

INSTITUTE FOR CRIMINOLOGY AND SOCIAL PREVENTION (IKSP)

**TRAFFICKING IN WOMEN:
THE CZECH REPUBLIC PERSPEKTIVE**

**(The research is part of the UNODC/UNICRI project - Criminal Justice Response
to Trafficking in Human Beings in the Czech Republic and Poland)**

Methodological guarantor - UNICRI

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Summary

On the basis of the data collected and analysed in the survey, trafficking in human beings, as a form of organised crime, has the following characteristics in the Czech Republic.

According to § 246 of the Criminal Code of the Czech Republic (Czechoslovakia), resulting from the ratification of international conventions, trafficking in women is a criminal offence, but in the past cases prosecuting this offence hardly appeared before Czech courts.

A radical change took place in the 1990s when, along with the transformation of the social situation and a liberalisation of laws, it became possible to travel abroad, a free market economy was introduced, and the social welfare system was reduced. At the same time, the incidence of some social problems (especially drug abuse and prostitution) increased. According to statistical data, crime rates increased and cases connected with organised crime appeared (for details, see chapter „Statistical Survey“). In recent years, the Czech courts have annually convicted between 15 and 20 persons (the highest number, 25 persons, in 1999).

Cited cases of trafficking in persons in the Czech Republic always refer to trafficking for sexual purpose (prostitution), because, according to the current law, only trafficking in persons for this purpose is punishable.¹

Together with crimes connected with the production and distribution of drugs and trafficking in weapons, trafficking in women is a traditionally „paramount“ article of international organised crime (this follows, *inter alia*, from a longitudinal study undertaken by the IKSP since 1995).

The generally acknowledged constants which influence the existence of this specific form of organised crime include: imbalance of international economic relations, economic weakness and political instability in the countries of origin, violation of human rights, gender inequality in the legislation and in the practice (i.e., the feminization of poverty, gender discrimination, scarce access to education and occupational opportunities), constant demand for „sex for sale“ and restrictive migration policies.

Although these aspects are not prevailing in the contemporary Czech society, a few similar trends can be detected.

Belated legislative reaction to the growth of social problems (particularly prostitution), excessive reliance on the principles of market economy, social insecurity and inability to attain self-fulfilment, a general tendency to pay lesser wages to women, high unemployment

¹ § 246 of the Criminal Code (Trafficking in persons for sexual purpose).

rates in some districts, lack of public awareness, distorted system of values and scarce legal culture, low self-esteem and under estimation of health risk, women's desire to break away from a poor lifestyle without no perspectives and the social control of their original environment: all these are incentives that facilitate the growth of sexual exploitation.

Other factors, such as the myth of an easy and calm life in the „West“ show considerable *naiveté* in the women looking for „a lucrative job abroad“ or for „a well-off partner/spouse“, etc.

Traffickers make use of gender inequality, utilizing the sort of „traditional“ stereotype which sees women as sexual objects.

The principal source of Czech victims of trafficking are areas with high unemployment rates and tourism cities with an increased demand for (and supply of) all kinds of sexual services. According to the experts, Northern Bohemia, Western Bohemia, Northern Moravia, Southern Moravia, Prague and Brno are the main origin localities. Potential victims are sought among women dissatisfied of their income, in difficult life situations or already engaging in prostitution. In cases of minors, their mental immaturity and social *naiveté* are often exploited.

The experts stated that women trafficked from abroad mostly come from Ukraine and other ex-USSR countries, Slovakia, Romania, and Bulgaria; a number of women also come from Vietnam, the Philippines, Thailand and the former Yugoslavia. They usually enter the Czech territory either as tourists, or using a counterfeited letter of invitation.

Ways of recruiting victims of trafficking

In essence, ways of hiring Czech victims are quite informal. The contact between the woman and the recruiters is often established through common friends or acquaintances, or, in some cases, „from hearsay“. The contact may even be mediated by a member of the victim's family. The first contact occur in the place of residence, in a restaurant or a bar, in a hotel, at a disco, or in the street.

Institutional mediation, i.e. a contact established through (job, marriage, travel) agencies, is not very frequent. Adverts are usually placed by individuals, or by the owners of sex establishments.

The analysis of the files pertaining to cases heard by Czech courts over the last four years revealed that Czech women in the Republic are usually enticed abroad under the pretence of a well-paid and attractive job, such as barmaid, dancer, hostess, lady companion. However, traffickers plan from the start that the woman's main (if not only) activity will be

prostitution. In most cases, women accepting these offers are sold to sex establishments, or to procurers that employ them in street prostitution.

If the contact is mediated by an entity, it is most often an employment agency rather than a dating- or a travel agency or any other type of institution. Persons and agencies that get in touch with, and hire the women often use deceptive and fraudulent techniques.

The agencies sign contracts promising a legal employment. The contracts are valid, and the subsequent treatment of the women abroad is not punishable by the Czech law.

The crime takes place, even if the transport of a woman abroad is not forcible. Most of the women are lured by the prospect of an easy and comfortable life connected with high retribution, and leave the Czech Republic voluntarily deluded by the traffickers as to the kind of situation they will find.

The prevalence of an economic motivation is also related to the high proportion of victims of trafficking who were already engaged in prostitution, mostly on the street or in night clubs in the border areas. According to the information from the court files, Czech women who offer their sexual services to wealthy or foreign clients in hotels, high-class sex parlours or top-quality private clubs do not become victims of trafficking.

It has been confirmed that also under-age girls are trafficked abroad. From the criminological point of view, women offering their sexual services (particularly on the street) are an extremely high-risk group of persons in terms of victimization.

Depending on the ways of recruitment, we can divide the victim of trafficking according to the degree of victimization:

- women who went abroad to engage in prostitution there, but had no idea of the working conditions;
- women who accepted a job close to prostitution (striptease dancers, masseuses in sex clubs) and might have expected to engage in prostitution;
- women who were deceived by the promise of a work as waitress, hostess, babysitter, and had no idea that they would be obliged to become prostitutes;
- women who were trafficked abroad by force, and coerced into engaging in prostitution there.

Routes of trafficking

As with other forms of organised crime, the patterns and routes of trafficking in women are very flexible and change rapidly. The exact route of a victim depends on specific conditions in transit countries, and sometimes in the destination country. Route changes are

most frequently caused by police controls. Only the origin place where the victim was recruited and the final destination are usually known.

According to our survey, Germany and Austria, followed by France, Italy, Spain, the Netherlands, Switzerland, Belgium and the USA, are the main destination countries of the women trafficked from the Czech Republic.

Our data also confirm that, in addition to being a country of origin and transit, the Czech Republic is becoming a destination country, especially for women from the former Soviet Union.

According to the experts, en route to the destination country, physically dangerous situations occur only if the transport is time-consuming or the victim is transported across the border illegally, usually against her will.

Trafficked victims often acquire and use authentic travel documents cross the border; afterwards, they disappear or exceed the visa permit. Traffickers also use counterfeit papers to acquire travel documents, or use altered or forged documents. Most frequently they replace the photo on a stolen passport, even if cases of forging a whole document have recently somewhat increased.

Involvement of organised crime

In only two cases (out of 15 analyzed case files), the defendants (offenders) were convicted as members of an organised group. In one case, of three offenders who knew each other had established a loose network; with no division of roles.

In the other case, six offenders jointly participated in trafficking seven women. The leader of the group involved in the crime his brother and other acquaintances from his place of residence. The structure of the group was loose, with little differentiation of individual roles set by mutual agreement.

In three cases, a married couple committed the criminal offence of trafficking in women. In one case, the perpetrators were two experienced women directly engaged in prostitution abroad. In another case, the crime was committed by two women who had a long experience of exploiting prostitution in the Czech Republic. In eight cases, trafficking in women abroad was performed by one individual.

So far, the experience of the investigative, prosecuting and adjudicating bodies shows that, although small-scale activities performed by small groups of individuals occur, a more

important role is by far played by large corporate bodies and transnationally inter related networks of offenders, which make up the elaborate and very well-organised „sex industry“.

At present, mixed groups of Czech and foreign nationals prevail in human trafficking from the Czech Republic. Citizens of the following states and territories are involved: Russian Federation, Ukraine, Chechnya, Dagestan, Moldova, Germany, Switzerland, Italy, Austria, Slovakia, Bulgaria, Rumania, Vietnam, Kosovo, Serbia and Croatia.

According to the analyzed data, Romany clans also take part in trafficking in persons from the Czech Republic (focusing particularly on Northern Moravia).

According to most experts, the small groups of traffickers are linked to larger international organisations.

The experts estimate that the groups are formed by 6-10 persons (or up to 20 persons). Higher numbers of persons involved in the same criminal group have not been recorded. Experts' estimates on the numbers of persons involved at the various stages of trafficking in persons differed considerably. Apparently, the number of persons involved in recruiting and procuring documents would not exceed 5 persons. A larger number of persons (no more than 10) participate in the transport, and, possibly, in the placement in the destination country. This figure appears to comprise all the successive „owners“ of the victims and/or the premises where prostitution takes place.

A number of experts agree that organised criminal groups involved in human trafficking in the Czech Republic employ „specialists“ for specific services: most frequently, lawyers, followed by accountants and civil servants (to the same extent), bankers and foreign police officers.

In their search for women, criminal groups do not focus on specific sectors of the labour market.

Threats of violence are mostly used by Russian-speaking criminal groups (consisting of Chechens, Russians and Ukrainians), and also groups comprising Romanians.

If a criminal organisation controls the whole trafficking process, from hiring the women to their sexual exploitation, its influence on the victim is very strong.

More than one third of the experts believe that traffickers use territorial control, for the purposes of recruiting trafficked persons. According to the experts, territorial control may frequently lead to violence against recruiters from other groups. The geographical scope of the criminal groups depends also on the specific place where the leaders originate from, or on the place where they settled.

The most frequent form of modification is the redeployment of victims in localities within one country, which, according to the experts' statements, takes place often or nearly always, or in different countries. The redeployment of victims among various organised criminal groups takes place particularly if there are problems with the victim, or if the police become increasingly interested in the activity of the group.

This means that the traffic in women is not merely a transnational process of migration, but it can (and does) take place also within the territory of one state.

The opinions on how frequently organised criminal groups furnish the traffic victims with a new identity are contradictory. A quarter of the experts believe that this phenomenon does not take place, another 11% say that it happens only occasionally, and the same number of respondents stated that the offenders frequently change the identity of persons by altering their papers.

The experts estimate that up to 30% (at the most) of the trafficking cases in the Czech Republic involve a hidden corruption.

An organised criminal group fastens together various forms of crime as a protective measure and to multiply the proceeds. The preferred combination is, of course, human trafficking and exploitation of prostitution; in addition, the experts mention trafficking in persons and illicit manufacturing and distribution of narcotic and psychotropic substances, and so-called „money laundering“.

The experts who commented on the traffic recent changes and present trends in the Czech Republic emphasized that changes originated from the involvement of organised crime groups. Groups originally involved in different types of crimes have merged. Continual mergers have taken place between Russians and Romanies, Slovaks and Romanies and Ukrainians, or Russians and Bulgarians. The experts estimate that the various stages of the criminal activity of these organised groups have become more elaborate.

As for the profile of victims, the decrease in their age has been a distinctive change. Women with social problems and eager for economic rewards usually continue to be sought out. Systematic attention is also paid to women who have already offered sexual services, be it voluntarily or under pressure.

In this context, the experts often mentioned that the most usual initial agreement between the „trafficker-mediator“ (procurer) and the „victim“ (prostitute) may be one of the reasons for the high latency of this crime; in most cases, this is a mutual voluntary agreement for the purpose of gaining an economic benefit.

When a case of trafficking in persons is detected through the initiative of the investigative, prosecuting and adjudicating bodies, the victims show considerable unwillingness and reluctance to testify against their „employers“ in the course of the investigation, because this means the loss of a „job“ (prostitution) and, consequently, of a source of financial means.

A small number of women are stunned by the tough reality and attempt to withdraw from the „contract“. However, even in these cases, the victims are often unwilling to initiate criminal proceedings or to act as witnesses in court, because they have justified apprehensions on receiving a protection sufficient to guarantee a secure existence for them. This problem relates, above all, to foreigners trafficked to the Czech Republic, particularly those who have no legal visa. If they are detected, they face unconditional expulsion, virtually no assistance or support from the Government, and, at the same time, the risk of being trafficked again; in the worst cases, their health and life are in danger.

This crime is sometimes detected thanks to reporting from the victims. The criminal information lodged by the women is motivated by various reasons; the majority of them strive to get away from their present „employer“ and an escape is usually difficult to carry out. Another frequent motivation is revenge on the present „employer“ for instance because of uneven distribution of the profits. At a given moment, the victim is willing to cooperate with the investigative, prosecuting and adjudicating bodies and give testimony.

It follows clearly from the experts' comments that the victims of trafficking in women can be divided into two main groups: women who engage in prostitution quite voluntarily, and women who are forced to engage in prostitution by physical or mental violence, enticed by deceit or by abuse, etc. Nevertheless, it is quite obvious that the women in both groups have a scant motivation to cooperate in solving the cases of trafficking in human beings, although the reasons in each group differ.

In investigating, solving and detecting the cases of trafficking in persons, the results greatly depend on the willingness of the „victims“ (if they are discovered and identified) to testify against the traffickers in the course of criminal proceedings.

Factors influencing trafficking in women in the Czech Republic

Social factors:

- excessive reliance on the principles of market economy;
- inability of young women and girls to attain self-fulfilment;

- social insecurity and high unemployment rates in some districts of the Czech Republic;
- general tendency to offer lower wages to women;
- constant demand for „sex for sale“
- under-estimation of the health risks connected with prostitution
- distorted system of values and low self-esteem (easy, quick and „unearned“ profit; abundance of „operating capital“)
- significant *naïveté* of women in their search for „a lucrative job abroad“, a well-off partner – spouse, etc.
- strong economic pressure from the close social environment
- high economic disproportion between the various European countries

Legal factors:

- lack of legal provisions regulating the offer of sexual services
- lack of criminal liability of legal persons – i.e., it is impossible to sanction the exploitation of prostitution in night clubs, massage parlours, etc.
- insufficient legislation gives the offenders a feeling of relative impunity
- slim protection of witnesses inducing aggrieved women to change or revoke their testimonies
- difficulty in locating witnesses for the purposes of criminal proceedings
- difficult and often time-consuming collection and validation of the criminal evidence (i.e., evidence proving that an organised criminal group was involved)
- slight cooperation of victims with the investigative, prosecuting and adjudicating bodies; this is often related to fear of a criminal sanction and subsequent deportation of the woman to her country of origin or to fear of moral condemnation by the social environment.

1. Introduction to the study

The Czech Republic

As one of the so-called post-Communist countries, the Czech Republic is often classified, stereotypically, as an Eastern European country; it tends to be seen as an economically underdeveloped region with low living standards. In this brief general introduction, we will somewhat attempt to rectify this erroneous picture. The Czech Republic is a land-locked country occupying the middle part of the temperate zone of the northern hemisphere in Central Europe. It borders on Poland, Germany, Austria and Slovakia. The area of the country is 79,000 km². The population numbers 10.2 million, the population density is 130 persons per 1 km². In 2002, the gross domestic product (in current prices, converted through the foreign exchange rate) was 69.5 billion US\$, which is about one third of Austria's gross domestic product and comparable to Hungary's GDP.

The gross domestic product of the Czech Republic is 6,845 US\$ per person (when converted through the foreign exchange rate) or 13,557 US\$ (when converted by using the parity of purchasing power); the source of this figure is an international comparison undertaken in 1999. If the parity of purchasing power is used for the conversion, the relation to other countries is even more favourable: the Czech Republic's GDP is more than 2,000 US\$ higher than Hungary's, and a half of the GDP of Austria (also of France, Italy, Germany and Great Britain).

The Czech Republic is an industrial country with an advanced service sector, high living standard and a high level of education. The average number of persons employed in the national economy is 4.9 million, including 1.5 million in industry, 0.7 million in commerce, 0.6 million in the educational system and health service, 0.4 million in the construction industry and only 0.2 million in agriculture. 0.5 million people seek employment. The unemployment rate is just below 10%. Unemployment is most prevalent among persons between 20 and 29; about 30% (163,000 people) of the unemployed belong to this age group (all these figures are estimates of the Czech Statistical Office for 2002; the 2003 estimates are not available yet). Roughly half of the unemployed draw the unemployment benefit.

The average gross monthly wage of a person employed in the national economy is 15,857 CZK (Czech crowns; roughly 530 US\$), in industry 15,342 CZK. The highest average wage is in the financial sector (31,570 CZK), the lowest is in the educational system (13,611 CZK) and in agriculture (11,638 CZK). (Estimates for 2002). The Czech Republic has also an

established system of social security: in 2002, 32.6 billion CZK in sickness benefits were paid out, 33.7 billion CZK of welfare payments and 210.4 billion CZK of pensions. In 2002, the average old age pension was about 7,000 CZK.

The living standards of the population have traditionally been high. As an indicator, we list the numbers of durable products per 100 households (2001 figures): refrigerators including freezers – 157 items; colour televisions – 117 items; automatic washing machines – 101 items; private cars – 69 items; personal computers – 23 items. The annual electricity consumption per 1 inhabitant is 1,372.7 kWh. The consumption of food per 1 inhabitant also corresponds to the level of an advanced country; for instance, 77.8 kg of meat, 58.8 l of milk, 286 eggs, 39 kg of sugar, 82 kg of vegetables and 70 kg of fruits; unfortunately, also 9.9 l of alcoholic beverages and 1,645 cigarettes. (2001 figures; Source: Czech Statistical Office).

The school and educational system in the Czech Republic is comprehensive; after 1989 (in what was then Czechoslovakia), room was also made for private schools. Some 85% of children from proper age-group attend nursery schools; basic school attendance is compulsory for children between 6 and 15 years. Roughly 60% teenagers between 15 and 19 years attend secondary schools. Also, 23% from appropriate age-group enter universities. In 2000, more than 37,000 persons graduated from universities. Study at private schools is fully or partially paid by their students; there are no school fees in the state school system.

