards unaccompanied Bulgarian children abroad, there are no officially signed agreements with other countries for cooperation regarding their repatriation. Usually the country of destination organises the child's repatriation to Bulgaria and the State Agency for the Protection of Children organises the notification of the Border Police and the child's reception at the border checkpoint by a social worker.¹¹⁵

¹¹³ Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 21.

¹¹⁴ In practice, in the view of researchers, overloaded and underpaid social workers rarely have the capacity to work with trafficked children's families and children are often directed to institutions, especially in bigger cities – Гергинова, Е. и С. Петров „Кризисните центрове за деца в България – между социалната услуга и институцията“ [Gerginova, E. and S. Petrov 'Crisis Centres for Children in Bulgaria – between Social Services and Institutions'], Bulgarian Helsinki Committee, Sofia, 2011, p. 27.

¹¹⁵ Letter of the State Agency for Child Protection to author, 24 November 2011.

4.2. REINTEGRATION

According to the Co-ordination Mechanism, after the child victim of trafficking is given the necessary assistance and support, his/her case is **followed up for a period of one year** (depending on the child reaching 18 years of age) to prevent the child being re-trafficked or taken out of the country. The State Agency for the Protection of Children co-ordinates the efforts of institutions until the process of reintegration is finalised, while the Agency for Social Assistance monitors the cases of unaccompanied children and child victims of trafficking. According to information by the Agency for Social Assistance, provided to the GRETA observers:¹¹⁶ ‘...after leaving the Crisis center, the children and their families can be directed to a specialized social-service provider for aiding the process of overcoming the trauma of trafficking, for socio-psychological work, for full integration in the social life, as well as prevention of re-trafficking of the child. Children – victims of trafficking are a priority group for accommodation at professional foster families... At the discretion of a social worker the monitoring period can be prolonged, depending on the specifics of each case’.

As for the National Referral Mechanism, it starts the process of reintegration¹¹⁷ by **long-term psychological support and empowerment**. The risk assessment, done at previous stages, is also updated to take into account the threat of social isolation and stigmatisation, involvement in new situations of violence, poverty, lack of options for continuing education due to illiteracy or lack of appropriate programmes, lack of supportive environment or resources for coping, social, religious or cultural factors, hindering reintegration, etc. The victim should also get psychotherapy, if needed. Consultation should be given also to the victim’s relatives, unless they have participated in the process of trafficking or otherwise committed violence against him/her. The child victim’s social skills should be reinforced, as well as his/her labour market skills, if he/she is of suitable age. He/she should also get social consulting and advocacy in the form of support in the communications with various authorities and administrations.

There are **no official interstate cooperation agreements regarding the support and reintegration of child victims of trafficking**.¹¹⁸ The State Agency for the Protection of Children has assumed the practice to send upon request information through the diplomatic missions of the Republic of Bulgaria abroad to the social services in the respective country on the support and protection measures, applied with regard to the children, having returned to Bulgaria.

The long-term support of the child trafficking victim and his/her family is done by the Child Protection Division. As of the present moment, there are still **no**

¹¹⁶ GRETA Report, p. 68.

¹¹⁷ National Referral Mechanism, p. 60 et seq.

¹¹⁸ Still, in September 2011, Bulgarian and Greek institutions agreed on creating a unified Bulgarian-Greek mechanism for fighting child trafficking on a regional level. Source: Letter of the State Agency for the Protection of Children to author, 24 November 2011. Bulgarian General Consulate in Thessaloniki is also active in the area – Report of the National Anti-Trafficking Commission for 2011, p. 63.

specialised long-term reintegration programmes for child victims of trafficking.¹¹⁹

They benefit from the social services, directed to all children at risk. In case the child is under judicial placement in a crisis centre, the support is given by the specialists in the centre.

¹¹⁹ This is also reiterated by the GRETA Report, paragraph 75: 'Another aspect of the fight against THB which needs increased attention is the reintegration of victims of trafficking and the prevention of re-trafficking...'

5. INSTITUTIONS AND ORGANISATIONS INVOLVED IN THE ASSISTANCE AND REINTEGRATION OF CHILD VICTIMS OF TRAFFICKING

As seen in the review above, child victims of trafficking benefit from a **twofold support framework** under the anti-trafficking legislation and the legal norms, concerning protection of children.

In the realm of the combat against trafficking, the **Bulgarian National Anti-Trafficking Commission** is the main co-ordinating body, comprising representatives of the key state authorities from the executive and the judiciary involved in the process.

As regards child protection, the **State Agency for Child Protection** shapes and implements the state policy on central level, while on local level this is among the responsibilities of the **Social Assistance Directorates** and their **Child Protection Divisions**.

The **Ministry of Interior** and the **State Agency for Refugees** deal with child trafficking within the framework of their functions, prescribed by law. The **Ministry of Foreign Affairs and the diplomatic and consular representations** of the Republic of Bulgaria abroad play a vital role in all transnational aspects of countering child trafficking, both regarding national victims, trafficked abroad, and foreign child victims, for whom Bulgaria is a country of destination.

5.1. KEY GOVERNMENTAL INSTITUTIONS

5.1.1. Bulgarian National Anti-Trafficking Commission

Bulgaria's main coordinating body in the area of response against human trafficking is the Bulgarian National Anti-Trafficking Commission (the National Commission). It is a **body with the Council of Ministers**, chaired by a Deputy Prime Minister. According to Article 4 of the LCHT, it comprises Deputy Ministers of Foreign Affairs, of Labour and Social Policy, of the Interior, of Justice, of Health, of Education, Youth and Science, Deputy Chairs of the State Agency for National Security, the State Agency for the Protection of Children, the Central Commission for Combating the Anti-Social Acts of Minors and Underage Persons, a Deputy Chair of the Supreme Court of Cassation, a Deputy Prosecutor General and a Deputy Director of the National Investigation Service.

In the sessions of the National Commission, **representatives of non-for-profit legal entities and international organisations**, represented in the country, involved

in combating human trafficking and protecting its victims, can **participate as observers**. The procedure for participation, outlined below, has been assessed as 'rather complicated'.¹²⁰

According to Article 12 of the *Regulation on the Organisation and Activity of the National Anti-Trafficking Commission*,¹²¹ non-for-profit legal persons express in writing their willingness to participate in the sessions of the National Commission. To their application, they enclose copies of their court registration, articles of association, certificate of current status, a filled in questionnaire about the activity and programme of the organisation (presented annually) and a letter of attorney for the organisation's representative at the sessions. The Chair of the National Commission or another designated official rules on the request within 30 days of its receipt and his/her ruling can be appealed before the Supreme Administrative Court.