Judiciary and crime in the Czech Republic

After 1989, the Czech judicial system, too, underwent profound changes. However, its effectiveness is not yet adequate. In the latter half of the 1990s, the parameters even deteriorated – for instance, in 1996, the proceedings at a district court lasted 196 days on average; in 2000, their average duration was 251 days. Because of the slowness of the proceedings, the awareness of the connection between breaking the law and the subsequent punishment is decreasing. For crime victims, but also for persons involved in civil disputes, the operation of the judiciary indicates a low level of law enforcement; it gives citizens the feeling that they are not sufficiently protected by the law.

In 2002, 79,909 persons were charged with committing a crime. 6,600 persons were fully acquitted; in the case of 6,700 persons, the criminal prosecution was abandoned (in 330 cases due to amnesty). 65,098 persons were convicted, including 7,800 women and 3,900

juveniles (persons between 15 and 18). The majority of convictions (34,900) were suspended sentences, 9,700 unconditional sentences and 3,500 fines. 14,600 alternative sentences (such as public work service) were meted out. In 2000, the total number of prisoners in prisons was more than 21,000, which is 208 prisoners per 100,000 inhabitants (about twice as many as in Western Europe).

The Czech Police annually registers between 350,000 and 400,000 offences; some 45% of them are cleared. Three fourths of the reported crimes are offences against property, violent crime comprises roughly 6%, offences against decency less than 1%. Economic crime is about 10%; however, it causes by far the highest damage – 51 billion CZK in 2000, the estimated overall material damages caused by crime being 63 billion CZK.

Prostitution and related crime

A specific problem is prostitution; although it is not an offence in itself, it tends to attract other activities classified as crimes – violent crime, procuring, or trafficking in persons for sexual abuse and exploitation. Prostitution is connected with the exploitation of victims and illegal proceeds, which are further related to other types of crime, such as organised crime, money laundering or corruption, in some cases even crime committed by police officers.

In Czech society, prostitution is definitely a marginal phenomenon; nevertheless, the demand for paid sexual services is to be found among Czech citizens as well as among foreigners visiting the Czech Republic. The proportion of Czech and foreign clientele is difficult to determine precisely, but there are good reasons to believe that the proportion of foreign clients is high (for instance, because of the so-called transborder sexual tourism, especially from Germany). From this, we can deduce that the whole sexual business is highly organised (the client must be able to find his way quickly), and that there is a considerable latent scope of trafficking in women (the offer to clients must be modified) as a „workforce“, who, because of their subordinate position, become an easy source of proceeds for the „managers“ (traffickers, human smugglers, procurers). We deduce the high latency from the fact that the cases that have gone through the criminal proceedings seem to be only a small part of all the cases of trafficking.

The police document „*Description of the Street Scene in the Czech Republic*“ (one of the annexes to the implementation proposal of the national strategy in the fight against

trafficking in persons for sexual exploitation in the Czech Republic) is a „situational probe“ which attempts to map prostitution in the Czech Republic. Its figures (which, however, should be taken with a grain of salt) relate to both quantitative and qualitative aspects of prostitution as a criminogenic phenomenon. The estimated number of erotic establishments in the Czech Republic is over 800, their clients are (apart from Czechs), Germans, Slovaks, Austrians, Russians, Ukrainians, Vietnamese, Dutch, Italians, Bulgarians, Albanians and Turks. The prices range from 35 to 80 Euro per 30 minutes, from 1,000 to 4,000 CZK per hour, and up to 9,000 CZK per night. In comparison to these figures, the street prostitution scene is considered „virtually uncontrollable“.

Trafficking in women for sexual exploitation gradually became evident in the Czech Republic (in Czechoslovakia) only after 1990. Table 1.1 shows the scope and growth of this type of crime from 1991 to 2002.

Table 1.1 Persons convicted for trafficking in women* (§ 246 of the Criminal Code) between 1991 and 2002

Year	Number of persons	Year	Number of persons
1991	0	1997	9
1992	1	1998	5
1993	6	1999	25
1994	5	2000	16
1995	10	2001	15
1996	10	2002	20

* After 30 June 2002, § 246 of the Criminal Code reads „trafficking in persons“ (i.e. not only in women).
Source: Statistical Yearbook of Crime. Ministry of Justice of the Czech Republic

Before 1991, this criminal offence was not present in the criminal justice practice – until then, yearbooks of the Ministry of Justice contained no figures pertaining to the numbers of persons prosecuted for and convicted of trafficking in women. For example, a 1959 textbook of criminal justice says about this issue: „In our country, this provision [i.e. the clause relating to trafficking in women] has no practical significance; it is included in the law only to meet the obligation resulting from international treaties“. A 1976 textbook on criminal justice expresses the same view. However, as the country opened at the end of the 1980s, new room opened also for international organised crime, which sees trafficking in women as a lucrative activity.

Studies on trafficking that contain data on the Czech Republic

From the accessible research studies that focus on trafficking in persons (in women) or on the victims of trafficking, we highlight three documents that contain data on the Czech Republic, as part of an international comparison.

The study *„Protection Schemes for Victims of Trafficking in Selected EU Member Countries, Candidate and Third Countries“*, published by IOM (International Organisation for Migration) in 2003 contains case studies from Albania, Austria, Belgium, the Czech Republic, Germany, Hungary, Italy, the Netherlands, Spain and Ukraine. All the studies follow a unified outline: General information on the scope of the problem, Law and law enforcement, Victim protection and assistance, Policy initiatives and institutions (governmental and non-governmental).

The second study is *„Trafficking in Women and Children in Europe“* by Martti Lehti (published by HEUNI in 2003, available on the website: <http://www.heuni.fi>). This study focuses on trafficking in women and children for sexual exploitation, and for other purposes (such as forced labour). The author briefly characterizes the situation in European countries, divided into regions: Northern Europe, Western Europe, Central Europe, the Balkans and the Eastern Mediterranean, the Western Mediterranean, Eastern Europe and the Caucasian region. The Czech Republic is characterized as a country of destination, of transit and of origin for trafficking in persons connected with prostitution. The main destination country for Czech victims is said to be Germany; according to the data, Czech women form 8% of the victims of forced prostitution in Germany.

The third source is the volume *„Trafficking in persons for Sexual Exploitation“*, published by the Crime Prevention Section of the Czech Ministry of the Interior in 2002. It contains the proceedings of a thematic workshop which took place in November 2001 – situational reports from the Czech Republic, Slovakia, Bulgaria, Rumania, Moldova, the Russian Federation, Byelorussia and Kazakhstan, as well as a paper on the Dutch legislative approach to trafficking in human beings. The volume contains also the record of panel discussions, conclusions and recommendations.

Last but not least, we must mention the publication *„UNICRI Report to the Board of Trustees on the Implementation of UNICRI’s Activities for the Year 2002; UNICRI Work*

Programme for the Year 2002“, published by the United Nations Interregional Crime and Justice Research Institute in 2003. This is the report on the twelfth meeting of the UNICRI Board of Trustees, which took place in January 2003 (in Turin, Italy), and the programme of future activities. Chapter 5 surveys the results of 2002 research projects, outlining the project „Criminal Justice Response to Trafficking in Women“ in the Czech Republic and Poland, and information on the continuation of this project in 2003.

2. Research objectives and methods

This model project of the *Global Programme against Trafficking in Human Beings* carries out surveys on the possible implementation of the requirements listed in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, supplementing the *UN Convention against Transnational Organised Crime*.

The guarantor of the whole project, whose individual components are underway in different countries, is UNODC (UN Office on Drugs and Crime). The research/assessment guarantor of the project is UNICRI (UN Interregional Crime and Justice Research Institute).

On the national level, the project aims at improving the efficiency of law enforcement functions and other criminal justice responses. The emphasis is on trafficking in women for sexual exploitation and forced labour as part of organised crime, as well as on the response of the criminal justice system to foreign women who have been trafficked to the Czech Republic, and to Czech women who have been repatriated to the Czech Republic from other countries.

The objective of the project is to raise the present awareness and propose effective measures for the suppression and prevention of trafficking in persons. At the regional and international level, the project aims at promoting the collaboration between the key bodies of the countries of origin, transit and destination. The goal of the research is to gain information for more effective informal cooperation between Government authorities and non-governmental organisations. The data obtained can also be used for designing an institutional model of witness protection and victim support.

The Government of the Czech Republic assigned the implementation of this project in the Czech Republic to the Ministry of the Interior (Crime Prevention Department), and appointed the Institute for Criminology and Social Prevention (IKSP) of the Ministry of Justice as the guarantor of research activities.

In addition, officials from the following agencies and institutions took part in the implementation of the project in the Czech Republic: the Czech Police Force – Alien and Border Police Service, the Unit for the Detection of Organised Crime of the Criminal Police and Investigation Service of the Czech Police Force, the Police Academy, and furthermore Czech embassies abroad, Public Prosecutor's Departments and courts of law. From non-

governmental and intergovernmental organisations : La Strada, IOM and the Association Czech Catholic Caritas were involved in the project.

Field research focused on monitoring and coordinating the activities of the institutions that assist the victims of organised traffic and was carried out in the Czech territory, with Ceske Budejovice as the chosen locality. UNICRI foresaw a 10-month research. UNICRI also identified the methodology and the research instruments to be used. The choice of techniques was specified and the standard text of the checklist and questionnaires was produced by UNICRI.

In order to coordinate the research component, standardize the approach, and ensure that resulting data might be used in the subsequent stage of the project, it was crucial to organize **a methodological workshop to instruct the entities** entrusted of data collection in the Czech Republic.

During the methodological workshop, which took place on the premises of IKSP (Prague) in June 2003, the UNICRI expert Mrs Angela Patrignani introduced the participants to the project, its objective and purpose, and, above all, to the specific methods used for the acquisition of relevant information. The director of IKSP and members of its research team, a representative of the Czech Ministry of the Interior, as the guarantor of the project in the Czech Republic, and a representative of the Czech Ministry of Foreign Affairs, who helped to establish contact with the Czech diplomatic corps abroad, were present. Following an agreement with the UNICRI expert, the directors of the International Organization for Migration (IOM) and the NGO „La Strada“, which offer assistance to the traffic victims in the Czech Republic, were invited to attend part of the meeting.

The UNICRI expert provided detailed information on the specific methods. One part of the workshop was dedicated to defining the time schedule of each stage of the field research and pilot study.

In agreement with the project, governmental bodies and other institutions dealing with human trafficking in the criminal justice context or assisting the victims of trafficking were requested to identify respondents (also as part of the **pilot study**). The task of the pilot study was to optimise suitable variants of the proposed methodological instruments, to identify the sample of respondents, and, if necessary, to optimise the basic terms.

Because of the curtailing of the originally planned implementation period, the pilot took place study in July and August 2003, which caused problems since many potential

respondents were on holiday and this considerably decreased the chances of contacting experts. In spite of this factor, hard work and repeated efforts resulted, at last, in pinpointing specific persons, who were then contacted.

Other experts were identified by analysing the criminal statistics of the Czech Ministry of Justice. On the basis of the information provided by each court, we asked for the list of the court files concerning the offences and persons convicted in accordance with § 246 of the Criminal Code (trafficking in human beings) between 1999 and 2002. We then addressed the various presiding judges and asked for the relevant court files. The information contained in these files allowed to identify and ask for cooperation from judges and public prosecutors who dealt with those cases.

Judges from the following courts were addressed:

Regional Court in Ustí nad Labem, Regional Court in Ostrava, Municipal Court in Brno, District Court for Prague 2, District Court in Bruntál, District Court in Most, District Court in Èeská Lipa, District Court in Karlovy Vary (Carlsbad), District Court in Teplice, District Court in Sokolov and District Court in Ostrava.

Officials from the following Public Prosecutor's Departments dealt with cases of trafficking in human beings:

Supreme Public Prosecutor's Department in Brno (Head of the Criminal Proceedings Section), Chief Public Prosecutor's Department in Prague, Regional Public Prosecutor's Department in Ústí nad Labem, Regional Public Prosecutor's Department in Ostrava, Municipal Public Prosecutor's Department in Brno, District Public Prosecutor's Department in Ostrava, District Public Prosecutor's Department in Karlovy Vary (Carlsbad), District Public Prosecutor's Department in Sokolov, District Public Prosecutor's Department in Most, District Public Prosecutor's Department in Bruntál, District Public Prosecutor's Department in Česká Lípa, District Public Prosecutor's Department in Teplice and District Public Prosecutor's Department for Prague 2.

Contact officers were appointed by the Heads of the following police units:

- Unit for Organised Crime Detection of the Criminal Police and Investigation Service of the Czech Police Force
- Department for International Police Cooperation of the Czech Police Presidium, i.e. Czech Interpol Centre
- Department for Asylum Policies of the Czech Ministry of the Interior
 - **Foreign and Border Police Service of the Czech Police Presidium**
- Department for Organised Crime Detection of the Ministry of Finance – Customs Head Office

IOM officers and La Strada social workers were involved in the project. The excellent cooperation with these organisations was significantly enhanced by the briefing given by the UNICRI expert during the methodological workshop in Prague. Social workers from both the IGO and the NGO completed a special course on the treatment of trafficking victims. The same workers were tasked to collect the information from the victims (as part of their services). Czech Caritas, a Catholic NGO, was equally asked to participate in the same component of the survey.

2.1 Description of the methodological instruments

The following techniques of data collection for the field research were used:

1. List of Topics for Case File Analysis (checklist)
2. Questionnaire – IOM, NGOs and experts' experience on the fight against trafficking in persons in the Czech Republic
3. Questionnaire submitted to criminal justice and law enforcement personnel (trends affecting offenders and involvement of organised criminal groups)
4. Instrument for in-depth interviews with Czech victims (survey addressing victims' experiences)
5. Questionnaire submitted to embassies (trends affecting offenders and involvement of organised criminal groups).

The texts of the questionnaires and the checklist were translated into Czech by a professional translation agency.

Most of the interviews were carried out by members of the research team. Members of the diplomatic corps were involved in the data collection via the Consular Section of the Czech Ministry of Foreign Affairs.

1. List of Topics for Case File Analysis (checklist)

The list was used for a detailed case analysis on officially closed cases of trafficking in women. Altogether, we obtained and analyzed 15 criminal files. A separate recording sheet was processed for each person that took part in the criminal proceedings as a victim or a perpetrator. To further specify the required information, the recording sheet also included the names of the public prosecutor and the judge, who, later on, were requested to be part of the expert group. To gain more data on the ways of victim recruitment, the victims were asked whether they had previously earned their living by prostitution, and whether they took illegal drugs. Difficulties connected with obtaining some of the required data by this technique were already pointed out in our report on the pilot study. We now confirm that it is almost impossible to obtain information on human traffic routes, and costs and benefits of crime, because the files only sporadically cover these data. The case file analysis was carried out by the project implementation team together with the survey.

2. Questionnaire – NGOs and experts' experience on the fight against trafficking in persons in the Czech Republic

All the representatives of IOM, La Strada and Czech Caritas participating in the survey component of the project (8 persons) filled in the questionnaires. The goal was to obtain information on the opportunities and the role of IGOs and NGOs in the rehabilitation of the victims of trafficking, on the collaboration between governmental and non-governmental bodies, and proposals for concrete improvements in the present Czech situation. At the same time, the questionnaires were to serve as one of the materials for an institutionalized model of functional witness protection and victim support.

3. Questionnaire submitted to criminal justice and law enforcement personnel (trends affecting offenders and involvement of organised criminal groups)

Expert survey makes it possible to gain educated opinions or guesses from experts, and information which is usually hidden, or can only be detected sporadically in other ways.

The questioning of experts had the form of a guided interview, based on the criteria determined by UNICRI. The interview lasted at least 90 minutes up to, exceptionally, 120 minutes. We also gave our respondents the opportunity to supplement their indications in writing. Before the interview, the respondent was acquainted with the goal of the project (the survey as such) and with the definition of the terms trafficking in persons and organised criminal groups, as defined by the *UN Convention against Transnational Organised Crime* and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*.

Special emphasis was given to obtaining information to be used in proposing improvements to the relevant Czech laws, and in further improving international cooperation.

Altogether, 19 experts from various criminal justice and law enforcement institutions were interviewed.

4. Instrument for in-depth interviews with Czech victims (survey on victims' experiences)

Between August 2003 and February 2004, we obtained the testimonies of 10 victims. For their help, each victim received a lump-sum 100-US\$ reward.

In the course of the pilot study, La Strada chief social worker, who carried out most interviews with the victims, suggested to use their native language, which was predominantly Russian. The full comprehension of the questions by the victims enhanced the reliability of the information obtained, and made it easier to establish contact in such a sensitive situation. The translation of the text into Russian was included as an annex to the report on the pilot study.

The information obtained from the interviews with the victims includes: the demographic profile of victims, the sources and types of travel documents, the methods of victim recruitment, the treatment of victims by traffickers and the police, cooperation with NGOs, etc.

5. *Questionnaire submitted to embassy personnel (trends affecting offenders and involvement of organised criminal groups)*

Through the Head of the Consular Section of the Czech Ministry of Foreign Affairs, we asked employees of the Czech embassies in the countries participating in the UN project (Austria, Finland, Germany and the Netherlands) to take part in the survey stage of the research. Beyond the scope of the project, we addressed the same request to embassies in Italy, France, Spain, Japan and the USA (on the assumption that Czech women may be victims of sexual trafficking in these countries). The embassy employees received a brief description on the empirical component of the project together with the questionnaire. Both documents were sent to these respondents in English and Czech languages. Through the Czech Ministry of Foreign Affairs, we received 12 compiled questionnaires from the Czech embassies in 8 countries (Austria, Germany, the Netherlands, Italy, France, Spain, Japan and the USA).

The sample of experts

UNICRI pre-established the profiles of the experts to be interviewed in the survey. They should come from the following professions: judges, public prosecutors, Interpol officers, and specialised police and customs officers. All types of professionals were contacted. However, no interviews were conducted with Interpol officers and customs officers. Interpol officers declared that their role in the Czech Republic is limited to liaison between Czech Police and foreign police agencies. According to the Czech law, customs officers have no authority on this type of crime. If they suspect a probable traffic case, they must report to the Police. It must be stressed that these time-consuming interviews were attended by the presidents (or vice-presidents) of the various courts.

Another source of data were statistics

We drew upon the statistics of the Ministry of the Interior, especially upon non-standard sets of data processed by the Czech Police Presidium and the Headquarters of the Foreign and Border Police Service. In addition, we used the statistical data collected by the Organisation and Control Section of the Ministry of Justice for the period 1996-2001. These data report the overall numbers of crimes and offenders (by age and gender) related to the § 246 of the Criminal Code – divided by period and specific areas.

We complemented the methods foreseen by the project with the following additional instruments:

- *Analysis of specialized sources and publications*

The research team analysed accessible foreign publications (see References), documents from the Ministry of the Interior, proceedings from workshops and conferences, as well as articles in Czech professional journals (in particular: *Trestní právo* [Criminal Justice], *Policista* [The Police Officer] and *Kriminalistika* [Criminalistics]).

- *Analysis of the media coverage*

The team scrutinized the daily press between 1 June 2003 and 31 December 2003; 150 news clippings from 29 newspapers and other sources were assembled. This analysis was only employed to round off the gathered data, as media information is often influenced by „reader appeal“. The craze for some topics (drugs, prostitution, murders, human trafficking etc.) considerably distorts the value of the news, which are often reported in a distorted way to please the public.

- *Comparative technique*

In order to assess the effectiveness of, and the changes in the Criminal Code of the Czech Republic, Czech criminal provisions from 1921 till present have been compared with the relevant ratified international instruments (international conventions and protocols from 1904 to 2002).

2.2 Limits of the survey

- The survey was very time-consuming and demanding in terms of organisation. Repeated contacts were necessary to obtain the managers' approval to interview the chosen experts and meetings were often cancelled, because the experts had other urgent tasks.
- The collaboration with the Ministry of Foreign Affairs posed particular problems due to long intervals between contacts and the fact that, active participation of Czech embassies in an international survey would not be in keeping with the Czech diplomatic protocol standards. An explanatory letter from UNICRI was instrumental in facilitating the cooperation with the Ministry.

- Most experts, even if selected on the basis of their professional experience, claimed that some of the requested data and information was not available, and they were unable to take part in the survey. Their negative attitude toward some questions, or even blocks of questions, did not arise only from their unfamiliarity with the relevant context or their being somewhat uncertain in their opinions, but from the fact that the interview was very detailed and consequently time-consuming. An additional reason for their refusals may have been their unwillingness to talk about „sensitive“ issues relating to information on and assessment of activities of Government authorities and institutions.
- Some of the requested information (above all, information on trafficking routes and proceeds of crime) could not be found in the court files, because it was not established in the course of criminal proceedings.
- In spite of rewarding the interviews, contacts with victims were very difficult to establish and only a few of them accepted to cooperate. Distrust of Government authorities as well as scarce awareness of possible assistance from NGOs predominated.
- Because of the long interval between the implementation of the survey and the commencement of the main project in the Czech Republic (launched on 1 November 2002), the information obtained from the survey could not be used for the institutionalized model of witness protection and victim support in the Czech Republic. Its pilot application was carried out at a time when hardly any required information from the survey was available. The proposed model was approved by Government Resolution No 849 of 3 September 2003.
- Most of the information obtained was qualitative in nature and it was not possible to use only the special computer programme for statistical data analysis (SPSS). Some of the data had to be interpreted with the help of content analysis.

Table 2.1 Parent institutions and numbers of the interviewed experts

Description	Number
Foreign Police	2
Department for Asylum and Migration	1
Policies of the Czech Ministry of the Interior	
Interpol	1
Police Presidium	1
Head Office of the Customs	2
Unit for the Detection of Organised Crime	5
Chairpersons of courts	5
Vice-chairpersons of courts	2
Public prosecutors	1
Supreme Public Prosecutor's Department	1
Chief Public Prosecutor's Department	1

3. Analysis of the media coverage

„The Czech Republic faces a big problem regarding trafficking in women and the enormous growth of prostitution after 1990. We are particularly plagued by street prostitution. It is an environment which favours human trafficking. Criminal groups strive to secure the maximum supply for their clients. On the other hand, the state strives to lay down clear rules, seeking to separate voluntary prostitution from forced prostitution, human traffic and organised crime...“ stated Jitka Gjuričová, Head of the Crime Prevention Section of the Czech Ministry of the Interior in the keynote paper delivered at the international conference „Proactive Police Approach to Detecting and Investigating Cases of Trafficking in persons for the Purpose of Their Sexual Exploitation“ organised by the Crime Prevention Section, which took place on 23 and 24 January 2003 in Mariánské Lázně as part of the UN project „Preventing, Suppressing and Punishing Trafficking in persons in the Czech Republic“ (**Policista [The Police Officer] 6/2003, annex**).

The statement of Jitka Gjuričová summarises the quintessence of the problem of trafficking in women, which usually intermingles a number of negative social phenomena: prostitution, trafficking, organised crime, money laundering. On the other hand, there are efforts to establish a legislative framework to control these phenomena through appropriate measures which would facilitate the prosecution of the offenders, either organizers or instigators of trafficking, and make it possible to provide the victims with adequate information on their legal status in the course of criminal or administrative proceedings. Trafficking in persons is an assault on human dignity and always contains elements of violence, coercion, deceit, or abuse of power or authority. The issue can only be faced in a complex way, which requires a coordinated action of all responsible bodies, and collaboration at both national and international levels.

If we analyse the information on trafficking in women in the Czech press, we discover that news appears always in connection with reports on prostitution, procuring, organised crime etc. The media never cover trafficking in women in the so-called „pure form“. This corresponds to the opinions of some legal experts who told the press that they only exceptionally encounter this issue in court practice.

In the present analysis of the media coverage, the IKSP documentation centre 150 relevant news clippings (published between 1 June and 31 December 2003). The following 30 sources were analyzed:

National newspapers: Mladá Fronta DNES, Právo, Lidové noviny, Haló noviny, Hospodářské noviny, Blesk, Deník Impuls.

Regional newspapers: Chebský deník, Metro, Ústecký deník, Domažlický deník, Tachovský deník, Moravskoslezský deník, Listy Strakonicka, Českobudějovické listy, Plzeňský deník, Krnovské noviny, Večerník Praha, Zlínské noviny, Hradecké noviny, Olomoucký den, Liberecký den, Brněnský a jihomoravský deník.

National weeklies: Týden, Respekt, Květy.

Other magazines: AD magazín, Listy hlavního města Prahy; Policeman (Ministry of the Interior monthly).

TV and radio news programmes (recordings): Radiožurnál – channel 1 of Czech State Radio.

A number of main issues were identified through content analysis:

- legal regulation of prostitution;
- crimes connected with prostitution (procuring and trafficking in women);
- police operations in night clubs;
- child prostitution in Czech border areas;
- description of specific cases.

The issues are not presented separately, but simultaneously; in almost every piece of news, we face a cluster of various opinions and problems regarding all the topics listed above.

We can formulate a few general statements on the bases the analysis of the media coverage.

- Trafficking in persons is a form of slavery and a serious violation of human rights; the most widespread branch of illegal human trafficking – the „sex industry“ – has become a global business whose estimated profits (according to various sources) range from 10 to 50 billion US\$ per annum:
- Trafficking in women relies on international networks of traffickers, „pimps“, owners of marriage agencies and sex-tourism agencies, brothel owners, and persons involved in the production and distribution of pornographic materials.

The most significant causes of the current boom of the traffic are the imbalance of global economic relations and the high demand for „cheap sex“ in the advanced countries. This demand brings „sex-tourists“ to poor countries, on the one hand, and young women and children from the „Third World“ and, since the 1990s, from Eastern Europe to the rich

countries, on the other hand. Usually there are no problems in forcing „cheap“ foreign girls to work longer hours and serve more customers for less money. These girls have also less awareness about work risks connected with the transmission of venereal diseases and require less comfort than their Western colleagues. Traffickers prefer young women and girls from Eastern Europe also because here their activities are much less risky (the foreseen sentences - in case of detection - are considerably more lenient) than drug smuggling, even if the profits from the two crimes are comparable.

In the EU countries, women from Eastern Europe are in great demand chiefly because they are much younger than their colleagues from developing countries, can usually speak at least one foreign language, and their level of education is on average higher.

The ways of recruiting new victims vary. Trafficking agencies often pretend to seek models, dancers, waitresses or wives for elderly bachelors. In fact, their adverts mask professional traffickers, who send the victims all over the world. Many young women are sold to the traffickers by their own families, or they sell themselves with the consent of their husbands, lovers and parents.

Almost all newspapers also tell that after the arrival in the destination country, passports are usually taken from the girls, and they are forced to work as prostitutes through various forms of pressure, under threat of violence or even death or, sometimes, under threat of death of their friends and relatives. Systematic intimidation is one of the reasons why the victims usually do not report to police. Other reasons include the fear of deportation or possible punishment for illegal foreign work. Language barriers, lack of education, loneliness in a strange and hostile environment – all these factors contribute to the desperate situation of the abused victims.

Young women and girls from post-Communist countries are „imported“ into Western European countries by smoothly functioning organisations which can rely on their networks in many countries worldwide. The trafficking organisations possess an enormous amount of counterfeit documents and strictly adhere to the principle of rotation, redeploying the victims, after some time, to a different country.

The border lines between the countries of origin, of transit and of destination have become fuzzy. The post-Communist countries in Central Europe have turned into a major crossroads of this rotation of prostitutes.

According to the analyst estimates, hundreds of thousands of women designed for sale into West European brothels have passed through Central Europe since the early 1990s. In

terms of nationality, the highest numbers of trafficked women are Russians, Poles, Ukrainians, but also Filipinos, Vietnamese, Chinese and other Asians. Trafficking in women is mainly pursued by gangs from the ex-USSR countries and former Yugoslavia, but there are also criminal structures from the Czech Republic, Slovakia, Poland and Hungary. In most cases, women from Eastern and Southern Europe obtain tourist visas without any problems and easily enter any Central European country. After that, trafficking gangs send them to Germany, Austria, the Netherlands, as well as to other countries. At present, as many as 87% traffic victims registered by the German police come from the ex-USSR countries (in particular, Russian Federations and Ukraine) and from the South Eastern Europe (in particular, Romania and Bulgaria). The remaining 13% victims come from Asia and Africa.

The traffickers negotiate the price of each „delivered“ woman on an individual basis, taking into account her attractiveness, obedience, the number of customers serviced and the amount of money earned. According to the Czech police, prices of women on the domestic market range from 10,000 to 30,000 CZK. A trafficker sells a woman to a procurer abroad for 2,000-3,000 Euros. According to the Council of Europe, Russian and Ukrainian victims are sold for 1,000-4,000 Euros on the Polish market; Polish, Thai, Brazilian, Cuban and Vietnamese women are valued between 4,000-7,000 Euros.

The first selection of girls takes place in their native country, for example in Kiev, Lvov, Moscow, or Sofia. This selection is done by local intermediaries, who then „export“ the girls to Central European countries.

„The great exchange of female slaves takes place several times a week at only a few hours' drive from the EU border – in Brèko (Bosnia). The local police and municipal authorities ignore this. The international military administration is powerless. ‘As far as law and order are concerned, Brèko is one of Europe’s two black holes’ told the Romanian Police General Alexandru Jonas, Head of the Regional Centre of the Fight against Organised Crime, to a British weekly. ‘The other black hole is Kosovo’ he added“ (**Právo, 22 July 2003**). Further on: „The Romanian general states: ‘At present, the Kosovo Albanians dominate trafficking in human beings, and also begin to control the drug market’. Yet the capital of his own country, Bucharest, has become the centre of production of near-perfect counterfeit documents which open the borders of rich countries to white slave traffickers“ (**ibid.**).

Poland is the most popular and advantageous destination in Central Europe for Eastern European women. According to estimates, some 50,000 women to be engaged in prostitution pass through Poland every year. The Polish structures in this traffic act as intermediaries

between Russian and Ukrainian traffickers and Western European procurers. Very often, girls' „examinations“ for brothels take place close to the border between Poland and Germany, for example in Görlitz, Zielona Góra or Slubice. Ukrainian and Byelorussian gangs have recently become strong rivals of the Polish traffickers.

Brothel owners in Western Europe usually charge between 40 and 90 Euros for sexual services, and a few rich clients do not hesitate to pay as much as 1,500 Euros. The girls receive only a tiny portion of these profits. „The oldest profession“ prospers and is not in want of clients.

Opinions on how to solve the problem of the exploitation of prostitution differ. Some media demand strict repressive measures against prostitution, others propose the legalization of sex services in order to tax those engaging in this „profession“, and increase the proceeds for the Government budget.

The Council of Europe criticizes the governments of many European countries for their attempts to play down the problem of the exploitation of prostitution. The Council has undertaken to adopt a convention aiming at hardening punishments for exploitation of prostitution, and controlling shady employment agencies. Obviously, the provision of paid sexual services cannot be suppressed, but it is necessary to take vigorous action against the trafficking of women and children for prostitution, and actively assist the victims in extricating themselves from this modern form of slavery.

An extensive debate about child prostitution in the Czech border areas was triggered by a report from the German organisation KARO. The author, Cathrin Schauer, claimed to have monitored since 1995 500 children, who either sold themselves or were forced into prostitution by their parents and to possess all the relevant evidence. According to the KARO report, child prostitution takes place on many major and minor roads, inside and outside the towns, at supermarkets, petrol stations and car parks. Numerous brothel-like establishments (such as night clubs, boarding houses and motorway restaurants), where procurers sell women and children from various regions of the Czech Republic and from other Central and Eastern European countries, would have been set up on the main roads. The report claims that „as saleable goods, the women have to prostitute themselves, live like slaves, and are exposed to violence. The whole procuring system is well organised“ (**Respekt, 10 November 2003**). The victims are often drug addicts and are treated with hostility by their community. However, they have few alternatives to prostitution, as education and job vacancies are hard to come by. Schauer describes the situation of the post-Communist Czech Republic in these terms, and

draws the attention of her readers to the attitude of the Czech authorities towards the problem: „Government authorities play down the problem of child prostitution, or deny its existence altogether. They talk about it primly, proffering lies and hysterics“ (**Respekt, 10 November 2003**).

According to the Supreme Public Prosecutor, Marie Benešová, the claims from the KARO and the German board of UNICEF concerning mass child abuse for the purpose of prostitution in the Czech border areas are spurious.

„Benešová answered: ‘We have been monitoring this type of crime closely for three years, since the stories on the abuse of children for prostitution appeared in the media... On the bases of reports from districts and regions, I can say that there have been only isolated cases’. According to her, a more common phenomenon is abuse of children in order to blackmail foreign sex-tourists“ (**Právo, 13 November 2003**).

Almost all newspapers reported the broadcasts of public televisions in Germany, Austria and Switzerland about the proliferation of child prostitution in the Czech border areas. In these countries, TV audience could also hear severe criticism from a UNICEF officer, Inge Bell, who claimed that „the Czech Republic underplayed the problem of child prostitution, because it did not suit the image of a country acceding to the European Union. ‘Police have a big problem with this type of prostitution, because, officially, the government does not see it’ said Bell“ (**Mladá Fronta DNES, 26 November 2003**).

The Czech politicians do not like to hear this type of news and the Chairperson of the Chamber of Deputies (the lower chamber of the Czech Parliament), Lubomír Zaorálek, addressed a direct complaint on this issue to high Government officials in Germany (**Mladá Fronta DNES, 26 November 2003**).

The Czech Prime Minister, Vladimír Špidla, said that the alleged criticisms against the Czech Republic do not reflect the actual situation. The Czech Police reports that they have not detected cases of child prostitution in the border areas. „The report is not true and it appears to be motivated by the efforts of some NGOs to obtain funds“ Jitka Gjuriová, from the Ministry of the Interior, told the Czech public television. The Police also refers to a recent raid in night clubs where not one underage prostitute was found (**Mladá Fronta DNES, 28 October 2003**).

As a concluding remark on the KARO report, we should mention that the national newspapers *Právo* and *Mladá Fronta DNES* questioned the position of the Czech Minister of the Interior, Stanislav Gross, who stated that he would request either the evidence of child

prostitution in the Czech border areas, or an apology from Germany (**Mladá Fronta DNES, 15 November 2003**), whereas *Lidové noviny*, another national daily, sympathized with the Minister. For example, **Lidové noviny** said **from 6 November 2003 onwards** that the chairpersons of the municipal councils in South Bohemia rejected the claims concerning child prostitution. „‘During the last two years, we’ve encountered only one case of child prostitution,’ said the spokesperson for the South Bohemian Police, Dušan Klícha. He therefore rejects the speculations about a tightly organised network in South Bohemia offering children to paedophiles,, (**ibid.**). Moreover, the chairpersons stressed that if these charges would be directed against their municipalities or their close neighbourhood, they would relentlessly demand either evidence or an apology. They also pointed out that the problem of prostitution in the border areas is far from being an exclusively Czech affair. Most of the prostitutes’ clients come from the other side of the border.

In the autumn 2003, the Czech Minister of the Interior, Stanislav Gross, presented a long-expected Bill on the Regulation of Prostitution. The objectives of this bill are described in detail in the daily **Právo of 24 November 2003**. „Prostitution will not become a trade and the persons involved in it will be a type of the so-called freelance workers, that is entrepreneurs... This freelance lucrative activity could be carried out only by Czech nationals above 18 years who possess licences issued by their respective municipalities. Foreigners from non-EU countries will receive the licence only if they have a business visa for more than a 90-days or a permanent residence permit. This provision does not apply to EU citizens, who enjoy the same rights as the Czech nationals“ (**Právo, 24 November 2003**).

The municipality will receive 2,000 CZK for the licence that will only be valid for one year and will not be prolonged. The document will contain a photograph and no personal data. Personal data will be archived in official files by the authorities. There will be no limit in the number of licences obtained by each entrepreneur in the „sex business“, who shall always carry a licence authorising her/him to work in the region where will be working in that moment. Controls will be conducted at any time.