The National Commission has **eight local commissions** in Pazardzhik, Burgas, Varna, Sliven, Montana, Plovdiv, Blagoevgrad and Rouse, which are presided by a deputy mayor and include representatives of the municipal administration, Child Protection Divisions, police, prosecution, NGOs, etc. (Article 5, LCHT). The commissions in Varna, Burgas and Pazardzhik have information and consultation centres, which provide information and consultations on human trafficking, while in Varna and Burgas there are state shelters for temporary accommodation and care for victims of trafficking. Local commissions are allegedly affected by 'a high turnover among their members and insufficient motivation linked to the fact that members are not paid for their participation in the commissions' work. The secretary of each local commission... is appointed by the mayor of the respective municipality, reportedly against very low pay.¹²²

The **National Commission**, *inter alia* (Article 7, LCHT), organises and coordinates the interaction among the authorities and organisations in combating human trafficking and determines and manages the implementation of the national policy and strategy in the area; designs an annual national programme for prevention and combating human trafficking and protection of trafficking victims; organises the keeping and processing of statistics about human trafficking; manages international cooperation, information, awareness-raising and educational campaigns on trafficking; trains officials on combating trafficking. The National Commission (Article 14, LCHT) develops measures to support risk groups, including children, in their education and labour integration. The National Commission holds sessions at least four times a year. Local commissions support the work of the National Commission and implement policies and initiatives on local level.

The National Commission's budgetary allocation for 2010 amounts to BGN 296,000 (appr. 148,000 Euro). Its administration comprises 9 people, headed by a Secretary. Given the variety of tasks, entrusted to the Commission, the GRETA

¹²⁰ GRETA Report, paragraph 83.

¹²¹ Regulation on the Organisation and Activity of the National Anti-Trafficking Commission, adopted by a Decree of the Council of Ministers No. 49 of 1 March 2004, promulgated in SG issue 19 of 9 March 2004, last amendments SG issue 60 of 4 July 2008.

¹²² GRETA Report, paragraph 82.

Report recommends ‘further investment... in the development of its human and financial resources’.¹²³

Although the Bulgarian government has not formally established a National Rapporteur on human trafficking within the meaning of the CoE Convention, the National Commission fulfils this function de facto by issuing since 2006 an annual anti-trafficking report on the activities of its Secretariat and of all the relevant institutions which are its members.

5.1.2. State Agency for the Protection of Children

The **State Agency for the Protection of Children** is a specialised body with the **Council of Ministers** in the field of child protection, which, *inter alia* (Article 17a, LPC): develops the state policy for child protection and the relevant programmes thereto; develops regulations on the criteria and standards for social services for children; maintains the National Hotline for Information, Consultation and Assistance to Children (116-111); manages the interinstitutional National Council for Child Protection. The State Agency can identify trafficking victims via the National Hotline, via e-mail or the web form on its specialised website www.stopech.sacp.government.bg.

The State Agency also manages the **Children’s Council**, which is a consultative body, implementing the children’s right to take part in all decisions, concerning them. The Council includes a child representative from each administrative region in the country. Children from the Council have participated in the sessions of the National Council for Child Protection on issues such as violence by children and upon children, the functioning of the National Hotline 116-111, etc.

5.1.3. Agency for Social Assistance, Social Assistance Directorates, Commissions on Children

The **Agency for Social Assistance** works actively with child victims of trafficking through its local structures – the **Social Assistance Directorates**. According to Article 20, LPC, they are specialised bodies, implementing the child protection policy in the municipalities, within which **Child Protection Divisions** are created. They can identify victims of trafficking within the process of gathering information about various vulnerable groups and assess their imminent needs in view of providing appropriate social services. They, *inter alia*, notify police, prosecutor’s offices and courts to undertake urgent action for child protection (Article 21, item 10, LPC). Directorates keep registers of children in need of special protection, children under police protection, children, placed outside the family, NGOs working on child protection, etc.

Each municipality also creates a **Commission on Children**, having consultative and coordinating functions and comprising representatives of the municipal administration, local police, local health and education authorities, the Social

¹²³ GRETA Report, paragraph 81.

Assistance Directorate, the local commission for counteracting anti-social acts of minors and underage persons, NGOs, etc. The Commission implements the local policy on protection of children.

5.1.4. Ministry of Interior

Police officers in their operative and investigating functions play a major role in **discovering and investigating instances of child trafficking**.

As regards assistance and reintegration of child victims, police officers during the performance of their duties identify victims of trafficking. They can be present when the child victim returns to Bulgaria from the country of destination and can provide police protection or police escort to the nearest crisis centre. After that they perform risk assessment and assessment of imminent needs, in view of urgent medical, psychological and legal aid and/or placement in a crisis centre or shelter. Then they refer victims to appropriate institutions and organisations whenever victims' needs fall outside the competences of the Ministry.

Police also plays a major role in **returning trafficking victims to their regions/countries of origin** within the framework of international operative police cooperation.

The Ministry's units, dealing with human trafficking, are the specialised unit in the Chief Directorate for Combating Organised Crime, the Border Police Chief Directorate, as well as the Migration Directorate.

5.1.5. Ministry of Foreign Affairs and diplomatic and consular representations of the Republic of Bulgaria abroad

The **Ministry of Foreign Affairs** and the **diplomatic and consular representations** of the Republic of Bulgaria abroad can identify trafficking victims, if such appear on their premises or if they receive information about such from local authorities or NGOs. They help Bulgarian victims abroad return to Bulgaria (Article 16, LCHT); assist, together with the Ministry of Interior, the timely issuance of identity papers for Bulgarian victims (Article 17, LCHT); distribute to interested parties and risk groups information materials on the rights of trafficking victims and provide to foreign authorities information on Bulgarian anti-trafficking legislation (Article 18, LCHT). The Ministry assists other competent Bulgarian authorities in liaising with the diplomatic and consular representations of foreign victims' countries of origin. Consular authorities assist the safe return of trafficking victims.

5.1.6. State Agency for Refugees

Officials from the **State Agency for Refugees** can identify trafficking victims and assess their imminent needs during the process of registration, placement, medical examination and proceedings under the *Law on Asylum and Refugees*. Then the officials can refer them to the appropriate institutions and service providers.

5.2. IOM AND UNHCR

The Bulgarian missions of the International Organisation of Migration (IOM) and the United Nations Refugee Agency (UNHCR) identify victims of trafficking, when they receive signals from other authorities/NGOs.

The **IOM Mission** can prepare a reintegration plan for each trafficking victim and can offer: general information and consultation; legal consultation; safe transportation to the final destination; medical aid, medical transportation; psychological support; aid and financing for new personal identity papers; safe placement; support in finding a job; qualification courses; pocket money; monitoring of the reintegration process. IOM has supported the development of the national system for the protection of child victims of trafficking. IOM has also developed an educational module for trafficking in human beings, which is used by police and schools. An initiative developed jointly with the Bulgarian Red Cross is an educational module that includes peer-to-peer education, some specialised training materials and an educational prevention campaign.