The licence will include a compulsory (monthly renewed) medical certificate of good health (in the form of a doctor’s stamp), which should minimize health risks linked to the profession. If the stamp is outdated the licence will become invalid. An impediment to the issuance/renewal will be, *inter alia*, a pregnancy of the applicant. Compulsory liver tests every 6 months are under discussion. The monthly medical examinations will not be reimbursed by medical insurance companies.

In addition to an application form and a medical statement municipalities will also require an extract from police records and a statement of honour that the person prostitution is voluntarily engaging in prostitution. An individual who obtains the licence will have to register for the payment of taxes and dues. If she/he does not comply, she/he will be reported by the municipality. Prostitutes will pay income tax, social insurance premiums, contributions to the Government employment policies, and health insurance.

Street prostitution is to be regulated and the sites where it will not be allowed will be identified. These should include official buildings, schools, various educational and social facilities, cultural, ecclesiastical and health institutions, listed buildings, playgrounds, sports grounds, crematoria, airports, railroad stations and parking areas. The law will list the localities where street prostitution is most often offered: roads (ranging from motorways to main and local roads, including lay-bys), car parks, petrol stations and neighbouring sites. The municipalities will be entitled to add other localities to this list.

„Sex establishments will be subject to the authorization by municipalities, and will have to meet strict construction requirements. Their facilities should correspond to those of three-star hotels at the very minimum, which means, for example, that every room would have a private bathroom. Offering sex services in shop-windows will be forbidden. The owner of a sex establishment shall keep detailed records of employees and prevent unlicensed people from working on the premises. At any time, they shall allow controls by the authorities.

The owners shall be older than 21 and possess a clear criminal record; they shall pay up to 200,000 CZK local fees to the municipality. Neighbours will have the right to express their opinions on the location of a brothel and the law will forbid its opening in the same localities where street prostitution is prohibited. Moreover, the prohibition should apply to flats in buildings where prostitution otherwise does not take place“ (**Právo, 24 November 2003**).

Sanctions for breaking the law should be severe: 5,000 CZK for a prostitute unable of producing a licence on the spot; 10,000 CZK for the neglect of the monthly medical control; 100,000 CZK for the brothel owner not keeping his records in order; 15,000 CZK for a doctor concealing a venereal disease in one of his/ her clients. This fine will probably be the most commonly imposed, because it is the maximum fine to be meted out to someone who engages in prostitution without a valid licence. The proceeds of the fines will go to municipalities (**ibid.**).

It will take at least a year for this bill to be passed. After the preparation of the commentary, which is going to take several months, the bill will be considered by the Government and then by the Parliament. As early as four years ago, the Government brought out a bill to regulate prostitution, which, however, contradicted the international Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949). At present, in order to remove any impediment to the approval of the current bill which would *de facto* legalize prostitution in the Czech Republic, the Minister Gross proposes revoking the Convention. He argues that prostitution, as a „socio-pathological phenomenon“ cannot be banned by any legal provision, but it should be at least subject to some kind of regulation.

In the annual assessment reports from Brussels, in particular the street prostitution in the Czech border areas has been termed scandalous, but the European Union does not want to interfere in the ways the Czech Republic is going to deal with prostitution. At EU level, there are no legal provisions regulating prostitution. Each Member State addresses this problem in its own way. Among the 2003 fifteen Member States, prostitution is strictly banned only in Ireland. Other Member States permit and regulate prostitution, or, like Portugal, tolerate it. However, both the most rigorous and the most liberal solutions have one trait in common – they strive, as much as possible, to remove permitted prostitution out of the sight of the public.

When drafting the Czech bill, the Ministry of the Interior has sought models in the countries which consider prostitution, carried out in accordance with legal provisions, as a legal way of earning a living. For a number of years, this has been true, for example, in the Netherlands, Austria, and Germany, where, however, the individual Lander have modified the 2002 law. The newspapers have paid little attention to Sweden whose laws permit prostitution, on the one hand, and criminalize the prostitutes' customers; on the other hand: a model that will probably be chosen by Finland.

During the national discussion on the Bill on the Regulation of Prostitution, a particularly active role has been played by the representatives of the four regions at the border with Germany and Austria (South Bohemia, and the Regions of Ústí nad Labem, Plzeň and Karlovy Vary) – which jointly asked the Government to pass the bill speedily. They argue that the legalization of prostitution is the only way of solving the present problems of illegal trafficking in women, as **Lidové noviny** reports on **7 November 2003**. Simultaneously, the Prague municipal authorities consider demarcating a brothel district: proposed sites include

the Vltava embankment, the Kampa district, the former train station Prague-Bubny, the Holešovice marketplace and the outskirts of Vysočany.

Czech Members of Parliament have already become involved in the debate. Social-democratic politicians support the bill. The ODS's (Civic Democratic Party, the strongest right-wing party) shadow Minister of the Interior, Ivan Langer tends to side with Gross. The newly elected chairperson of KDU-ČSL (Christian Democratic Party), Miroslav Kalousek promised, at a party convention in November 2003, to fight against the legalization of prostitution because it would mean that the state appoints itself as the main pimp in the country. Kalousek said he realized that prostitution cannot be disposed of, and suggested a stronger repression in order to prevent outrage. According to Kalousek, the main reason for clamp down on prostitution is its being a „terrible degradation of human dignity“ and it whether a person engages in prostitution voluntarily or forcibly does not make a great difference. Kalousek's opinions were supported by another MP, the sexologist Jaroslav Zvěřina (ODS) who, according to **Právo (11 November 2003)**, dismissed the argument that the legalization of prostitution would enhance tax returns. He argued that the proceeds would disappear in the running costs of the trade; moreover, the law would not cover the income from street prostitution.

AD magazín (25 Nov 2003) highlighted the ethical aspect of the legalization of prostitution:

„In extreme cases, prostitution may be perceived as a natural part of life. Something like this already happens in some areas in Southern and Northern Bohemia and in the Teplice region. People have lived with and come across prostitution for a long time and it has become a norm. A considerable danger lies here, and, when approving the law, it is necessary to launch campaigns which would point out that a similar situation is abnormal. Prostitution is irreconcilable with **human rights**, democracy and decency, i.e. with values to which we aspire, as a modern society“.

At the end of November 2003, all the above-listed newspapers had reports on „the king of pimps“ Cvetomir Belèev, who, since the mid-1990s, had been at the head of an organisation of traffickers in women in the Chomutov and Teplice region. The organisation was smashed by the police in 1997 and Belèev and his adjutant, Emil Dossev, managed to escape. In 1999, Belèev was captured by the Polish police and extradited to the Czech Republic. The court sentenced him to ten-years for procuring. Dossev was sentenced in

absence for the brutal murder of a prostitute. Belèev has been accused of continuing his traffic from prison (**Mladá Fronta DNES, 28 November 2003**).

The considerable appeal of some types of information - such as specific reports about procuring, descriptions of specific cases, „on the spot“ successes of the police etc. - leads to almost identical reports, which appear in a slightly modified form on several dailies. The very headlines of some articles confirm this fact: „A pimp forced her daughter to prostitution“ (**Mladá Fronta DNES, 25 July 2003**), „You don't want to walk the streets? - She was kept among her own excrement for years“ (**Plzeňský deník, 28 July 2003**), „A pimp held a woman captive for two years“ (**Nedělní Blesk, 27 July 2003**), „Parents sold their own children to German tourists“ (**Mladá Fronta DNES, 24 November 2003**), „The woman who was kept in a flat for two years has been taken to a mental hospital“ (**Lidové noviny, 28 July 2003**), „A German uncle has arrived“ (**Týden, 18 November 2003**).

However, to guarantee an objective and balanced awareness about trafficking in women on the part of the Czech public opinion, the information on this issue should not be monopolised by the media (and there are already signs of this occurrence). The journalism has not managed to get rid of the label of the „second oldest profession“, as the great French novelist Honoré de Balzac liked to point out.

4. Criminal legislation on trafficking in human beings

Trafficking in persons comprises serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable persons, the use of violence, threats and coercion. In most cases, the trafficking involves women for the purpose of forced prostitution. However, this crime does not involve sexual exploitation only, but includes also the exploitation of the work of another person, often in conditions similar to slavery.

As late as the beginning of the 20th century, the criminal legislation on the trafficking in women was absolutely insufficient. Trafficking in women prospered, making use of improved means of transport, economic constraints of large parts of the population and the leniency of some governments. Trafficking in women, which previously had been confined to a particular territory, gradually turned into an international phenomenon and became organised on a global scale, in line with general business rules. It became more and more evident that the criminal organisations of traffickers in women could not be dealt with effectively without proper collaboration and concerted systematic repression by all the countries involved. Increasingly, the necessity was felt for international cooperation in the suppression of trafficking in human beings, as well as the need for its international regulation.

Several international conferences to deal with this problem took place and were attended by a growing number of states. The representatives of the participating countries adopted a number of instruments focusing on combating trafficking in human beings, especially women and children. The most important international documents are reviewed in the following section.

4.1 Main international instruments on trafficking in human beings

International Agreement for the Suppression of the „White Slave Traffic“ of 18 May 1904

This first Convention regulated only police measures against this traffic. The contracting parties undertook „to establish or name some authority charged with the coordination of all information relative to the procuring of women or girls for immoral purposes abroad.“ For example, a watch on traffickers in women and their victims was to be kept in railway stations and harbours.

Within legal limits, declarations could be taken from „women or girls of foreign nationality who are prostitutes in order to [...] discover who has caused them to leave their country“. The Convention also provided for sending the women back to their country of origin, if either they or their relatives requested it. If the woman could not repay the cost of the transfer, and had no relations to pay for her, the cost should „be borne by the country where she is in residence [...] and by the country of origin“.

International Convention for the Suppression of the White Slave Traffic of 4 May 1910

This Convention was promulgated in the Austrian Imperial Code (No 26/1913). The previous Agreement (of 18 May 1904) was published together under the same number as an annex. The accession of the Czechoslovak Republic to both conventions was implemented by a decree of the Minister of Foreign Affairs (No 160/1922 of the Collection of Laws).

This was the first real international instrument of this kind, although its provisions were somewhat generic. The goal of the convention was declared in its introduction as follows: to take „the most effective steps for the suppression of the traffic known as the ‘White Slave Traffic’.“ According to Articles 1 and 2, „whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl **under age**, for immoral purposes, shall be punished“; punishment would also be inflicted to „whoever [...] has, by fraud, or by means of violence, threats, abuse of authority, or any other method of compulsion, procured, enticed, or led away a woman or girl **over age**“. In either case, the conduct was punishable, „notwithstanding that the various acts constituting the offence may have been committed in different countries“. The aim was to facilitate prosecuting the international trafficking in women, because the substantive offence consists of a number of acts which may take place in various countries.

It follows from these provisions that the principle of punishment for trafficking in women protected underage women in all cases, their protection being absolute with no difference whether they were hired voluntarily or against their will, whether they were sexually incorrupt, etc. On the other hand, adult women were protected only under certain conditions, namely if the woman was kept ignorant of her true destination by deception and fraud, or if, even though she knew about it, she was prevented from escaping „by means of violence, threats, abuse of authority, or any other method of compulsion“. In this respect, the view seems to have prevailed that, in the case of adult women, the danger was not so terrible and that, consequently, they did not need the same far-reaching protection as underage

women.

After the World War I, which stopped, for a couple of years, all efforts of the international community to combat trafficking in women, a change came about in 1918. The League of Nations was established and entrusted with the safeguard of international treaties. The Council of the League of Nations was given the task of monitoring the prosecution of trafficking in women; the Council appointed a special committee to this purpose.

The previous experience showed a number of drawbacks and called for the need of revising the instruments dealing with trafficking in women. A conference assembled in Geneva in 1921, attended by 34 states and numerous private corporations. The recommendations of the conference were incorporated into the International Convention for the Suppression of the Traffic in Women and Children of 30 September 1921, which was also joined by the Czechoslovak Republic (No 123/1924 Coll.).

The protection already provided by the 1910 International Convention was to be enhanced. The parties which had not acceded to that Convention agreed to do so as soon as possible. All parties to the Convention were obliged to adopt suitable measures to detect persons involved in trafficking in women. The conceptual elements of the offence were defined in accordance with Articles 1 and 2 of the 1910 Convention, with one exception: the object might be not only a woman, but also a child of either sex. Another significant provision of the Convention declared that attempts to commit, and acts preparatory to the commission of the offences listed in Articles 1 and 2 of the 1910 Convention were also punishable.

International Convention for the Suppression of the Traffic in Women of Full Age of 11 October 1933

The participants to the conference stated that they wished „to secure more completely the suppression of the traffic in women and children“, and therefore decided to complete by a new Convention the previous instruments of 1904, 1910 and 1921 relating to the suppression of the traffic in women and children. In the Czechoslovak Republic, the Convention was promulgated sub No 32/1936 Coll.

According to Article 1, „whoever, in order to gratify the passions of another person, has procured, enticed or led away even with her consent, a woman or girl of full age for immoral purposes to be carried out in another country, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.“ Article 2 states that „the High Contracting Parties whose laws are at present inadequate to deal

with the offences specified in the preceding Article agree to take the necessary steps to ensure that these offences shall be punished in accordance with their gravity“.

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949

This Convention integrated the most important provisions of the previous conventions, which were accessed by Czechoslovakia before World War II. Its basis was a proposal prepared by the League of Nations as early as 1937. Former Czechoslovakia acceded to the Convention on 14 March 1958, but the Convention was not published in the Collection of Laws. When this Convention between parties came into force, the above-mentioned previous international instruments (of 1904, 1910, 1921 and 1933) ceased to apply. The Czech Republic is bound by the Convention as a successor state.

The Convention instructs all contracting parties to prosecute and punish persons who pursue or support trafficking in persons for the purpose of prostitution. In this respect, Article 1 lays down: „The Parties to the present Convention agree to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person.“ According to Article 3, „to the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.“

Furthermore, the Convention instructs „to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document“ etc. (Article 6) It „does not affect the principle that the offences to which it refers shall in each State be defined, prosecuted and punished in conformity with its domestic law“ (Article 12).

According to Article 17, the contracting parties „undertake, in connection with immigration and emigration, to adopt or maintain such measures as are required, in terms of their obligations under the present Convention, to check the trafficking in persons of either sex for the purpose of prostitution“. The Convention also regulates in detail the duty of the contracting parties to make suitable provisions for the temporary care and maintenance of destitute victims of international traffic in persons for the purpose of prostitution, pending the completion of arrangements for their repatriation.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime

After being adopted by the UN General Assembly, the text of the Convention was opened to signatures at a conference in Palermo, Italy, in December 2000; the Czech Republic signed it at that time. The supplementary Protocol was signed by the Czech Republic on 10 December 2002.

These instruments are a decisive advance in the fight against trafficking in persons and the international cooperation in this area.

The purpose of the Protocol is laid down by its Article 2 as follows:

„(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among State Parties in order to meet those objectives“.

The term „trafficking in persons“ is defined by Article 3 as follows:

„(a) ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a **child** for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) ‘Child’ shall mean any person under eighteen years of age“.

Other articles of the Protocol deal in detail with specific issues, such as criminalization, protection of victims of trafficking in persons, prevention of trafficking in persons and others. For instance, in the case of criminalization the Protocol provides that „each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article 3 of this Protocol, when committed intentionally“. Assistance to victims is covered by Article 6, which, *inter alia*, lays down that „in appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons“. Each State Party shall also „endeavour to provide for the physical safety of victims [...] while they are within its territory“ and „ensure that its domestic legal system contains measures that offer victims [...] the possibility of obtaining compensation for damage suffered“.

The Convention on the Rights of the Child

This Convention was adopted in New York on 20 November 1989 and entered into force on 2 September 1990. In the Czech Republic, the Convention entered into force on 6 February 1991 and was published sub No 104/1991 Coll. The Convention, which is one of the specialized instruments for the international protection of human rights adopted by the UN in 1989 and reacts to the need for increased protection of children, may also be seen as one of the main instruments against trafficking in persons, specifically children.

Article 1 of the Convention lays down that „for the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier“.

According to Article 35, „States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form“.

4.2 Development of specific criminal legislation in the Czech Republic

Regarding criminal provision against trafficking in persons, it should be stressed that the criminal laws of both former Czechoslovakia and present Czech Republic have always transferred into the domestic legislation the stipulations of the above-mentioned specialised international instruments.

The first Czechoslovak law regulating trafficking in women was the **Emigration Act No 71/1922 Coll.** The § 35 of this Act implemented the above-mentioned international conventions for combating trafficking in women of 4 May 1910 and 30 September 1921. Why this happened and why these criminal offences demanded particular attention was concisely elucidated in the explanatory report on the relevant governmental bill: „Female migrants are particularly imperilled by the international trafficking in women, whose danger does not lay so much in undermining morality as in jeopardizing the freedom of its victims. The victim usually cannot speak the language of the country, does not know its political system, her relatives and friends are distant, she does not have financial means and, as a foreign national, she feels to be less protected. This is aggravated by the fact that the authorities of the countries which are the most frequent targets of trafficking in women are not strong enough to protect freedom from exploitation and suppression“.

The provision of § 35 of the cited Act declared that the delivery of women abroad for the purposes of „fornication“ was punishable. An *offence* would be committed by anyone who hired or transported abroad a female person with the intention that she be used for the lustful purposes of another. The offence occurred:

- a) if it was committed by deception, namely by setting off or reinforcing a woman's mistaken belief regarding her true occupation abroad;
- b) if the woman was to be used abroad for commercial sexual purpose;
- c) if the person involved was sexually incorrupt;
- d) if the offender had already been convicted for this crime;
- e) if the offender pursued this activity as a trade.

Associating with others to pursue trafficking in women was also punished as an offence.

The provision of § 35 of the Emigration Act remained in force until the enactment of the first post-war **Criminal Code No 86/1950 Coll.**, which defined a new criminal offence, **trafficking in women according to § 243**. This section enacted the international conventions for combating trafficking in women of 4 May 1910, 30 September 1921 and 11 October 1933.

The body of the criminal offence of trafficking in women according to § 243 of the Criminal Code No 86/1950 Coll. penalized „*anyone who entices, hires or transports a woman abroad, with the intention that she be used there for sexual purpose with another*“. According to paragraph 2, the perpetrator would be punished more severely if she/he committed this act

with the intention that the woman be used for paid sexual service or against a woman below the age of eighteen years; or in case of any other particularly aggravating circumstance.

On 1 January 1962, the new **Criminal Code No 140/1961 Coll.** came into force, and is still in force, with many amendments enacted after 1989. Its original wording contained the criminal offence named **trafficking in women according to § 246**, whose basic body corresponded to trafficking in women according to § 243 of the previous Criminal Code No 86/1950 Coll. Only its qualified body was modified; in comparison with the previous law, § **246** foresaw an increased punishment if the offender committed the act as a member of an organised group, or with the intention that the woman be used for prostitution. The provision relating to the aggravating circumstance of the victim being under eighteen years was left unmodified.

A substantial change of the cited provision of § 246 of the Criminal Code was enacted by its **amendment No 134/2002 Coll.**, which came into force on 1 July 2002. The name of the offence according to § 246 was amended to **trafficking in persons for sexual purpose**. The explanatory report on the amendment stated that the criminal offence of trafficking in women had been modified so as to relate to trafficking in persons for sexual purpose, regardless of the fact whether the person involved is a child, a woman or a man. In this way, the criminal law respects gender equality, as stipulated by Articles 1 and 3 of the Czech Charter of Fundamental Rights and Freedoms. The amendment does not distinguish between enticing, hiring or transporting another person abroad or from abroad. This criminal activity, which has been recently spreading, sometimes leads to particularly serious consequences, and stricter sanctions have been introduced, depending on aggravating circumstances which require the imposition of a more severe sentence. In the case of trafficking in children, this provision is related to the criminal offence of trafficking in children according to § 216a.

After the enactment of the amendment No 134/2002 Coll., the body of the criminal offence of trafficking in persons for sexual purpose according to § 246 of the Criminal Code now reads as follows:

*1. Anyone who entices, hires or transports **another abroad** or from abroad, with the intention that **she/he** be used there for sexual purpose, shall be sentenced to a term of imprisonment of one to five years.*

2. The perpetrator shall be sentenced to a term of imprisonment of three to eight years

- a) if she/he commits the act defined in Para. 1 as a member of an organised group,*
- b) if she/he commits this act with the intention to gain a considerable profit,*
- c) if she/he commits this act against a person below the age of 18 years,*
- d) if she/he commits this act with the intention that another person is used for prostitution.*

3. The perpetrator shall be sentenced to a term of imprisonment of five to twelve years

- a) if, by the act defined in Para. 1, she/he causes an aggravated bodily injury, death or another particularly grave consequence, or*
- b) if she/he commits this act with the intention to gain a profit of a large magnitude.*

4.3 The bill on the Criminal Code of the Czech Republic

At present, the preparation of a **new Criminal Code** is drawing to a close, which is going to replace the existing Criminal Code No 140/1961 Coll. The new Criminal Code should come into force at the beginning of 2005. According to the explanatory report on the relevant bill, a completely new criminal offence of **trafficking in persons according to § 146** is to be introduced, which has been defined by modifying and broadening the existing criminal offence of trafficking in persons for sexual purpose, in line with the Framework Decision of the Council of the European Union of 19 July 2002 on combating trafficking in human beings. The newly introduced body of the crime discriminates between trafficking in **children** (persons below the age of eighteen years) and trafficking in persons **older than eighteen years**. Trafficking in **children** is penalized in any case, even if neither violence, threat of violence or deceit, nor the exploitation of a mistake, strait or dependence have been used, since children are more vulnerable than adults and at greater risk of falling victims of trafficking. In the cases of trafficking in persons **older than eighteen years**, the offence is correlated to the use of violence, the threat of violence or deceit, or the exploitation of a mistake, straits or dependence. The new text reflects the latest relevant international instruments (above all, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, signed in 2000) and has been formulated in general terms so to refer not only to transborder trafficking (i.e. from or to another country), but also to **domestic** trafficking. The provision reacts to the fact that, within the framework of the organised crime activities, the Czech Republic has become a destination country for trafficking in persons. The new body of the offence penalizes only the trafficking in persons for the purpose of their

exploitation in the listed forms. The exploitation in itself is punishable in accordance with general provisions.

Aggravating circumstances have been defined in such a way as to foresee the imposition of a more severe sentence, above all, in the cases of: use of trafficked victims for prostitution (the „classic“ purpose of trafficking in women and children); participation in a organised criminal group; aggravated bodily injury or death, or threat/risk of such consequences; and intent of gaining a considerable profit or a profit of large magnitude.

In the draft Criminal Code, the body of the criminal offence of **trafficking in persons according to § 146** is defined as follows:

(1) Anyone who induces, procures, hires, entices, transports, conceals, detains or hands over a child to be used

a) for sexual intercourse or other forms of sexual abuse or harassment, or for the production of a pornographic work,

b) for the removal of organs or tissue from his or her body,

c) for slavery or servitude, or

d) for forced labour or other forms of exploitation,

shall be sentenced to a term of imprisonment of two to ten years.

(2) The same sentence shall apply to anyone who, with the use of violence, the threat of violence or another aggravated injury, through deceit or abusing the victim's mistake, straits or dependence, induces, procures, hires, entices, transports, conceals, detains or hands over another person than defined in Para. 1 to be used

a) for sexual intercourse or other forms of sexual abuse or harassment, or for the production of a pornographic work,

b) for the removal of organs or tissue from his or her body,

c) for slavery or servitude, or

d) for forced labour or other forms of exploitation.

(3) The perpetrator shall be sentenced to a term of imprisonment of five to twelve years,

a) if she/he commits the act defined in paragraphs 1 or 2 as a member of an organised group,

b) if, by such act, she/he puts another person in danger of an aggravated bodily injury or death,

c) if she/he commits such act with the intention to gain a considerable profit for himself/herself or for another person, or

d) if she/he commits such act with the intention that another person is used for prostitution.

(4) The perpetrator shall be sentenced to a term of imprisonment of eight to fifteen years,

a) if, by an act defined in Para 1 or 2, she/he causes an aggravated bodily injury or death,

b) if she/he commits such an act with the intention to gain a benefit of a large magnitude for himself/herself or for another person, or

c) if she/he commits such act in liaison with an organised group which is active in more than one country.

(5) Preparation is punishable.

At present, an amendment of § 246 is expected in connection with the accession of the Czech Republic to the European Union on 1 May 2004.

4.4 Selected related offences

Procuring

A provision governing procuring was included in the 1852 Austrian Criminal Code, which remained in force in Czechoslovakia until the middle of 1950. The provision covered the crime of procuring against an innocent person (§ 132 - § 133) and the transgression of procuring (§ 512 - § 514).

Procuring was incorporated into the **Criminal Code No 86/1950 Coll.**, by its **amendment No 63/1956 Coll.**, and worded as follows:

The criminal offence of procuring according to § 243a is committed by *anyone who procures, induces or entices another to engage in prostitution, or who exploits the prostitution engaged in by another.*

The body of the criminal offence of procuring according to § 204 of the **Criminal Code No 140/1961 Coll.** was defined in identical terms. Two types of conduct are punishable: 1. procurer, inducing or enticing another individual to engage in prostitution; 2. exploiting the prostitution engaged in by another individual.

According to the explanatory report on the Criminal Code, the penalization of procurer was, *inter alia*, incorporated into the Code as a result of Czechoslovakia's

international obligations, in particular, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949, acceded by Czechoslovakia on 14 March 1958.

The **amendment of the Criminal Code No 290/1993 Coll.** was a reaction to the serious problem represented by the exploitation of prostitution in the 1990s, especially in some areas of the Czech Republic. The basic body of the criminal offence of procuring according to § 204 of the Criminal Code No 140/1961 Coll. remained in force, but the amendment introduced considerably stricter punishments for qualified forms (for instance, if the perpetrator acts against the will of the person engaged in prostitution, if she/he commits the offence as a member of an organised group, if she/he makes a considerable profit from procuring or if she/he commits the offence against a person below the age of eighteen years, or below the age of fifteen years). The cited amendment is still in force.

Statistics

Table 4.1 Persons Convicted of the Offence of Procuring according to § 204 by Czech Criminal Courts, 1998-2002

Year	Number	Year	Number
1998	131	2001	85
1999	123	2002	83
2000	94		

Trafficking in children

The body of the criminal offence of trafficking in children according to § 216a was incorporated into the Criminal Code by its **amendment No 557/1991 Coll.**, in order to meet with the obligation resulting from the international Convention on the Rights of the Child (No 104/1991 Coll.), which bound Czechoslovakia to introduce suitable protection measures to prevent child abduction and trafficking. The definition of the child was taken from Article 1 of the Convention: a human being below the age of eighteen years unless she/he attained majority earlier (§ 216b of the Criminal Code).

The criminal offence of trafficking in children according to § 216a is committed by an offender who, *for a fee, puts a child in the charge of someone else for the purpose of adoption, the use of child labour or for another purpose*; another purpose being, for example, child prostitution. The Convention on the Rights of the Child forbids trafficking in children

for any purpose. The qualified body of this criminal offence penalizes more severely a perpetrator who commits this act as a member of an organised group, makes a considerable profit by this act, or causes an aggravated bodily injury, death or another particularly serious consequence by it.

Statistics

Between 1998 and 2001, no individual was convicted for the criminal offence of trafficking in children; in 2002, one person was convicted.

Corrupting the morals of youth

The basic body of the criminal offence of corrupting the morals of youth according to § 217 of the Criminal Code sanctions an offender who, *even if by negligence, puts a person below the age of eighteen years in danger of depravity by enabling him or her to lead an idle or immoral life, or lures him or her into an idle or immoral life.* The term „immoral life“ refers to a way of life, such as prostitution, which contradicts moral principles.

Statistics

Table 4.2 Persons Convicted of the Offence of Corrupting the Morals of Youth by Czech Criminal Courts, 1998-2002

Year	Number	Year	Number
1998	394	2001	419
1999	394	2002	551
2000	397		

Abduction to a foreign country

Abduction to a foreign country is the transport of a human being beyond the borders of the Czech Republic against his or her will. According to § 233 of the Criminal Code, the object of the criminal offence of abduction to a foreign country is personal freedom, in the sense of freedom of residence. This criminal offence can take place by violence, deceit, fraud, under the threat of violence or under various pretences etc. In most cases of abduction to a foreign country, the offender force, with violence, the crew of an aircraft on an intra flight to change their route and land in a foreign country.

Statistics

The number of these criminal offences was quite negligible. Between 1998 and 2001, nobody was convicted; one person was convicted in 2002.

4.5 Some remarks on prostitution

The problem of trafficking in persons is directly linked to the problem of exploitation of prostitution. The definition of prostitution has not been characterized by any international instrument, nor is it comprehensively regulated by the Czech legislation. A working definition may be: prostitution is paid sexual service with another person (or other persons). In this frame, sexual service refers to any act gratifying the sexual instinct through the use of the body of another person, of the same or the opposite sex.

In the Czech Republic, prostitution is not (neither has previously been) a criminal offence *per se*. Until 30 June 1990, prostitution might be included in the offence of parasitism according to the Act No 150/1969 Coll. At present, prostitution may be considered a transgression against public order according to § 47 Para. 1 letter c) of the Act No 200/1990 Coll. (unabridged), provided that the offender's conduct disturbs public order by **causing a public outrage**. The offender must act publicly, i.e. either in front of more than two persons or through the content of a printed material, a film, the dissemination of a text etc. In connection with prostitution, the transgression could be committed, for example, by carrying out sexual acts in public etc. The conduct of the person must always be judged with regard to the specific place and time, the customs of the municipality and other objective elements. In some cases, engaging in prostitution in a place which is open to the public, or in public, may be considered a conduct covered by the body of the criminal offence of rioting according to § 202 of the Criminal Code (the perpetrator *commits a rude indecency, in public or in a place which is open to the public*).

In addition, some behaviours connected with prostitution can be considered offences. They include, above all, the above-mentioned criminal offence of procuring according to § 204 of the Criminal Code, which, in fact, does not sanction the prostitute, but the person or persons who, in various ways, participate in the activity of the prostitute.

A special form of procuring is the conduct which is foreseen to § 246 of the Criminal Code, namely trafficking in persons for sexual purpose (formerly trafficking in women). The

victims, particularly girls, are transported abroad or from abroad to engage in prostitution. According to § 246 Para. 1, the conduct of the offender consists in enticing, hiring or transporting another individual abroad or from abroad, with the intention that she/he be used there for sexual purpose with another. If the offender commits this act with the intention that another person be used for prostitution, she/he carries out the elements of the criminal offence according to § 246 Para. 1, 2 letter d) of the Criminal Code. The criminal offence of trafficking in persons according to § 246 Para. 1, 2 letter d) is a special criminal offence with regard to the criminal offence of procuring according to § 204 Para. 1; thus, the joinder of the two offences is precluded.

Prostitution cannot be eradicated, but it can be regulated in such a way as to prevent it from disturbing public order, jeopardizing the health of citizens and the education of children and juveniles, and offending the public moral attitudes. Efforts to enact a special law on prostitution, which should make it possible to regulate the phenomenon, have been going on for quite a long time. For instance, as already mentioned, the Ministry of Justice commenced the work on a number of provisions to regulate prostitution in 1994. In the same year, the Ministry submitted a relevant bill to the Legislative Board of the Government of the Czech Republic. According to the introductory commentary, the bill was based on the assumption that banishing prostitution by law is not feasible; however, the experience of other countries showed that it was possible to introduce legal provisions foreseeing a number of restrictive measures, and reassure the public opinion regarding prostitution as a serious problem of public order and a serious health threat.

According to the bill, a person who wanted to engage in prostitution would have to report to the district authority where she/he was going to engage in prostitution (for the purposes of recording and controlling), and, at the same time, submit a medical certificate confirming that she/he did not suffer from a sexually transmitted or others contagious diseases. A certificate issued by the district authority, (valid one month and renewable at the request of the bearer), would attest that the obligations were met. The bill considered prostitution not to be a profession, but a tolerated activity.

The bill was debated by the Government, and not approved. The opinion of the Legislative Board of the Government was accepted: future measures on the regulation of the offer and provision of sexual services were to be implemented by amendments to the Trade Act and the Municipal Police Act. At present, a bill on a special prostitution law is being prepared by the Ministry of the Interior.

The problem of prostitution is also being discussed by the municipal institutions of the City of Prague. On 9 September 2003, the Prague Municipal Board adopted a resolution stating that the problem of prostitution is to be solved by drafting a special law regulating prostitution and modifying some other laws. According to the principles adopted by the resolution, prostitution should be legalized and considered as a freelance gainful activity, which shall not have the character of a trade. On this basis, a bill is going to be prepared. If the bill is approved by the Prague Municipal Council, it will be submitted to the national Parliament.

Undoubtedly, there have been, there are and there will always be problems with prostitution. Efforts to address these problems through suitable legislative and other measures are quite appropriate. The bill on the prostitution law should, above all, provide the basic definitions and specify the requirements under which it would be possible to engage in prostitution, as well as the sanctions for failing to meet those requirements.

5. Statistical survey

The following statistical survey offers a general picture of how, in practice, criminal justice in the Czech Republic reacts to the trafficking in women. The tables give the basic relevant information about the facts which illustrate the criminal phenomenon of trafficking in women. Trafficking is closely linked to another criminal activity, procuring, because most victims of trafficking are forced to prostitution. Because the relevant law has been modified (the definition of the criminal offence has been broadened from trafficking in women to trafficking in persons, encompassing now males and minors, too), the tables run only to 2001, in order to retain comparability in the time series.

The source of data for this part of the report is the Statistical Yearbook of Crime, which is published by the *Czech Ministry of Justice*.

The criminal offence of trafficking in women (§ 246) is not frequently included on the court agendas. The reasons for this fact comprise the difficulty to prove the offence, and the victims' fear of giving evidence. In the Czech Republic, between 10 and 20 offences according to § 246 are condemned yearly, and roughly the same number of perpetrators are responsible for them. The highest number of persons prosecuted (64), indicted (56) and convicted (25) was reached in 1999; the number of condemned offences, too, being highest in the same year (29).

Table 5.1 Trafficking in women (§ 246 of the Criminal Code)

Year	Prosecuted persons	Indicted persons	Convicted persons in total	From these, convicted women	Offences
1996	37	34	10	3	10
1997	26	21	9	2	12
1998	27	25	5	1	9
1999	64	56	25	4	29
2000	35	31	16	2	16
2001	34	33	15	3	17

The perpetrators of this criminal activity are usually aged between 30 and 39 years, followed by the age group between 25 and 29 years. In a few isolated cases, the perpetrators are younger, usually between 20 and 24. Gradually (in the monitored period - from 1996 to 2001), the age of the perpetrators grew. In the peak year 1999, some of the offenders were aged between 40 and 49.