According to the GRETA Report,¹²⁴ IOM Sofia, in co-operation with other IOM missions and partner organisations, runs programmes for assisted voluntary return of Bulgarian nationals to Bulgaria (mostly from EU countries) and of foreign nationals from Bulgaria to their countries of origin. As part of these programmes, victims and witnesses are offered protection and reintegration assistance. Particular attention is said to be paid to child victims of trafficking.

According to **UNHCR**, as most asylum seekers enter Bulgaria through illegal transportation or human trafficking, UNHCR takes part in the work of the National Anti-Trafficking Commission and raises the awareness of the refugees and asylum seekers, who are easy targets of traffickers. Moreover, it aims at providing them with protection.¹²⁵

5.3. NON-GOVERNMENTAL ORGANISATIONS AND RESEARCH INSTITUTIONS

NGO views and expertise are relied upon within the framework of various working groups, including the one, having prepared the National Referral Mechanism. The National Anti-Trafficking Commission cooperates with several NGOs in the field and publishes and disseminates information on NGO initiatives in the Commission's Annual Reports. According to the GRETA Report,¹²⁶ it also keeps a **national register of NGOs active in the area of combating human trafficking**, which in 2010 included 30 organisations. The National Referral Mechanism includes 14 NGOs as service providers. Five NGOs and two international organisations are currently represented in a working group set up at the National Commission.

¹²⁴ GRETA Report, paragraph 193.

¹²⁵ ВКБООН. Операции в Централна Европа [UNHCR. Operations in Central Europe], <http://www.unhcr-centraleurope.org/bg/kde-rabotim-nie/operaczii-v-czentralna-evropa/blgariya.html>

¹²⁶ GRETA Report, paragraphs 43, 45.

As regards the local commissions, NGOs participate as full members. Further, certain NGOs (e.g. Animus Association, Nadja Centre Foundation) have signed memoranda of understanding with the Ministry of the Interior.

According to researchers, however, Roma (as a minority possibly overrepresented among trafficking victims) NGOs are rarely recognised as partners of the local anti-trafficking commissions and by the NGOs that provide services to victims of trafficking.¹²⁷ One good example to the contrary is given by the cooperation between the P.U.L.S. Foundation and the Roma NGO *Kupate* (Together) in view of organising seminars against trafficking of Roma women and children.¹²⁸

Bulgaria's most prominent NGOs, for which anti-trafficking is a major topic of work, include the Animus Association, Face to Face, CARE International, Partners Bulgaria Foundation, Bulgaria Gender Research Foundation, Nadja Centre Foundation, P.U.L.S. Foundation.

Bulgarian NGOs, active in the field of countering child trafficking, play a major role in child victims' everyday crisis intervention, psychological assistance and consultation and reintegration support, including the maintenance and management of several of the country's children crisis centres.

NGOs have also been involved in prevention, capacity building and reintegration initiatives, often with a strong international component, the most prominent of which will be described in the following sections.

¹²⁷ Kukova, S. Trafficking of Roma in Eastern and Central Europe: Analysing the effectiveness of national laws and policies in prevention, prosecution and victim support. 2011, p. 7.

¹²⁸ P.U.L.S. Foundation. Annual Report 2010. p. 14.

6. POLICIES AND INITIATIVES

6.1. KEY GOVERNMENT POLICIES

Among the policies of the Bulgarian government against human trafficking, the **National Programmes for Prevention and Combating Human Trafficking and Protection of Victims** play a central role. They have been prepared annually by the National Anti-Trafficking Commission since 2005 and have been adopted by the Council of Ministers. The present report takes a look at the structure and main points of the two latest National Programmes for 2011 and 2012.¹²⁹ Specific points from the Programmes are mentioned in relevant sections. Child trafficking, as well as sexual and, increasingly, labour exploitation are emphasised as specific targets of countering and prevention.

The two programmes are divided into six main fields of action: institutional and organisational measures; prevention; education and qualification of personnel; protection, recovery and reintegration of trafficking victims; international cooperation; legislative measures, whereas the 2012 Programme has one additional section 'Research, analysis and data collection in connection with trafficking in human beings'. This illustrates the growing emphasis, which the Commission puts on research and analysis, in full compliance with the recommendations of international experts.

Regarding **institutional and organisational measures**, the programmes, *inter alia*, aim to strengthen the work of the local commissions and the shelters for trafficking victims and to finalise the development of minimum standards on the work of shelters. Volunteer networks with the National Commission and the local commissions are planned to be established and developed. The documents also aim to improve the notification, information exchange and harmonisation of action among institutions in cases of child victims of trafficking – a task, mainly entrusted with the State Agency for the Protection of Children and the Ministry of Interior.

In the area of **prevention**, the programmes aim to raise the awareness of, *inter alia*, children as a risk group on the problems of trafficking through prevention campaigns, materials and modules. They will also popularise the National Hotline for Information, Consultation and Assistance to Children (116-111). For 2012, monitoring and tracking signals and cases of children under the National Hotline was envisaged.

¹²⁹ National Commission for Combating Trafficking in Human Beings. National Programme for Combating Trafficking in Human Beings and Protection of Victims, 2012; and National Programme for Prevention and Counteraction of Trafficking in Human Beings and Protection of the Victims for 2011.

In terms of **education/qualification**, programmes envisage further qualification of the administration of the National Commission and the local commissions, of magistrates, police officers, diplomatic and consular officials, social workers from the children crisis centres, border guards, school advisors and teachers, as well as media representatives, on the specifics of human trafficking, police officers also being taught about child victims in particular. For 2012, updating the methodology for investigating cases of trafficking, as well as conducting training on a local level for the purpose of the effective implementation of the Co-ordination Mechanism was also envisaged.

For **trafficking victims**, a mechanism will be designed for offering medical and psychological aid in the shelters and centres under the LCHT.

Regarding **research, analysis and data collection**, the 2012 Programme provided for developing a common methodology for collecting and analysing statistical data and making recommendations to improve national policy to combat trafficking. The implementation of the Co-ordination Mechanism was planned to be monitored.

Internationally, programmes aim to strengthen the cooperation on EU level, as well as particularly with countries of destination and origin of trafficking victims. For 2012, study visits were planned to countries of destination for Bulgarian victims of trafficking in order to improve cooperation, sharing experience on prevention, protection and work on cases of trafficking. Exchange of experience and good practices with similar institutions working for combating and preventing trafficking in the EU Member States, Council of Europe, OSCE and third countries was also envisaged.

The **national strategic documents on the protection of children** contain important information on the government policies in the area of child trafficking.

The **National Strategy on Children for the period 2008 – 2018**¹³⁰ was adopted by the Bulgarian Parliament. In it, child trafficking is subsumed under the general heading 'Protection of children against all forms of abuse, violence and exploitation'. The Strategy envisages, *inter alia*, the following policies: raising the awareness of society, children and their families about children's rights and violence against children; improving the skills of social workers, doctors, school psychologists and teachers for recognising violence against children and immediate notification to competent authorities; designing a specialised programme for working with children – victims of violence or exploitation; hearing of child victims of violence by specially trained specialists on appropriate premises to avoid re-victimisation; continuing the development of services, directed at preventing violence and reintegration of child victims of violence. The National Strategy also notes the vital role of non-for-profit legal entities in the protection of children and upholding their well-being.

The **National Programme for Child Protection for 2011**,¹³¹ in its part, directed towards the system of administration of justice, provided for, *inter alia*: designing

¹³⁰ Национална стратегия за детето 2008 – 2018 г. [National Strategy on Children 2008 – 2018].

¹³¹ Национална програма за закрила на детето за 2011 г. [National Programme for Child Protection for 2011], http://sacp.government.bg/media/cms_page_media/21/NPZD_2011.doc

additional procedural means, guaranteeing the rights of children participating in the criminal procedure – both offenders and victims; adoption of a specific definition for child pornography in the Criminal Code; obligatory trainings for officials, working on cases, involving child victims or offenders; monitoring the implementation of the Co-ordination Mechanism; publicisation of the models and preventive programmes against trafficking as part of curricular and extracurricular forms of education; assessment of the work of crisis centres and designing a new model for taking care of child victims of trafficking/violence; improving interinstitutional cooperation and creating a working group for designing a National Mechanism for Early Warning in cases of missing and abducted children.

The *National Programme for Child Protection for 2012*¹³² offers two separate sections on juvenile justice and raising the effectiveness of measures for the protection of children from violence, abuse or other forms of exploitation. This shows the authorities' growing attention to the two areas, but the level of awareness about their interconnection remains to be assessed. The juvenile justice section is based on the newly adopted Concept on Juvenile Justice.¹³³ It also provides for monitoring and discussion of the implementation of the procedures in the CPC for hearing children in the criminal proceedings as a measure for procedural protection of their rights and interests. The child protection section builds upon the measures, envisaged in the preceding Programme, newer points being, *inter alia*:

- creating an instrument for risk assessment, related to various types of violence, to be implemented in all sectors, of child care and protection;
- in correspondence with the Anti-Trafficking National Programme, monitoring and tracking signals and cases of children under the National Hotline for Information, Consultation and Assistance to Children (116-111); monitoring and educating relevant stakeholders on local level on the Coordination Mechanism; developing new methodology for crisis centres;
- introducing the European hotline number for missing children 116 000.¹³⁴

As regards assessing the country's policies in the field of combating human trafficking, in February 2011 **a delegation of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) carried out a country visit to Bulgaria**, in order to prepare its first monitoring report on the fight against human trafficking.¹³⁵ On the basis of the information gathered during the visit and the Bulgarian authorities' reply to the questionnaire distributed, GRETA came out on 14 December 2011 with a report, containing its analysis of the implementation of the CoE Convention by Bulgaria, as well as suggestions

¹³² Национална програма за закрила на детето за 2012 г. [National Programme for Child Protection for 2012], http://sacp.government.bg/media/cms_page_media/21/NPZD_2012.doc

¹³³ Концепция за държавна политика в областта на правосъдието за детето [Concept on Juvenile Justice].

¹³⁴ A measure, implemented with the active participation of the Nadja Centre Foundation, which also created and managed the predecessor of the 116-111 National Hotline, the 24-hour hotline for children in need with national coverage Talk to a friend – 0800 19 100.

¹³⁵ More information about the visit and the development of the GRETA monitoring can be found at http://www.coe.int/t/dghl/monitoring/trafficking/Docs/News/BUL_Web_Article_en.asp#TopOfPage

for possible improvements and further action.¹³⁶ The 2012 National Anti-Trafficking Programme provided for developing measures for addressing GRETA recommendations.

At present, there is **no unified national mechanism for monitoring and assessment of policies and practices** in the area of combating human trafficking and child trafficking in particular. The creation of such a mechanism is further complicated by the twofold protection of child victims, outlined above, and the multidisciplinary nature of measures involved.

6.2. INITIATIVES BY AREA

6.2.1. Prevention

Bulgarian National Anti-Trafficking Commission, its local structures and their constituting institutions put considerable emphasis on prevention, concerning human trafficking and child trafficking in particular.

According to the reports of the National Commission¹³⁷ and the websites of relevant institutions and organisations, preventive initiatives take several main forms, which are briefly described, together with prominent examples, in the following paragraphs.

A lot of effort is taken in producing **publications**, some of which are:

- The National Referral Mechanism, which the present report looked at in detail, financed by the Matra Programme of the Netherlands Ministry of Foreign Affairs;
- Handbook on Prevention of Human Trafficking, published by the National Commission together with the Ministry of Education, Youth and Science within the framework of the project *Trafficking in human beings in Bulgaria and the Netherlands – common efforts in counteraction*, in 15,000 copies;
- *Prevention of Human Trafficking among the Roma Minority*, issued within the framework of the project 'Prevention of trafficking in persons, belonging to ethnic minorities, with a focus on the Roma minority in Bulgaria', implemented by the National Commission on the territory of the Varna municipality;
- interactive prevention multimedia CD *Pay It Forward*, developed by the National Commission together with Face to Face Association, published in 10,000 copies;
- children's comics *You Are not for Sale*, developed by the National Commission together with the Council of Europe Office in Sofia, published in 10,000 copies;

¹³⁶ GRETA Report. Its conclusions are duly reflected in this publication.

¹³⁷ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2010 г. [National Anti-Trafficking Commission 2010 Report].

- a prevention book *Two Little Girls*, based on the movie *Two Little Girls*, published in partnership between the National Commission, the Bulgarian Family Planning Association, the Embassy of Great Britain in Bulgaria, the State Agency for the Protection of Children, the National Network for Children, the UN Population Fund, UNICEF and IOM;
- a handbook *Risks and Dangers of Youth*, published with the partnership of the National Commission and funded by the Hanns Seidel Foundation;
- special prevention brochure, developed by the National Commission together with a card production company, directed towards users of sexual services, printed in 23,000 copies and distributed in 7 major Bulgarian towns, selected because of the rising use of sexual services there;
- a prevention brochure on the risks of labour exploitation *Better Be Informed than Exploited*;

Information campaigns and programmes are carried out both on national and local level. Some of them have more general focus and take place **annually**:

- each year a campaign takes place around the European Anti-Trafficking Day (18 October);
- in Varna, there is an annual campaign 'Summer without Risk', which comprises a broad spectrum of prevention activities, including such against human trafficking.