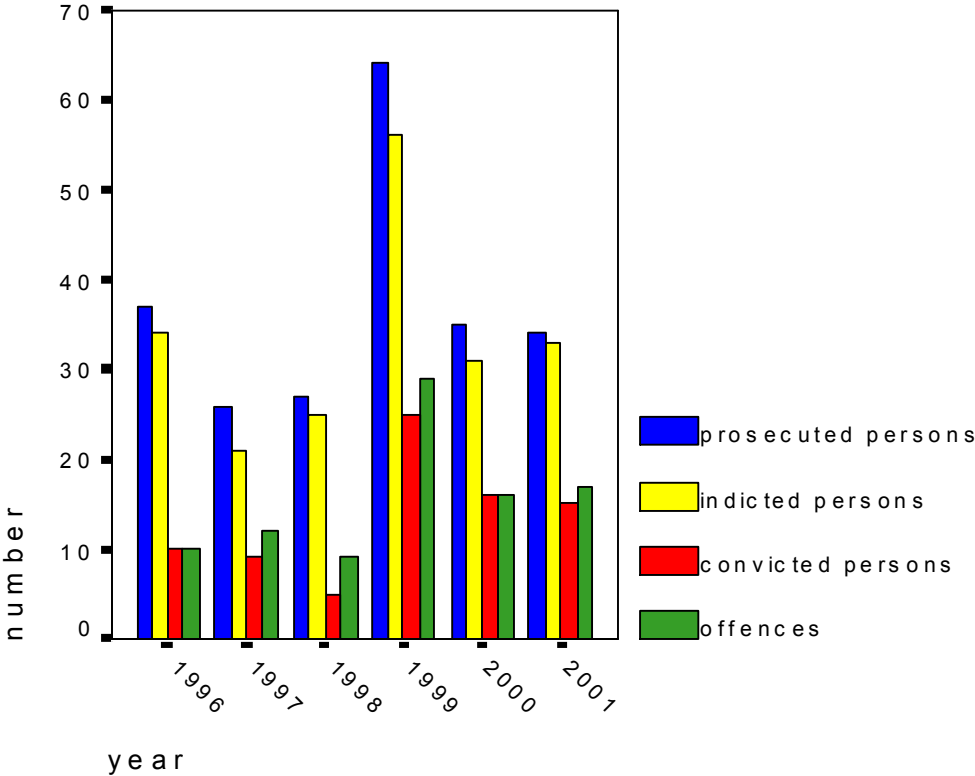
Year \ Age	15-17	18-19	20-24	25-29	30-39	40-49	50 and older
1996	0	0	5	3	1	1	0
1997	1	0	1	3	3	0	1
1998	0	0	0	2	3	0	0
1999	0	1	2	8	8	5	1
2000	0	1	3	2	7	2	1
2001	0	0	4	4	4	2	1

Table 5.2 Trafficking in women (§ 246 of the Criminal Code) – the age of the perpetrator

In 1999, the activity of investigative, prosecuting and adjudicating bodies in prosecuting trafficking increased considerably. Chart 5.1 clearly illustrates the extent of this. According to information from the Ministry of the Interior, the increase was influenced by two significant factors. Firstly, in the first half of 1998, an increased number of cases of trafficking in boys under 15 for homosexual prostitution were detected; in the latter half of this year, the police recorded a growth of activities focusing on trafficking women abroad for sexual exploitation under the pretence of other types of work. The activity of investigation, prosecuting and adjudicating bodies became apparent with a time lag, in 1999.

Secondly, at the same time (in December 1998), the European Commission evaluated the results obtained in the area of prevention in the fight against trafficking in women for sexual exploitation since April 1997, when the Hague Ministerial Declaration on European Guidelines was approved. The further course of action was specified (for instance, in the area of collaboration between governmental and non-governmental sectors, and cooperation between countries), and the European Commission invited the candidate countries (and, among them, the Czech Republic), „within accession partnership, to fight against trafficking in persons on the national level, and also as part of promoting cooperation with the EU“. Simultaneously, the PHARE programme started to be used for the purposes of the fight against trafficking in persons (between 1999 and 2001). The Czech Republic joined its activities.

Chart 5.1 Trafficking in women (§ 246 of the Criminal Code)



The frequently related activity of *procuring* (§ 204), reached a similar peak in 1999; in this case, however, it concerned only the number of condemned criminal offences (159) and the number of persons convicted (131). The number of prosecuted persons has been declining over the whole period, and the same happened for the number of indicted persons. However, it appears that the efforts to prove these offences became more successful: between 1996 and 1999, the proportion of convicted persons to the number of persons indicted for procuring increased. Since 1999, all the indicators monitored have been showing a tendency to decrease.

Table 5.3 Procuring (§ 204 of the Criminal Code)

Year	Prosecuted persons	Indicted persons	Convicted persons in total	From these, convicted women	Offences
1996	247	203	58	19	76
1997	220	181	74	24	96
1998	202	152	131	38	159
1999	211	156	123	38	139
2000	187	152	94	26	118
2001	181	151	85	25	105

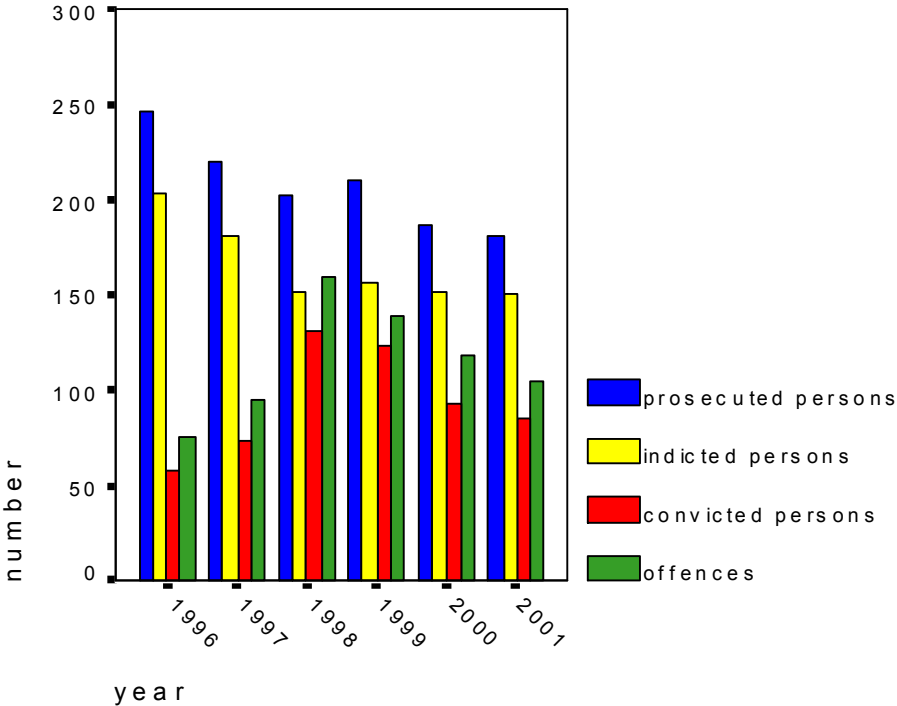
The age structure of the perpetrators of procuring resembles that of the perpetrators of trafficking: the largest number of offenders are aged between 30 and 39 years, followed by the group between 25 and 29 or between 20 and 24. Alarming is the occurrence of juvenile offenders from the age groups 18-19 years, and even 15-17 years. Their number also increased in 1998 and 1999.

Table 5.4 Procuring (§ 204 of the Criminal Code) – the age of the perpetrator

Year \ Age	15-17	18-19	20-24	25-29	30-39	40-49	50 and older
1996	2	4	12	5	22	12	1
1997	3	4	11	19	18	16	3
1998	2	12	25	33	38	16	5
1999	12	10	23	36	28	11	3
2000	3	2	19	21	28	15	6
2001	9	8	13	11	27	16	1

In the case of the criminal offence of procuring, the judiciary in the Czech Republic shows more activity than in the case of trafficking; Chart 5.2 clearly shows that both the numbers of prosecuted, indicted and convicted persons, and the number of proven offences are roughly three times higher. The fluctuation in 1999 is not so conspicuous.

Chart 5.2 Procuring (§ 204 of the Criminal Code)



Issues relating to the offences of trafficking in women (in persons) and procuring are also statistically monitored by the Czech Police Force. The source of the data in the following tables is the *Police Presidium of the Czech Republic*. The tables contain statistics on the victims of trafficking in women, including the age structure of the victims; foreign nationals are being set apart from the overall number of victims. The number of offenders prosecuted by the police for trafficking in women is monitored, and their nationality is indicated. The statistical data on the procuring focus on the offenders; the police do not collect and file data on the victims of procuring.

Table 5.5 Trafficking in women (§ 246 of the Criminal Code)

Year / para	para 1	para 2, a)	para 2, b)	para 2, c)
1996	36	2	16	15
1997	11	1	1	10
1998	31	3	15	19
1999	22	3	10	18
2000	12	4	4	12
2001	27	5	8	26
<i>in total</i>	<i>139</i>	<i>18</i>	<i>54</i>	<i>100</i>

In accordance with § 246, para 1 – transporting or enticing another person abroad or from abroad for the purpose that she/he be used for sexual purpose, the police discovered, between 1996 and 2001, 139 persons in total, the highest numbers in 1996 (36 persons) and 1998 (31 persons). In accordance with § 246, para 2, a) – the perpetrator acted as a member of an organised group, the smallest number of victims was identified; on the other hand, the highest number in accordance with § 246, para 2 c) – an act committed against a person under 18. In accordance with § 246, para 2, b) – the act was committed with the intention to gain a considerable benefit, 54 victims were ascertained during the monitored period, the highest numbers, again, in 1996 (16 persons) and 1998 (15 persons).

Table 5.6 Trafficking in women (§ 246 of the Criminal Code) – foreign victims

Year / para	para 1	para 2, a)	para 2, b)	para 2, c)	Persons (in total)
1996	0	0	0	0	0
1997	0	0	0	0	0
1998	3	0	1	2	3
1999	0	0	0	0	0
2000	0	0	0	0	0
2001	1	0	1	1	1
<i>in total</i>	<i>4</i>	<i>0</i>	<i>2</i>	<i>3</i>	

The police investigated only two cases of trafficked foreign victims, involving 4 victims altogether. The investigations took place in 1998 and 2001.

Table 5.7 Trafficking in women (§ 246 of the Criminal Code) – the age of the victims

Year \ Age	0-14	15-17	18-21	22-30	31 and older	victims trafficked in groups (2 or more persons)	Victims in total
1996	0	8	12	10	2	17	49
1997	0	3	5	0	0	17	25
1998	2	3	8	8	1	42	64
1999	0	5	4	2	0	49	60
2000	0	5	0	1	0	35	41
2001	0	4	6	4	1	52	67
<i>in total</i>	2	28	35	25	4	212	306

Note: The overall number of victims gives a lower number of victims, because a group is filled in, if there are two or more victims. The ages of victims in groups are not indicated.

Table 5.7 shows that the victims are usually aged between 18 and 21, followed by juvenile victims aged between 15 and 17, and victims aged between 22 and 30.

Table 5.8 Trafficking in women (§ 246 of the Criminal Code) – prosecuted persons and their nationality

Year	Prosecuted males	Prosecuted females	Prosecuted persons in total	Nationality	Number of persons
1996	21	4	25	Czech Republic	23
				Slovakia	1
				Austria	1
1997	11	3	14	Czech Republic	12
				Slovakia	1
				Turkey	1
1998	35	12	47	Czech Republic	42
				Slovakia	4
				Austria	1
1999	24	6	30	Czech Republic	28
				Slovakia	1
				Ukraine	1
2000	14	6	20	Czech Republic	16
				Slovakia	2
				Russia	1
				Austria	1
2001	18	8	26	Czech Republic	23
				Germany	2
				Greece	1

Between 1996 and 2001, the police prosecuted 162 persons altogether for the criminal offence of trafficking in women, the largest number in 1998 (47 persons). The large majority of the prosecuted persons were Czech nationals (144 persons altogether), followed by Slovak nationals (9 persons). Some of the prosecuted offenders were Austrian (3 persons) and German (2 persons) citizens, in a few cases nationals of other countries (Turkish, Greek, Ukrainian and Russian nationals).

Table 5.9 Procuring (§ 204 of the Criminal Code) – offences and prosecuted persons

Year	Offences in total	From these, according to para 3, b)	Prosecuted males	From these, according to para 3, b)	Prosecuted females	From these, according to para 3, b)	Prosecuted persons in total
1996	162	2	131	6	54	0	185
1997	124	3	85	4	42	2	127
1998	355	2	86	2	43	0	129
1999	235	2	79	0	39	0	118
2000	136	10	122	17	44	9	166
2001	154	8	100	6	34	3	134

In the case of the criminal offence of procuring, the number of offences is higher than in the case of trafficking in women (in persons); over the monitored period, 1,166 offences altogether were committed, and 859 persons were prosecuted for them. The years with the highest numbers of prosecuted offences were 1998 and 1999. Among the prosecuted persons, men clearly predominate. In 2000 and 2001, the number of offences qualified as procuring committed by a member of an organised group rose considerably (from 2 or 3 yearly to 10 and 8); 17 men and 9 women prosecuted in 2000 and 6 men and 3 women in 2001.

Table 5.10 surveys the nationality of the persons prosecuted for committing the criminal offence of procuring. Here, too, we encounter mostly Czech nationals (769 persons out of the overall number of 859 persons). The second most numerous group – but with a considerable quantitative distance – are Slovak citizens (31 persons), followed by Ukrainian (17 persons) and Bulgarian (8 persons) citizens. In a few cases, nationals of other countries were prosecuted (Vietnam, Germany, Macedonia, Bosnia and Herzegovina, Turkey, Austria, Latvia, former Yugoslavia).

Table 5.10 Procuring (§ 204 of the Criminal Code) – prosecuted persons and their nationality

Year	Prosecuted males	Prosecuted females	Prosecuted persons in total	Nationality	Number of persons
1996	131	54	185	Czech Republic	170
				Slovakia	12
				Ukraine	2
				Austria	1
1997	85	42	127	Czech Republic	117
				Slovakia	4
				Ukraine	1
				Bulgaria	2
				Germany	1
				Austria	1
				Turkey	1
1998	86	43	129	Czech Republic	111
				Slovakia	6
				Russia	3
				Ukraine	1
				Bulgaria	1
				Latvia	1
				Macedonia	3
				Vietnam	1
				Germany	1
unknown	1				
1999	79	39	118	Czech Republic	113
				Slovakia	2
				Bulgaria	3
2000	122	44	166	Czech Republic	148
				Slovakia	3
				Ukraine	11
				Rumania	1
				Macedonia	1
				Germany	1
				Turkey	1
2001	100	34	134	Czech Republic	110
				Vietnam	6
				Germany	5
				Slovakia	4
				Bosnia & Herzegovina	4
				Ukraine	2
				Bulgaria	2
				former Yugoslavia	1

6. Case file analysis

Altogether, 15 case files from the period 1996-2001 were analyzed, containing the testimonies by 39 victims, all women (including 11 minors) and the testimonies by 31 persons convicted (in accordance with § 246 of the Criminal Code) of the criminal offence of trafficking in persons (in women).

Only one of the analyzed crimes (from 1996) involved *trafficking in women from abroad to the Czech Republic*. As it was significantly different from the other evaluated offences, let us cite some interesting details from this case.

- During a four-week stay in the Philippines, three offenders got in touch with a manager of dancers and, through a local agency and under the promise of good earnings, they hired seven Filipino women (including one minor girl) offering a job in the Czech Republic. They selected the dancers on the bases of their appearance, previous experience and knowledge of English, and they arranged their transfer by air to Prague. The Filipino women said that they had been recruited to work as dancers or waitresses in a club.

The defendants took advantage of the fact that the Filipino girls, being away from home, depended completely on them. They put forward the contracts signed by the girls and forced them to provide paid sexual services, including sexual intercourse, in the club Manila in Prague. The criminal activity of the defendants was planned and designed so as to decrease the danger of being prosecuted. To ensure smooth operation of the club, the perpetrators obtained long-term residence permits from the Foreign Police Office, work permits as dancers from the Prague Municipal Employment Agency, and subsequently, trade licences for sex massages for the Filipinos victims.

A guest of the club paid 3,500 CZK per hour, and 2,000 CZK per half an hour. This amount included a sex massage as agreed with the customer.

Before the journey to the Czech Republic, the Filipino women received an advance payment, out of which they paid a fee to the Filipino manager. In addition to a sum per customer, the women earned a fixed monthly wage and received money for food. The club manager arranged their medical examinations with a doctor.

A few customers allegedly wanted to marry the Filipino girls. To discourage them, the perpetrators named the price 500,000 CZK for a girl to be allowed to leave the club. It was proven that all the defendants, in various set functions and in a planned and coordinated way,

attended in mutual cooperation to the whole operation of the Manila club, in such a way as to obtaining a financial profit. In addition to the Filipino women, the defendants recruited, through advertising and other means, other women to provide sexual services to the club customers. The defendants claimed that they could not know what exactly would go on in the rooms, and that the girls were warned in advance that sexual acts with customers was prohibited. During the police raid in the club, one of the defendants was holding the Filipino passports, allegedly to deal with various formalities. According to the victims' testimonies, their passports had been seized immediately after their arrival in the Czech Republic and it did not occur to them to report the fact to the Czech police. The embassy of the Republic of the Philippines is in Hungary and the women did not have enough money to travel there.

All the three defendants were convicted by the court of first instance for trafficking in women and procuring, in accordance with the indictment. Moreover, in relation with the first offence, they were also found guilty as members of an organised criminal group, according to Para 2 a) of § 246 of the Criminal Code. However, in the appeal proceedings, they were cleared from the charges of procuring and found guilty only of trafficking in women. Their prison sentences were altered to conditional sentences. The court of appeal justified the latter decision on the basis the long time that had passed since the commission of the crime; in addition, one of the offenders was the father of two underage children and another one was seriously ill.

Victims of trafficking previously engaged in prostitution sold by their procurers out of the Czech Republic

The following case is typical.

- The offenders were a Romany couple

The husband was a private entrepreneur (a taxi driver), the wife was a worker. Although they had decent jobs, they carried out procuring, offering paid sexual services of other persons.

The perpetrators forced a victim, who, at that time, earned her living as a prostitute, to enter their private car on a road near the municipality Rudná and took her to their flat in Sokolov, where, under threat of violence, they forced her into prostitution. The woman tried to escape once, with the help of a German customer. However, she was pursued by the female offender, and the customer, alarmed, put her off. At night, the offenders locked her up in the

flat and the male offender beat her up, because she did not want to „walk the streets“. They also threatened their victim to sell her to other procurers.

Approximately after one month, the victim was driven to a bar in Hof (Germany). It was obvious that the perpetrators had made an advance deal with the bar owner, who immediately seized the woman's documents. The two offenders told the victim that she should continue to give them money until she had paid her „price“. Over the next two months, they repeatedly approached the victim, who had to surrender the money she had earned by prostitution – in this way, the perpetrators earned at least 5,000 DM.

Later on, the woman worked as a waitress in a bar, until she had to leave Germany after an intervention of the German police – Criminal Police Inspection Hof (verified by Interpol). She subsequently returned to Germany, as she married a German national.