Others are targeted at **groups of specific vulnerability as regards human trafficking**. For example, in Burgas the municipality, the local police directorate and Roma organisations organised in 2010 an information campaign 'I Am not for Sale', directed specifically at the Roma community as a risk group. In Varna, a specialised programme for prevention of human trafficking among the high risk and vulnerable groups of persons from the Roma community was implemented in 2010. Trafficking of pregnant women in view of selling their babies and trafficking of girls and women for sexual exploitation were the priority areas of the programme. The NGO Face to Face has implemented the Baby Factory Project – an information campaign for raising public awareness about trafficking of babies. The campaign aims at informing about the problem, motivating young Roma women to stand for their rights in their communities and families, teaching the principles of family planning and raising the interest in the problem by involving celebrities of Roma origin.

Children-specific prevention initiatives are very often **school-based**. Such programmes have been in place, among other towns, in Varna, Sliven and Montana. In Pazardzhik, information on trafficking is disseminated, in appropriate forms, around kindergartens, schools and children's social institutions, while the IGA Crime Prevention Fund, funded by the Oak Foundation, implemented in 2008 – 2011 a project on creating a network for prevention of violence against children. The NGO Face to Face has implemented the Advocacy Network Project, including the peer-to-peer training of students from the towns of Etropole, Botevgrad and Pravets to spread information against human trafficking and advocate human rights in their respective schools. Another initiative of the same NGO has been the Palno 6 (A+) Project, which in 2009 – 2010 built a network of students throughout the country who were to educate their peers about the dangers of human trafficking.

Peer-to-peer-directed training was also held for high school students from five towns in 2011 by the National Commission in order to create a network for cooperation and preventive work.¹³⁸

Box 2. School-based programme for prevention of human trafficking

In Varna, a school-based programme for prevention of human trafficking among 8th and 9th year students has been implemented by the local anti-trafficking commission and the municipality. School clubs for prevention of risk behaviour were also developed. Schools were covered by an information campaign for prevention of human trafficking for labour exploitation. As part of the work in schools, teachers and school advisors, as well as pupil peer trainers, were actively trained on prevention of human trafficking.

Source: National Commission for Combating Trafficking in Human Beings.

Notably, the Prevention Directorate with the Varna Municipality has a programme for financing NGO projects on prevention of risk behaviour among children, which in 2011 funded 2 anti-trafficking projects, covering 130 persons at risk and 20 professionals.¹³⁹ Among the beneficiaries were major local NGOs like the SOS-Families at Risk Foundation and the ARGO Association.

Box 3. Human trafficking – you always have a choice

In Sliven, within the framework of the information campaign Human Trafficking – YOU ALWAYS HAVE A CHOICE, a number of lectures were given in high schools in Sliven on the risk of child trafficking and the new approaches of traffickers in recruiting victims. Trafficking trial simulation was also held. In June 2010 training was held for pupils on assertive behaviour and creating peer groups for pupils of risk family and social environment. In October 2010 teachers and school advisors were trained on implementing programmes for prevention of trafficking.

Source: National Commission for Combating Trafficking in Human Beings.

In general, however, despite some visible effort, human rights researchers claim that the **lectures in schools do not cover Roma segregated establishments**, where many potential victims of trafficking likely study.¹⁴⁰ This is reiterated by the GRETA Report,¹⁴¹ which concludes that, with few exceptions, ‘...[t]he preventive

¹³⁸ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2011 г. [Report of the National Anti-Trafficking Commission for 2011], p. 9.

¹³⁹ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2011 г. [Report of the National Anti-Trafficking Commission for 2011], p. 22.

¹⁴⁰ Kukova, S. Trafficking of Roma in Eastern and Central Europe: Analysing the effectiveness of national laws and policies in prevention, prosecution and victim support, 2011, p. 20.

¹⁴¹ GRETA Report, paragraph 71.

measures taken to date have aimed at raising broad awareness rather than focusing on the most vulnerable groups ... Thus the activities aimed at prevention of trafficking usually take place in big towns. There is a shortage of preventive measures that take place in Roma neighbourhoods, and little evidence of direct participation in systematic and consistent prevention measures by vulnerable groups such as Roma, poor people, and disabled women and children, or of NGOs working with these groups... The Bulgarian authorities acknowledge the need to step up prevention work among ethnic minorities, which figures as one of the priorities of the 2011 National Programme. Similarly, prevention amongst children as a vulnerable group is also seen as a priority. This group has been targeted mostly through the education system ... That said, due to the problems of registering Roma children at birth and enrolling them in schools... the preventive measures taken through the education system risk to miss this vulnerable group'.

Box 4. Reducing the number of Romanian and Bulgarian victims trafficked into Spain and Italy

One of Bulgaria's major projects in the area of contacts with countries of destination and countries of origin was 'Reducing the number of Romanian and Bulgarian victims trafficked into Spain and Italy', implemented in 2007 – 2010. The National Commission worked on that project together with the Romanian National Agency for Combating Trafficking in Persons, the Department for Rights and Equal Opportunities, Italy, Directorate General of Police and Civil Guard, Spain and the United Kingdom Human Trafficking Centre. The project's objectives were to promote cooperation and coordination between the EU origin and destination countries along the human trafficking routes and to raise awareness about the risks of being trafficked among citizens of the EU origin countries, especially those living within Romanian and Bulgarian communities in Spain and Italy, and those living in the trafficking high-risk regions as are identified by national authorities in Romania and Bulgaria.

Source: National Commission for Combating Trafficking in Human Beings.

In its plans, the National Anti-Trafficking Commission seems to be recognising those alarming tendencies and intends to conduct awareness raising activities about the risks of trafficking and the possibilities for assistance and protection in Bulgaria and abroad among the ethnic Roma communities, as well as develop policies for family planning in order to educate young women to plan their pregnancies with the aim of long-term prevention among vulnerable ethnic groups of cases of transporting pregnant women abroad for the purpose of selling their babies.¹⁴² In 2011, the National Commission started a pilot project 'Prevention of trafficking in persons, belonging to ethnic minorities, with a focus on the Roma minority in Bulgaria' with financing from France.¹⁴³

¹⁴² National Commission for Combating Trafficking in Human Beings. National Programme for Countering Human Trafficking and Protection of Victims for 2012, p. 4-5, 12.

¹⁴³ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2011 г. [Report of the National Anti-Trafficking Commission for 2011], p. 16.

In 2011 social assessment was done in a Roma community near Varna on the level of risk of human trafficking, based on qualitative and quantitative analysis of data from a 3-month fieldwork study. It was structured under five topics: language and religion, places of origin and reasons for migration, sources of income, housing, risk behaviours and vulnerability of environment. The study covered 30 families with 317 members, out of which 64 men, 89 women and 164 children, 150 of the persons not speaking the Bulgarian language. Forced migration was related to conflicts with neighbours, clan conflicts and problematic behaviour of family members, such as drug use and alcoholism. Voluntary migration was related to the better living prospects, given by the city.

The National Commission planned to continue those activities in 2012.¹⁴⁴

Box 5. Programme for prevention of trafficking in Central and Eastern Europe

The Animus Association has been implementing the La Strada Programme for prevention of trafficking in Central and Eastern Europe since 1998. La Strada is a network of 9 independent NGOs aiming at, *inter alia*, directing special attention on the problem of child trafficking in its lobbying activities with a special emphasis on the professional care for victims. The Animus Association has also implemented a 27-month long project 'REACT – Raising awareness and empowerment against child trafficking', together with partners from Denmark, Italy and Romania. The aim of the project is to prevent trafficking in children in particular through the use of new information technologies. As part of the project, a survey was carried out and 10 workshops were organised with the participation of children.

Source: Animus Association.

On a **public-private level**, Bulgaria has had, since 2005, a Code of Conduct for the Prevention of Trafficking and Sexual Exploitation of Children in the Tourist Sector, part of the global ECPAT International initiative, which relays the determination of Bulgarian public and private sector in the area of tourism to assume an ethical behaviour against sexual exploitation of children in tourism.

6.2.2. Capacity building

Capacity building among Bulgarian institutions and other stakeholders on the issues, related to human trafficking, and child trafficking in particular, traditionally takes place in the form of trainings. Representatives of each institution are usually trained within their own training frameworks, but there are also events, gathering multidisciplinary audience.

¹⁴⁴ National Commission for Combating Trafficking in Human Beings. National Programme for Countering Human Trafficking and Protection of Victims for 2012, p. 4-5, 12. '[E]xtending prevention activities to more schools with a majority of Roma children' is also recommended by the Trafficking in Persons Report 2012 of the US Department of State, p. 100.

Every year, the National Anti-Trafficking Commission envisages in its National Programmes a plethora of training activities for all institutions and professionals, involved in anti-trafficking activities. For 2012, those were the personnel of the National Commission and its local commissions, the staff of the crisis centres, police, judges and prosecutors, journalists, diplomats, teachers.¹⁴⁵

Training of **judges and prosecutors** is entrusted with the National Institute of Justice (NIJ). Human trafficking has been a traditional subject in the Institute's criminal law and criminal procedure training modules and various projects. As documented by the National Commission's annual reports, among other events, in 2008 the NIJ gave two specialised trainings on combating human trafficking for judges and prosecutors. In November 2009 judges from the Sofia appellate region were trained by German magistrates on sexual abuse and exploitation of children, with a special module on human trafficking for the purposes of sexual exploitation.

Police officers are trained on human trafficking both within the framework of their formal training and as part of various projects. Anti-trafficking training is provided at the Academy of the Ministry of the Interior both during the obligatory initial training (which includes two hours of lectures on human trafficking) and in the context of building professional qualifications (four hours of lectures). A specialised distance learning course 'Counteraction of crimes related to human trafficking', lasting five weeks, is also available. According to information provided by the Ministry of the Interior, in 2010, training on anti-trafficking was provided in the context of six different modules, one of which was a 'training of trainers' (involving some 1,000 police officers).¹⁴⁶

Box 6. Trafficking in human beings in Bulgaria and the Netherlands – common efforts in counteraction

One major effort at building the capacity of Bulgarian institutions to respond to human trafficking was the project 'Trafficking in human beings in Bulgaria and the Netherlands – common efforts in counteraction', implemented in 2009 – 2010 by the National Commission together with various Dutch partners. The project's purpose was to strengthen the effectiveness of Bulgarian authorities in the response to human trafficking. Within the framework of the project, police officers from anti-trafficking units were trained, as well as representatives of the National Anti-Trafficking Commission, the local commissions and NGOs.

Source: National Commission for Combating Trafficking in Human Beings.

In 2009, investigating police officers were trained within the framework of the project 'Hear the Child' of the Institute of Social Activities and Practices on special procedures for participation of child victims or witnesses in criminal proceedings.

¹⁴⁵ National Commission for Combating Trafficking in Human Beings. National Programme for Countering Human Trafficking and Protection of Victims for 2012, p. 5-9.

¹⁴⁶ GRETA Report, paragraph 90.

Also in 2009, Border Police officers were trained on the role of Border Police in identifying victims of trafficking within the framework of the National Referral Mechanism.

Box 7. Research and Participated Action Regarding the Victims of Trafficking in Human Beings, Crimes of Honour and Forced Marriages within The African and Eastern European Immigrant Communities (RAPVITE)

The Bulgarian Gender Research Foundation is the Bulgarian partner in the European project Research and Participated Action Regarding the Victims of Trafficking in Human Beings, Crimes of Honour and Forced Marriages within The African and Eastern European Immigrant Communities (RAPVITE) – 2010 – 2011 – supported by EU DAPHNE Programme. Electronic education platform on the issues of human trafficking, forced marriages and honour related crimes in four modules started in April 2011 in Italy, Bulgaria, Belgium and France. Bulgarian group of trainees is the largest – 120 participants, including representatives of the Bulgarian judiciary, State Ombudsman, Municipal Ombudsmen, National Anti-Trafficking Commission, municipalities, State Agency for the Protection of Children and NGOs. The main training topics are: Fundamentals and Characterisation of Human Trafficking in Europe, Anthropology of the Societies of Central and Eastern Europe, Instruments to Detect Human Trafficking, Forced Marriages and Honour Crimes.

Source: Bulgarian Gender Research Foundation.

Anti-trafficking modules have also been included in the training courses of the Ministry of Foreign Affairs for **diplomats and consular officers**.

Training of **social workers** occupies an important part in the overall capacity building on child trafficking, given their crucial role in dealing with children at risk. Among other events, in February 2010 a training was given by the Institute of Social Activities and Practices to representatives of the crisis centres for children on the problems of child victims of trafficking. Within the framework of a Bulgarian-Norwegian project on response to trafficking in November 2010 social workers from the Child Protection Divisions in the regions of Blagoevgrad, Kyustendil and Pernik were trained. In 2011 the National Commission held specialised trainings for **teachers** and **school counsellors** in Sofia, Varna, Kyustendil and Blagoevrad, acquainting them with the legal framework, risk factors and pre-requisites for human trafficking and giving them skills to present trafficking-related information before students.¹⁴⁷

In 2012, the National Anti-Trafficking Commission started an 18-month project on 'Improvement of national anti-trafficking policy through transfer of know-how, experience and good practices', with the financial support of the Administrative Capacity Operational Programme, co-funded by the European Union through the European Social Fund, in partnership with the Bureau of the Dutch National

¹⁴⁷ Национална комисия за борба с трафика на хора. Отчет на дейността на Националната комисия за борба с трафика на хора за 2011 г. [Report of the National Anti-Trafficking Commission for 2011], p. 9.

Rapporteur on Trafficking in Human Beings (BDRTHB). The primary objective of the project is to increase the capacity of the Commission, its regional structures and NGOs, carrying out activities in the sphere of combating human trafficking by using the knowledge, experience and the good practices of the Netherlands.