The woman lodged a criminal complaint against both offenders in the Czech Republic. The social dangerousness of the offenders' conduct was increased by their committing the crime (procuring) also on German territory, and damaging the reputation of the Czech Republic abroad.

The male perpetrator had already one previous conviction. He and his wife were sentenced to a 3-year conditional prison term.

- In a similar case, an offender advertised and rented several flats in Brno to various women who engaged in prostitution there. He frightened the girls beating and otherwise physically attacking them, threatened them to disfigure their faces or inform their families of their behaviour. He forced the victims to pay penalties if they did not behave according his orders and forced the women to hand over at least a half of the money they received for each sexual service they provided. He allegedly gained at least 400,000 CZK, which he used for his own purposes. Five victims testified against him.

At the same time, this offender enticed into prostitution three other women in the sex club Velvet Palace in Vienna (Austria). These women had to hand over to the accused half of their earnings, or 2,000 Austrian Schillings for each week spent in Vienna. Out of this activity, he made at least 60,000 Austrian Schillings. He threatened the girls of unspecified violence and of informing their families on their activity should they not obey him.

The offender was a private entrepreneur and had two previous convictions.

The defendant was sentenced to an (unconditional) term of imprisonment of 4 years for procuring according to § 204 of the Criminal Code and trafficking in women according to § 246 of the Criminal Code.

A group of cases involves *women or girls who became victims of trafficking because they were experiencing difficult life situations, or underestimated the possible risks.*

- The victim was the lover of the offender, who used to visit her in a rented flat where she lived with her 3-year-old son.

The man knew that the woman earned her living also by prostitution. Therefore, he enticed her into moving to Germany, under the promise of better earnings. There, the perpetrator handed her over to Vietnamese citizens procurers, who paid him 1,000 DM. The perpetrator threatened the woman that if she ran away from the procurers, „something bad“ would happen to her son.

After two months, the Vietnamese let the woman return from Stuttgart to the Czech Republic. The victim lodged a criminal complaint against the perpetrator, who continued threatening her even during the criminal proceedings and wanted her to revoke her testimony. He also threatened her sister and his mother, who lived in the same building as the victim, threatened her. The criminal activity of the accused was proved as a danger to personal freedom (i.e. individual right to free movement), and to the woman's right to free decision in the sexual sphere.

The perpetrator was sentenced to a 3-year term of imprisonment, which was conditionally suspended for the probationary period of four years. The court also ordered the supervision of the offender, consisting of guidance, psychosocial counselling and control of his social conduct. During the supervision period, the offender was obliged to visit every month an appointed officer of the Probation and Mediation Service.

According to the criteria laid down in the checklist below, the victims of trafficking can be characterised as follows:

Table 6.1

Victims

Questionnaire number	Age	Nationality	Duration of residence abroad
1 A	27	Philippines	9 months
1 B	25	Philippines	9 months
1 C	17	Philippines	9 months
1 D	24	Philippines	9 months
1 E	23	Philippines	9 months
1 F	23	Philippines	9 months
1 G	-	Philippines	9 months
2	24	Czech Republic	2 months
3	32	Czech Republic	2 months
4 A	17	Czech Republic	2 months
4 B	18	Czech Republic	2 months
4 C	18	Czech Republic	2 months
4 D	18	Czech Republic	2 months
5	14	Czech Republic	8 months
6 A	19	Czech Republic	3 weeks
6 B	-	Czech Republic	2 weeks
6 C	-	Czech Republic	18 months
7 A	17	Czech Republic	1 month
7 B	-	Czech Republic	1 month
8	17 and half	Czech Republic	1 month
9 A	20	Czech Republic	10 days
9 B	19	Czech Republic	10 days
9 C	21	Czech Republic	17 days
9 D	22	Czech Republic	8 days
9 E	23	Czech Republic	8 days
9 F	19	Czech Republic	3 months
9 G	21	Czech Republic	3 months
10 A	14	Czech Republic	6 and half months
10 B	17	Czech Republic	1 month
10 C	16	Czech Republic	1 month
10 D	18	Czech Republic	-
10 E	16	Czech Republic	-
11	15	Czech Republic	4 months
12	19	Slovakia	1 month
13 A	21	Czech Republic	8 months
13 B	22	Czech Republic	1 month
14 A	16	Czech Republic	-
14 B	-	Czech Republic	14 days
15	19	Czech Republic (Romany)	1 month

The age of the victims ranged from 32 (1 victim) to 14 years (2 girls). Eleven victims were minors (below 18), including one Filipino. The large majority of the victims were Czech citizens, one was a Slovak national, and the other foreign victims came from the Republic of the Philippines.

The criminal offence of trafficking in persons for sexual purpose according to § 246 of the Criminal Code (until 30 Jun 2002, the name of this offence was trafficking in women) is

committed by anyone who entices, hires or transports another abroad or from abroad, with the intention that she/he be used for sexual purpose.

In all the court files that we analyzed, the victims were always women who were mostly transported **from the Czech Republic abroad**.

Some of the women or girls were transported several times and into various countries for sexual purpose. Two women were transported to Switzerland and Italy, one woman was transported to Switzerland and Germany. Another minor victim was transported to Italy, the Netherlands and twice to Germany.

The duration of the periods when the women were involved in prostitution abroad varies, ranging from 8 days to the longest sojourn of one and half years (with interruptions). In two cases, the offenders travelled abroad together with the victims, and they, too, earned money by engaging in prostitution, usually in 14-day cycles.

Most of the victims travelled abroad voluntarily, although some of them received false promises on their occupation (to be employed as waitresses, barmaids, strippers, hostesses, or cleaning ladies). In six cases, the women themselves approached the perpetrators and agreed to engage in prostitution abroad; however, the conditions under which they „worked“ abroad were different from the ones promised. In other cases, the victims were contacted by the offenders who falsely offered them good jobs abroad, either directly, or through advertisements in the newspapers (4×). The girls often knew the perpetrators who lived in their neighbourhood (15×), or they met the offenders at a disco (2×). In four cases, the contact was mediated by a female friend (who, in one case, was herself a victim of trafficking). One woman went abroad to earn the money she needed to acquire *pervitin* (a cheap speed-like drug), to which she was addicted. Her dealer-procurer sold her, and a female procurer forced her to engage in prostitution outside the Czech Republic.

In the case of underage victims, the offenders exploit their mental and social immaturity, and, above all, their difficult life situations.

- A minor girl offered her sexual services in a night club in Jáchymov; from where the offender – the club owner– took her to Germany and employed her as a prostitute under better conditions in a night club, of which he was a co-owner.
- Another underage girl ran away from a children’s home, and was sold to a couple of Romany procurers, who, at first, sold her to Vietnamese citizens in the Czech Republic, then took her to Germany and, in the end, sold her to a German citizen always for sexual purpose.

- Through a newspaper advertisement, an offender offered a girl a post of cleaning lady in a Spanish. She travelled there using a counterfeit passport and was forced to engage in prostitution by the hotel owner.
- A minor girl knew the offender, who was a neighbour and allegedly mediated for her a job as barmaid in Switzerland (he knew that she would be engaged in prostitution). She left the country using a borrowed passport.
- A minor girl ran away from her parents, with no money at all; she travelled to Italy with a female offender, herself engaged in prostitution, who provided her with a counterfeit passport and induced her to prostitution.
- Two underage girls got in touch with a female offender and asked her, as an experienced woman, to arrange for them an engagement abroad as prostitutes.

Most girls voluntarily travelled abroad and were not exposed to any danger en route. Most girls were transported by car; two girls went by bus and one girl by train. The Filipino women were transported to the Czech Republic by air. In most cases, the women used their own travel documents. The passports of the victims (in particular of minor girls) were forged in 10 cases. After the arrival to the place of destination, the passports of the victims were often seized (21) (in all the cases where the woman did not want to engage in prostitution). The victims were told that, instead of the promised occupation, they would engage in prostitution, only after reaching their destination. They learned this fact en route only in two cases; one of the women found out the truth before her departure, and did not leave the Czech Republic. The women who did not agree in being engaged in prostitution were very often threatened with physical violence, and in three cases the victim was actually attacked. In addition to these threats, the women were menaced of disclosure of their actual profession abroad to their closest friends and relatives. If the cases where the victims' previous occupations were known, they were labourers (workers, cleaning ladies). Most of the women were unemployed. The underage victims deserted their families, stopped attending school, or ran away from children's homes where they had been placed (2 girls).

Some of the victims (8 women) earned their living as prostitutes in the Czech Republic prior to their departure abroad. Among the minor girls, five victims were forced to prostitute themselves before leaving the Czech Republic. The oldest woman, who had been abducted from her place of residence where she had engaged in prostitution, and later trafficked to Germany by Romany procurers, used to support four children in that way her. Before they

were trafficked, this type of victims offered their services on the street or in night clubs in border areas. Czech females who offer their sexual services to wealthy clients or foreigners in hotels, better-class sex parlours or in select private clubs have not become victims of trafficking.

Offenders

The majority of offenders who trafficked in women were males (22). Females participated in 9 cases. The oldest offender was 51 – he took part in trafficking Filipino women to the Czech Republic, and the youngest was 19 (he hired a girl he had known from childhood to be a prostitute in Switzerland, on the pretext that she would work as a barmaid). One offender was a university graduate, another offender had completed secondary school, and five perpetrators had completed their apprenticeships. Fifteen offenders had completed only primary school, and one of them did not even finish primary school. In five cases, the crime was committed by private entrepreneurs; four of the offenders were night-club owners (or co-owners), three offenders were workers and one offender was a taxi driver. Thirteen perpetrators were unemployed. The information on the occupation of the remaining offenders was not available. Most of them were Czech nationals; four perpetrators were Romanians. Two offenders were from Slovakia, one from Germany, one from Greece, and one was a Czech female who married in Switzerland.

When recruiting their victims, the offenders often used false information on the kind of jobs abroad were offering to the victims, and, even more, on the amount of their earnings.

In two cases, the crime of trafficking in women had an organised character. However, the specific role of each offender was not always clear. In three cases, the crime was committed by husband and wife. In one case, the perpetrators were experienced women engaged in prostitution abroad, and, in another case, the crime was committed by two women with long-term experience of exploiting prostitution in the Czech Republic. In eight cases, trafficking in women abroad was carried out by one single person.

The duration of the commission of the criminal offence lasted between one and 14 months. The longest (about 14 months) criminal offence was committed by two women who earned their living as prostitutes and acted as liaison for other women to Italy, the Netherlands and Germany.

Twelve offenders had some previous criminal records.

Table 6.2

Offenders

Questionnaire number	Age	Sex	Nationality (origin)	Criminal records
1 A	40	male	Czech Republic	no previous convictions
1 B	47	male	Czech Republic	no previous convictions
1 C	51	male	Czech Republic	no previous convictions
1 D	-	male	Czech Republic	no previous convictions
1 E	-	male	Czech Republic	no previous convictions
1 F	-	male	Czech Republic	no previous convictions
1 G	-	male	Czech Republic	no previous convictions
2 A	42	male	Czech Republic (Slovak origin)	1 previous conviction
2 B	39	female	Czech Republic (Hungarian origin)	no previous convictions
3	31	male	Czech Republic	no previous convictions
4	34	male	Germany	no previous convictions
5 A	35	male	Czech Republic (Slovak and Romany origin)	no previous convictions
5 B	30	female	Czech Republic (Slovak and Romany origin)	no previous convictions
6	24	male	Czech Republic	2 previous convictions
7	39	male	Slovakia	7 previous convictions
8	19	male	Czech Republic (Slovak and Romany origin)	2 previous convictions
9 A	34	male	Czech Republic	no previous convictions
9 B	31	male	Czech Republic	1 previous conviction
9 C	21	male	Czech Republic	1 previous conviction
9 D	39	male	Greece	1 previous conviction
9 E	20	female	Czech Republic (married in Switzerland)	no previous conviction
9 F	26	male	Czech Republic	2 previous convictions
10 A	41	female	Romany origin	no previous convictions
10 B	23	female	Czech Republic	no previous convictions
11	30	male	Czech Republic	3 previous convictions
12 A	37	male	Czech Republic	10 previous convictions
12 B	36	female	Czech Republic	3 previous convictions
13	42	male	Czech Republic	7 previous convictions
14 A	30	female	unknown	no previous convictions
14 B	24	female	Czech Republic	no previous convictions
15	35	female	Czech Republic	unknown

Organised criminal groups

Only in two cases, the perpetrators were convicted as members of an organised group. The first case involved a loose network of three perpetrators who knew each other and, during a holiday in the Philippines, contacted seven women through a local agency, under the promise of a lucrative job as dancers. The costs of transportation were borne by the offenders. There was no division of roles among the perpetrators. All of them recruited the women in the Philippines and participated in the operation of the nightclub in Prague. After the arrival in the Czech Republic, they seized the women's passports and, through threats, forced them to

provide sexual services to the customers of the club. For work in the club, they also procured a number of women from the Czech Republic.

In the second case, six offenders in total participated in organising the trafficking of seven women. The leader of the group was one of two brothers who, as partners, set up the bar Fantazy in Rázová (in the Bruntál District) for (among other purposes) offering paid sexual services. They hired girls, gave them food and accommodation, received a portion of the money which the girls obtained from sex services, and used this money for personal purposes and the operation of the bar. Later on, following a previous mutual agreement as to the details of the journey, financial conditions, shares, material backup and also after defining specific tasks, they agreed with various girls to arrange for them the performance of paid sexual services in Switzerland, Italy and Germany. In addition, three other men took part in this trafficking as carriers, recruiters, and, in one case, also as a financier. A Czech perpetrator, who lived in Switzerland with her husband, helped to hire the women and to specify the conditions and the women's sojourn in Switzerland.

The leader of the group involved in the crime his brother; the other members were persons he knew from his place of residence. The majority of the victims were jobless women who went abroad voluntarily to engage in prostitution. Most of them had known the perpetrators before.

Routes

Most frequently, the women were hired in localities with a high level of unemployment and in border areas, especially along the road E 55, which is well known - particularly among German customers- as a place where women offer sexual services.

The files do not include details on the specific routes in the various cases. The cities and towns (or their surrounding areas) where the victims were hired are: Brno, Bruntál, Český Krumlov, Česká Lípa, Frýdlant, Chomutov, Jáchymov, Mimoň, Most, Opava, Ostrava, Prague, Sokolov and Teplice.

The victims were transported directly to the places of destination, without using provisional shelters or similar facilities. Most often, a car belonging to the perpetrator or a hired carrier was used for the transport. In two cases, cars belonging to a foreign national were utilized. Buses to the place of destination were used four times, (in two cases, in combination with a private car) and railroad transport twice. A direct flight to Prague's Ruzyň Airport was taken by the Filipino girls. The most frequently destination countries were

Germany or Austria. The victims were trafficked to Italy via Austria; to Belgium, the Netherlands and France via Germany; to Spain via Germany and France.

Costs

The economic transactions, i.e. the costs and benefits of procurers or traffickers in women, are covered sporadically by the criminal files (only two victims provided an estimate of the total sum obtained by the offenders – 5,000 DM; in the second case, 100,000 CZK derived from „services“ in Belgium). Some of the victims revealed the amount which they had to handover per day or week, or the percentage they received from their services. These figures vary according to the types of services and the place where they were offered. They are also related to the level of dependence of the victim on the offenders. Some of the victims were told the amount which their former „owners“ had paid for them, either on purpose (so that they knew how much they had to „work off“), or by chance. According to most victims, the amount ranged from 1,000 to 1,500 DM. The prices of counterfeited travel documents were not ascertained. The offender usually collected the money in person (in 8 cases). Further division of the profits among the individual offenders cannot be determined from the files. From other sources, it can be deduced that the offenders used most of these earnings for their personal purpose. A smaller portion was reinvested on the costs or the operation of the establishment. In this respect, the offenders' testimonies are superficial and unspecific; sometimes they deny their responsibility for trafficking, and, consequently, the profit.

Information on specific cases

The reasons for initiating criminal prosecution vary. The commission of the criminal offence of trafficking in women was reported to the Czech police by 8 victims. The Czech police, on the basis of independent information, initiated criminal proceedings for the criminal offence of trafficking in women in three cases (14 victims), two victims were detected in Germany, one victim reported the crime at the border when returning from Germany, and another victim lodged a criminal complaint after her return from Germany. Two victims requested help from the Czech consulate in Spain, and their parents reported the facts to the Czech police. The mothers of two underage victims requested help from the Czech police. A trafficked woman arrived in Slovakia with a Dutchman. They were checked by the police at their hotel, and the woman was found in possession of a forged passport. One case was

detected when the police investigated a case of voluntary bodily injury, and an accomplice in the crime was the owner of a sex club.

There is no negative information on the treatment of victims by the police, or it is assessed as raising no objections.

In most cases, the investigation took place only in the Czech Republic. Two victims, after reporting to the German police, were interrogated by them and the materials were handed over to the Czech Police Force. After a German citizen had been prosecuted for trafficking in women in Germany, the relevant materials were used in the Czech Republic to convict a couple of the same crime. By way of legal assistance, Austria provided information on criminal proceedings (request to interrogate a victim), and the investigation was extended to the Czech Republic.

Standard methods in keeping with the Czech Criminal Procedure Code were used to investigate these crimes, including examinations of defendants, examinations of witnesses – above all, the victims, their relatives, but also other persons - testimonies of victims, searches of the defendants' premises, and, in some cases, expert psychiatric opinions on both the defendants and the victims. In all cases, the investigation led to the submission of an indictment and a decision by the court.

The length of the criminal prosecution ranged from 6 months to 90 months (in the case of the offenders who trafficked the Filipino women), the average duration being around 12 months. All the defendants were kept in custody during prosecution.

The qualification of the individual offences listed in the judgements ran as follows: all of the accused were found guilty of the criminal offence of trafficking in women according to § 246 of the Criminal Code. In addition, nine of the offenders were convicted of the criminal offence of procuring according to § 204 of the Criminal Code. Other three offenders were convicted of forgery of an official document as defined in § 176 of the Criminal Code or of abetting this crime. In connection with trafficking in children, two offenders were convicted of the criminal offence of corrupting the morals of youth according to § 217 of the Criminal Code. One of the perpetrators of trafficking in women was also convicted of rape according to § 241 of the Criminal Code; another defendant was convicted, in addition to trafficking in women, for the criminal offence of robbery according to § 234 of the Criminal Code.