6.2.3. Reintegration and international cooperation

The development and update of the Co-ordination Mechanism, as well as the elaboration of the National Referral Mechanism (NRM), described in detail above, have by far been Bulgaria's most important recent reintegration initiatives.¹⁴⁸ For 2012, it was planned for the NRM to receive financial support in relation to its effective implementation.¹⁴⁹

Box 8. Development of transnational mechanisms to fight against human trafficking in Romania and in Bulgaria

Caritas Bulgaria worked in 2008 – 2011 on a project entitled 'Development of transnational mechanisms to fight against human trafficking in Romania and in Bulgaria' financed by the European Commission and co-financed by Secours Catholique/Caritas France. The main goal of the project was to create a safer environment on both sides of the Danube River through joint efforts against the risk of trafficking in human beings in the new context of Bulgaria's and Romania's EU membership. The project's objective, was, *inter alia*, to promote and develop best practices for the protection of crime victims. The project's activities included: training activities in Ruse and Bucharest for mixed groups – youths, representatives of different institutions, NGOs, authorities and media; human trafficking from the perspective of human and children's rights based on the experience of France, including customer education and training; interactive workshop on 'peer-to-peer' best practices in Paris; workshops with the youth volunteers in Romania and Bulgaria; survey among students in 50 schools in Romania and Bulgaria.

Source: Caritas Bulgaria.

Bulgaria has also been active in developing transnational referral mechanisms for victims of trafficking between countries of origin and destination (TRM-EU project, 2008 – 2009) and for trafficked persons in South-Eastern Europe (TRM-SEE project). Information materials on both projects have been distributed, *inter alia*, among the units of the Ministry of Interior, which most often encounter victims of trafficking.

¹⁴⁸ More information on the project efforts to develop the National Referral Mechanism can be found at <http://antitraffic.government.bg/en/international-projects/national-referral-mechanism>

¹⁴⁹ National Commission for Combating Trafficking in Human Beings. National Programme for Countering Human Trafficking and Protection of Victims for 2012, p. 13.

Box 9. Child Trafficking Response Programme (CTRP)

The Child Trafficking Response Programme (CTRP) was implemented in Bulgaria by the Animus Association and the Partners Bulgaria Foundation and covered seven countries from Southeastern Europe. The four phases of the project comprised, respectively: prevention, identification and support for child victims of trafficking; a large survey among children at risk in the seven project countries; building effective models for supporting and protecting children at risk and victims of trafficking; providing high quality services to children at risk and victims of trafficking – direct support, prevention and advocacy. In its final phase (2009 – 2011), the two organisations worked towards offering children at risk and victims of trafficking high quality services, including: direct support of the children at risk through further development of the day centre in the town of Kyustendil; capacity building among specialists through a three-module training programme on the main problems, related to human trafficking; peer education sessions for children at risk; and monitoring, documentation, support for the policies, advocacy and legal reform in the area.

Source: Animus Association and Partners Bulgaria Foundation.

7. CONCLUSIONS AND RECOMMENDATIONS

The present report made a review and analysis of the situation of child victims of trafficking, in terms of the criminal law sanctioning of human trafficking, the standing of minor and underage victims in criminal proceedings and the various legal, institutional and policy frameworks for their protection. Bulgaria plans legislative amendments to transpose the new Directive 2011/36/EU and to reflect the findings of the GRETA Report, so the following conclusions and recommendations point to the aspects this report finds most important to be taken into account.

7.1. CRIMINAL LAW AND CRIMINAL PROCEDURE

In terms of its substantive criminal law, **Bulgaria is considered to have largely complied with the standards** of the CoE Convention and the Palermo Protocol.

In line with international standards, under Bulgarian law trafficking of a person under 18 years of age, when the offender is aware of this circumstance, is criminalised as an aggravated case of trafficking regardless of the use of any abusive ‘means’ of recruitment.

Beyond the limits of internationally agreed definitions, under Bulgarian law the consent of the victim is never relevant for the criminal nature of the act of trafficking.

As regards actions, constituting trafficking, Bulgarian law is fully consistent with international standards. Although ‘transfer’ is not expressly mentioned among the forms of the crime in Bulgarian *Criminal Code*, the Bulgarian Supreme Court of Cassation Interpretative Decision upholds that the definition of international trafficking in Article 159b, CC covers the notion of ‘transfer’ to a large extent. In terms of means used, Bulgaria is considered to have exceeded the standards of the two key documents, because trafficking is criminalised 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.¹⁵⁰ Their listing in paragraph 2 of Article 159 is largely consistent with the internationally agreed definitions. As regards purposes of trafficking, the GRETA Report¹⁵¹ notes that ‘it

¹⁵⁰ According to the GRETA Report (paragraph 62): ‘...This approach is seen as corresponding to the current economic and social climate in Bulgaria: because of their difficult material situation, some people enter into an “employment-like” relationship with traffickers who do not have to use coercion or fraud to achieve the goal of exploitation. According to senior prosecutors and judges met during GRETA’s country visit to Bulgaria, this approach has led to a higher number of prosecutions and convictions’.

¹⁵¹ GRETA Report, paragraph 60.

would appear that the list of forms of exploitation covered by Bulgarian legislation is exhaustive rather than open-ended as is the case in the Convention.'

Article 159c of the Bulgarian Criminal Code covers the requirements of Article 19 of the CoE Convention for the criminalisation of the use of services of trafficking victims.

Regarding the standing of child victims in criminal procedure, as mentioned in the relevant section, they are given a range of entitlements as full-bodied participants in the criminal procedure, so balance should be made between those entitlements and the potential re-victimisation they might lead to, if not used with a victim-centred approach.

Based on the review and analysis made, several recommendations can be put forward:

- **The new Directive 2011/36/EU** should be swiftly transposed, especially in terms of introducing the 'contextual understandings of the different forms of trafficking' (paragraph 7), such as 'exchange or transfer of control', the definition of 'position of vulnerability' and the 'exploitation of criminal activities' as a purpose of trafficking.
- **Endangering the life of the victim** should be introduced as a circumstance aggravating the penalty for trafficking.
- **Public officials' involvement in human trafficking in the course of performance of their duties** should also be included as an aggravating circumstance of human trafficking.
- Steps should be made towards **absolving from criminal responsibility of child victims of trafficking**, who have been compelled to commit a criminal offence in their condition as victims.
- In accordance with Article 25 of the CoE Convention and the other relevant international standards, the possibility should be introduced for **taking into account previous trafficking convictions** made by other countries, when determining the penalty before national courts.
- As reiterated by Article 12, paragraph 4 of Directive 2011/36/EU and anti-trafficking practitioners,¹⁵² amendments have to be introduced in Bulgarian *Criminal Procedure Code* in order **to limit child victims' encounters with traffickers to avoid re-victimisation**: expressly limit (or exclude) the interviews of child trafficking victims as witnesses and extending the options for the victim witness not to appear in court; if children have to be interviewed, expressly limit their direct confrontation and visual contact with the offenders, possibly by interviewing via video conference. **Special premises** for interviewing child victims of trafficking should continue being equipped in order to lessen the levels of re-victimisation.

¹⁵² Наръчник за борба с престъплението трафик на хора, [Manual for combating the crime of human trafficking], Varna: Steno Publishing House, 2008, p. 38.

7.2. LEGISLATION CONCERNING PROTECTION OF CHILD VICTIMS OF TRAFFICKING

The review and analysis made on the twofold protection framework of child victims of human trafficking – under the anti-trafficking and the child protection legislation – show that it is **relatively sound and largely compliant with international standards**. It is, yet, quite fragmented due to the general nature of the two main laws – protecting, respectively, *all* victims of trafficking and *all* children – and the child victims being a diverse group at the laws' intersection. Trafficked children are formally covered by the *Law on Combating Human Trafficking*, but in fact most of their protection comes under the *Law on the Protection of Children* and the related provisions of the social assistance legislation. This leaves the children of most complicated status, determined by other legislation as well – juvenile delinquents, foreigners, refugees and asylum seekers – as well as whole areas like return and reintegration into a relative lacuna, which even the National Referral Mechanism and the Co-ordination Mechanism cannot remedy.

Several legislative recommendations can be made:

- Following the National Referral Mechanism, which allows 'victims to be identified and provided with assistance regardless of their readiness to cooperate with police investigations',¹⁵³ in the *Law on Combating Human Trafficking*, **regulation of a formal victim status** may be introduced, different from the special protection, accorded after the reflection period, to reiterate the commitment to protection of child victims of trafficking regardless of their citizenship or cooperation with law enforcement authorities, as stipulated, *inter alia*, by Article 12, paragraph 6 of the CoE Convention.
- **The status of foreign (child) victims of trafficking should be given specific regulation**, possibly in the *Law on Combating Human Trafficking*, in order to avoid gaps and lacunae, which may appear if general foreigners'/refugee legislation is resorted to.
- Clearer **correspondence** should be established between the **normative framework and practical application of the LCHT and LPC** and the social assistance legislation, especially in terms of accommodating child victims in shelters and/or crisis centres and providing them with suitable care.
- In the relevant laws, express and detailed regulation has to be introduced on national and foreign child victims' **access to education, healthcare, as well as protection of personal data**, as currently recourse should be made to general legislation and principles in each of the three areas, which may not always apply to victims' special situation.
- In the *Law on Combating Human Trafficking*, as well as in the *Law on Foreigners* and the *Law on Asylum and Refugees*, **a sound return and reintegration normative framework is to be regulated**, as outlined, *inter alia*, by Article 16 of the CoE Convention, taking into account Bulgaria's specifics as a country of origin, as well as empirical data on the dimensions of the problem of child trafficking.

¹⁵³ US Department of State, *Trafficking in Persons Report 2012*, p. 100.

7.3. POLICY AND INITIATIVES

In contrast to legislation, it seems that Bulgarian institutions and organisations have targeted child victims of trafficking in their policy documents and initiatives very specifically. There is an abundance of projects, both institution and NGO-led, and programmes and strategies have attempted to cover all aspects of protection of this particularly vulnerable group. What is lacking, however, is understanding of the interconnections between different aspects of the problem of child trafficking and practical impact, especially among specific sub-groups.

- **Specific policy for age assessment** of the child victims should be introduced as well as provisions on giving persons, whose age is uncertain, the benefit of doubt in order to be accorded the entitlements under child protection legislation, as stipulated, *inter alia*, by Article 10, paragraph 3 of the CoE Convention and Article 13, paragraph 2 of Directive 2011/36/EU.
- Steps should be undertaken for **harmonising the policy on child offenders and on child victims of trafficking**, as those two groups often overlap.
- As with legislation and as reiterated by the GRETA Report,¹⁵⁴ **foreign (child) victims of trafficking should be subject of special attention** in state anti-trafficking policy, as general policy measures may not always be adequate and effective, as regards foreigners.
- **The placement of children in the Special Homes for Temporary Placement of Foreigners is to be terminated** and they should be placed in homes of free regimen.
- As reiterated by the GRETA Report,¹⁵⁵ the **procedure for participation of NGOs in the work of the National Commission** should be facilitated and further mechanisms for cooperation and involvement of NGOs, especially **Roma organisations**, should be developed.
- As reiterated by the GRETA Report,¹⁵⁶ a **national mechanism** should be developed for **monitoring and assessment of policies and programmes** for identifying, assisting and reintegrating trafficking victims and trafficked children in particular, potentially including an independent national rapporteur, entitled to make recommendations to government institutions and support the work of NGOs.

¹⁵⁴ GRETA Report, paragraph 78: ... Another aspect which has not received due attention in the national policy against THB is the trafficking of foreign nationals. As noted above..., there is general acknowledgment that foreign victims of trafficking both transit Bulgaria and reach it as a country of final destination. However, the very low number of identified foreign victims in the official statistics suggests that there is a scope for improvement in the identification process when it comes to foreign nationals arriving or residing in Bulgaria. Concerns have been expressed by NGOs that foreign victims of THB are extradited before being identified and given the opportunity to recover and co-operate with the authorities...

¹⁵⁵ GRETA Report, paragraphs 83, 86.

¹⁵⁶ GRETA Report, paragraph 79: ... Such an independent evaluation can assist the authorities in assessing the impact of the activities and help them plan future policies and measures to combat THB.

7.4. CAPACITY BUILDING AND BUDGET

As equipped Bulgaria may be with policies and initiatives to counter child trafficking and protect its victims, its institutions often lack the capacity and financial resource to tackle this complex phenomenon with multiple international dimensions. The recent GRETA Report has offered a unique opportunity for the Bulgarian counter-trafficking infrastructure to measure itself against current international standards and best practices. This opportunity should be used to re-evaluate existing policies and budget allocations to reach a higher level of efficiency.

A couple of specific recommendations from the GRETA Report should be taken into account:

- Given the variety of their tasks and the complexity of their work, **the National Anti-Trafficking Commission and its local commissions should be supplied with further human and financial resources.**¹⁵⁷
- **The system of gathering and processing of statistics** about human trafficking and child trafficking in particular should be improved, as current data is often not disaggregated into types of trafficking or age/gender of the victims and not all victims are taken into account; this should be accompanied by all the necessary measures to respect personal data protection and to strengthen the National Commission's and other institutions' analytical capacities.¹⁵⁸

The findings of the GRETA Report should be widely publicised, in the Bulgarian language, to all levels of administration, involved in countering human trafficking, and child trafficking in particular, to formulate appropriate response on policy and practical level.

¹⁵⁷ GRETA Report, paragraph 85.

¹⁵⁸ GRETA Report, paragraph 102.

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