For a survey of the sentences received by the various defendants, see Annex 1.

7. Survey among criminal justice and law enforcement personnel

The aim of the survey was to obtain specific data deriving from practical experience or on trafficking of persons, empirical data identifying the routes of human trafficking, methods of recruitment and exploitation of persons, as well as current trends and the involvement of organised groups in trafficking in persons from the Czech Republic and their subsequent exploitation in the destination countries.

The data and information were obtained during standardised interviews with 19 experts, which took place according to a pre-defined format. Comparative analysis of the experts' opinions was processed using the computer programme SPSS and content analysis.

General information – sources

Since the early 1990s, the criminal offence of trafficking in persons has been on the rise in the whole of Europe. The Czech Republic is, at present, a country of origin, transit and destination for trafficked persons. Most frequently, the persons trafficked in the Czech Republic are women. Most experts say that they represent between 80 and 90% of the trafficked persons; other 5 to 10% being underage females. The areas with high unemployment, and big cities with their manifold offer of various forms of prostitution are the main source of victims of trafficking in women.

This information was unanimously confirmed by all the experts; they mentioned Northern Bohemia, Western Bohemia, Northern Moravia and Southern Moravia as the most common localities for recruiting victims of trafficking, i.e. the areas with the highest level of unemployment within the Czech Republic (up to 20%). According to the experts, other potential sources are Prague and Brno, i.e. cities with many foreign tourists and an increased demand for (and supply of) all kinds of sexual services.

To a large extent, trafficking in persons is the result of the imbalance of international economic relations. The experts most frequently name Ukraine and other ex-USSR countries, Slovakia, Rumania and Bulgaria as „countries of origin“. Women also come from former Yugoslavia, the Philippines and Vietnam.

Methods of recruiting persons

According to the experts the numbers of women who autonomously seek contact with recruiters, and the numbers of those who become objects of trafficking after being sought out (or after the first contact was mediated) by another person are almost identical.

Most frequently, the contact between the trafficked person and recruiters takes place through common acquaintances or adverts, followed by hearsay and, somewhat less frequently, through relatives. The contact takes place in the neighbourhood or in a bar, a hotel, a restaurant, at a disco etc. If the first contact takes place via a group of persons, they are more frequently job agencies than travel agencies or other entities.

Routes and experience en route

The largest numbers of respondents (26.3%) think that the trafficked persons do not realize what danger they may face during transportation to the place of destination. According to the experts, women who are trafficked from the Czech Republic are usually transported individually, at times in small groups of 2 to 3 women. The most common means of transport to the place of destination is a car. Transport by a train or bus, also in combination with a car, is less used, and only if the woman agrees to leave the Czech Republic.

The experts mentioned physically dangerous situations en route taking place mainly in connection with the smuggling of illegal migrants; in the cases of trafficked women, dangers may occur only if the transport is time-consuming, or if the border must be crossed illegally.

For women trafficked from the Czech Republic, the main countries of transit and destination are Germany and Austria. According to the experts, other destination countries include France, Italy, Spain, the Netherlands, Switzerland, Belgium and the USA.

The Czech Republic is a transit country for citizens from Ukraine, Russia, Byelorussia, Moldova, Slovakia and Bulgaria. None of the experts offered more specific information on the travel routes of these persons.

Coercion, lies, exploitation

Only 5% of the experts answered that lies are not used in recruiting victims, whereas 32% of the experts believe that lies are used during the recruitment in 80-95% of the cases of trafficked persons. The experts attributed the absolute primacy to lies about the nature of jobs, followed by working and living conditions in the destination countries, and, in the third place, about the immigration regulations in the destination countries.

Trafficking in persons (in women) is connected with the seizure of the victims' documents by the persons who control or exploit them. The majority (57.9%) of the experts think that the seizure nearly always happens. The main (and often also the only) way for the victims to get back their documents is to work off – i.e. to repay the alleged debt (for transport and the „job negotiation“) through sexual services. However, one third of the experts held the opinion that the documents are usually never returned.

Recruiters or traffickers use violence or the threat of violence to prevent the victims (in the destination countries or after their return to the Czech Republic) from talking about their experience.

According to the experts, offenders engaged in human trafficking have a great ability to control their victims. Apart from violence or threats of violence, these traffickers often use mental pressure, humiliation, and threat to involve the family and cause the extradition of their victims.

According to the majority of the experts, human traffickers in the Czech Republic use threats of violence. They rarely (in 5.3%) use the restriction of movement and communication. According to 47.4% of the experts, human traffickers use threats of violence in the transit countries; the experts did not mention other restrictions or violence. The „employers“ in the destination countries use a broader range of constraints against their victims.

In human trafficking, the threats of violence are used particularly by Russian-speaking criminal groups (consisting of Chechen, Russian and Ukrainian individuals), by Bulgarians, and by groups including Romany members.

Other criminal methods

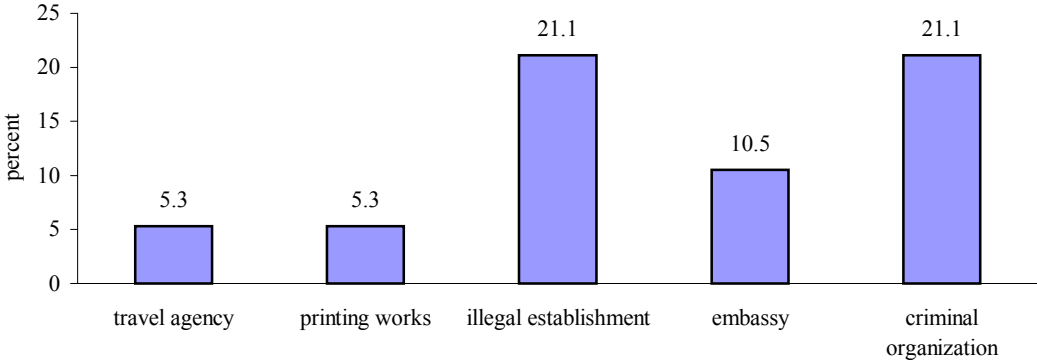
Another method used in human trafficking is the forging of documents.

Passports are forged most frequently (mentioned by 52.6% of the experts), followed by visas (21.1%), and certificates of birth (5.3%).

Types of organisations offering their services in counterfeiting documents are shown in the following chart.

Chart 7.1

Types of organizations offering their services in document fraud



The standard forgery is the replacement of the photo on a stolen passport. Cases of forging the whole document have recently somewhat increased.

At present, the activity of organised criminal groups does not usually have a narrowly specific character. To multiply the proceeds (and also as a protective measures), various forms of crime tend to be carried out by the same organised criminal group. The following table shows the connections between human trafficking and other criminal activities.

Table 7.1 Connections between human trafficking and other crimes

Other crimes		Connection with Trafficking in human beings
smuggling of drugs	sometimes	26.3%
	often	31.6%
smuggling of weapons	sometimes	10.5%
	often	5.3%
smuggling of goods	sometimes	10.5%
	often	15.8%
exploitation by prostitution	often	15.8%
	nearly always	57.9%
money laundering	often	26.3%
	nearly always	10.5%

Proceeds from crime

Only two experts gave information on the proceeds from crime (amounts which Czech victims paid to reach the destination country). The estimated prices per person are:

- Germany 5,000 US\$
- Italy 6,000 US\$
- the Netherlands 6,000 US\$

Of course, these amounts are subject to changes according to the law of the market.

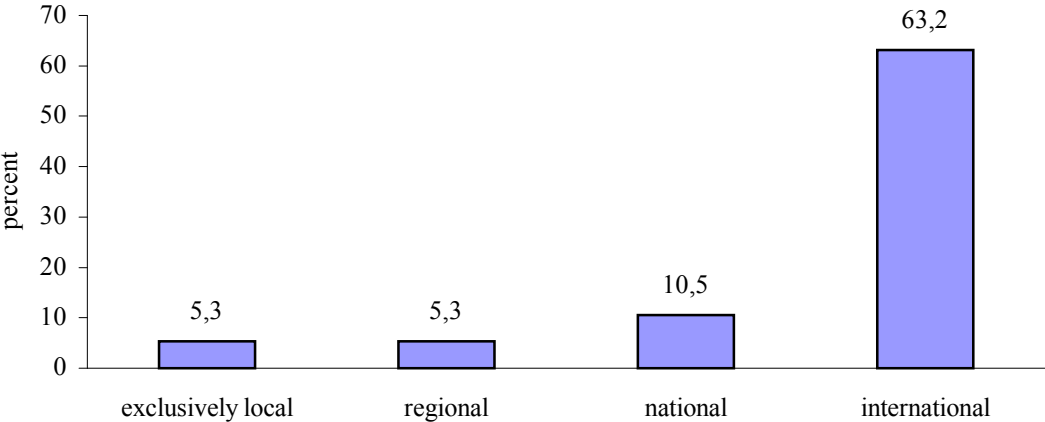
The amount which the victims pay for forging documents varies case by case. It can range from 5,000 CZK to tens of thousands CZK. The estimated value of these amounts must be seen as illustrative only, for most experts did not express any opinion on this issue. In a few exceptional cases, the experts attempted to gauge how much money, on average, comes from human trafficking in the Czech Republic. They agreed that hundreds of millions CZK are involved. According to their statements, the proceeds from this criminal activity are invested in real estate property, and in other establishments (such as restaurants) which serve to make profits and, above all, for „laundering“ money. Part of the proceeds is used to cover current expenses; they are also utilized to corrupt civil servants. According to the experts, there is no evidence of the latest activity.

Involvement of organised crime

According to the experts, there are organised criminal groups in the Czech Republic which are involved in smuggling and trafficking in persons from the Czech Republic. This criminal activity is carried out especially by clans of Romany families (above all, in Northern Moravia), Vietnamese citizens. Recently, the connection with Russian-speaking offenders is frequent.

Chart 7.2

Geographical scope of criminal groups



The following table reports the estimated number of the members in criminal groups:

Table 7.2 Estimated numbers of the members in criminal groups

Estimated numbers	Number	Percent
less than 5 members	1	5.3
6 - 10 members	6	31.6
11 - 20 members	3	15.8
21 - 50 members	-	-
more than 50 members	-	-
don't know	7	36.8
no response	2	10.5

Criminal groups which traffic in persons (in women) in the Czech Republic do not specifically target particular sectors of the labour market. They seek potential victims among unemployed women, runaway girls, and women engaging in prostitution and other sexual services. They seek out women dissatisfied with their earnings, working in restaurants, in cleaning services, in agriculture, and performing various kinds of support work. They pay special attention to areas with a high unemployment rate, border areas, and cities with a lot of tourism. According to the experts' statements, the geographical scope of criminal groups depends also on the place from where the leaders of the organisation originate, or on the place where they settled.

In addition, the victims are sometimes recruited according to the interest of customers; the only constant limitation remains the age of the girls (the number of juveniles is on the rise). Redeployment of victims takes place to stimulate the market.

The most frequent way is the redeployment of the victim among localities within one country, which, according to the experts, takes place often or nearly always; otherwise the victim is trafficked abroad. The redeployment of the victim among various organised criminal groups takes place particularly if there are problems with the victim, or if the police is growing interested in the activity of the group. In a few isolated cases, the victim was abducted from the spot where she had engaged in street prostitution.

More than one third of the experts believe that traffickers use territorial control, for recruiting victims of trafficking. The relation between violence against recruiters from other groups and territorial control is, according to the experts, quite frequent.

According to the opinions of most experts, small groups of human traffickers are linked to larger international organisations:

- sometimes - 21.9%
- often - 10.5%
- nearly always - 10.5%

At present, most of the groups involved in trafficking from the Czech Republic comprise, apart from Czech citizens, also foreign nationals from the following countries and territories: Russia, Ukraine, Chechnya, Dagestan, Moldova, Germany, Switzerland, Italy, Austria, Slovakia, Bulgaria, Rumania, and Vietnam, Kosovo, Serbia and Croatia. Most of the experts think that organised criminal groups involved in trafficking in the Czech Republic employ specialist professionals: most frequently lawyers, followed by accountants and civil servants (to the same extent), bankers and foreign police officers.

Five experts provided an estimate of the number of persons involved at the various stages of the criminal offence of trafficking in persons. The experts' opinions differed considerably (see Annex 2).

Of course, the experts disagree not only in their estimates on the numbers of persons involved at each stage of trafficking in the Czech republic, but also on the numbers of persons involved in various destination countries. The different personal experiences and information

thereof were undoubtedly reflected also by the list of countries that the experts included in their responses.

International law enforcement and criminal justice response

Slightly more than half of the experts (52.6%) have cooperated with foreign partners in detecting, investigating and prosecuting the criminal offence of trafficking in persons. The experts assessed the effectiveness of international cooperation with partner institutions in transit and destination countries as follows:

Interpol and other police forces – Excellent cooperation especially with Slovakia, where direct contact between involved persons is possible. Excellent cooperation with police units in Germany, Scandinavian countries, France and the USA. Good cooperation with Italy. Scarce cooperation with Turkey and the countries of former Yugoslavia.

Judicial cooperation - In the cases of rogatory letters and preliminary proceedings, it was pointed out that excessive delay of the responses from Italy, the Netherlands and Germany.

Shortcomings in the cooperation were caused by the different legal system in Great Britain, insufficient legislation in Ukraine, or scarce cooperation with the judicial bodies in France, Germany and Austria. The language barriers also play a role and cause bad communication on the operational level. Experts also pointed out that the Czech side lacks adequate power and means needed for the prosecution of this crime.

Passive participation and corruption

The experts estimate that, at the most, up to 30% the cases of human trafficking in the Czech Republic involve hidden corruption of.

The experts who commented upon the present trends and changes in human trafficking, they assessed the contemporary situation as follows:

- change in routes - yes 5.3%
- no 52.6%
- change in groups - yes 31.6%
- no 15.8%
- change in victims - yes 36.8%
- no 21.1%

The exact routes followed by the victims are unknown; at the very most, the places of origin and of destination are identified. The route depends on the specific conditions and changes in the transit countries (which are conditional, above all, on sudden police controls).

Relevant changes are linked to the involvement of organised criminal groups in trafficking, since groups originally involved in different types of organised crime have merged. Continual mergers have taken place between Russian and Romany groups, Slovak and Romany groups and Ukrainian, or Russian and Bulgarian groups. The experts assess that the various stages of the criminal activity are becoming being more elaborate.

Changes in the profile of victims were characterized by the experts as follows: the age of victims is decreasing; the emphasis is particularly on young girls living in socially and economically disadvantaged conditions (who easily respond to the offer of a lucrative job). Persons with social problems continue to be sought out and systematic attention is also paid to women who have previously been victims of trafficking, or at least of forced prostitution. The Romany ethnic group has specific characteristics. According to the experts, Romany men characteristically traffic abroad non-Romany women, because Romany women are uncontrollable if beyond the reach of their male partners. This is testified by the fact that German customers who seek out the sexual services of Romany women have to come to the Czech border areas.

Increased attention was paid to the problems which, according to the experts, have a negative impact on the present legislation regarding trafficking control and its implementation. It should be stressed that each of the interviewed experts evaluated the criminal offence of trafficking in persons according to the length of his or her practice and according to his or her professional role in the justice system. The following text summarizes the analysis of the opinions obtained.

7.1 Shortcomings of the Czech legal provisions on trafficking in human beings

The interviews highlight a number of critical problems regarding the Czech legal provisions on the control of trafficking in persons, its shortcomings and its application in practice.

Substantive Criminal Law

1. In the area of Substantive Criminal Law, the criminal provisions were deemed to be incomplete since they do not cover all forms of trafficking in persons being limited to trafficking for sexual purpose (§ 246 of the Criminal Code). This means that, in theory, it would be impossible to sanction a conduct which comprises trafficking in persons for the purpose of slavery, forced labour, servitude, removal of organs, etc. In the Czech Republic, criminal law only foresees the crime of removing a tissue or an organ from the body of a **dead** person, without authority, or anyone handling these issue without authority (§ 209a of the Criminal Code).

Recommendation from the experts

The experts agree with the opinions of other specialists, uttered outside this research, that a **complete and unambiguous definition of trafficking in persons in the above-mentioned sense** needs to be defined. In International Law, the definition of trafficking in persons is contained in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organised Crime², although this definition is meant only for the purposes of the Protocol.³ The recommendation to the legislature of the individual countries to enact such definition arises, for example, from a document published by the Ludwig Boltzman Institute of Human Rights.⁴

2. Another shortcoming of the present legislation is that, according to the experts, it fails to reflect the objective situation when it provides for protection from trafficking in such a way as to give protection to all victims, regardless of their „consent to trafficking“. Most cases

² *The Convention against Transnational Organised Crime came into force on 29 September 2003 and the Protocol came into force on 25 December 2003. The Czech Republic signed (but has not ratified as yet) both the Convention and the Protocol on 10 December 2000.*

³ *ProFem, o. p. s.: Trafficking in human beings from the viewpoint of Czech legal order, Prague 2002.*

of trafficking encountered by, particularly, judges and public prosecutors involved a mutual voluntary agreement between the so-called victim and the offender, motivated, on both sides, by a desire of economic profit. No violence whatsoever was ascertained. Consequently, it would appear irrational to give protection to someone „who does not need it and does not even want it“.

Recommendations from the experts

In these case, the experts propose modifying the body of this criminal offence; **protection from human trafficking should extend only to the cases when the victim is „a person below the age of 18 years, mentally handicapped, or forced to act by violence or under the threat of violence.“**

The experts also **demand** an increasing severity in sentences, for instance:

in the case of financial penalty, the maximum sentence should be ten times higher (at present, the maximum sentence is 5 million CZK – § 53 of the Criminal Code), keeping a balance with the huge proceeds which offenders acquire from this type of crime;

the maximum sentence **for the criminal offence of unlawful crossing of the border** should be substantially higher, especially if this criminal offence is committed with the intention of concealing or facilitating another criminal offence, for a reward, or by a member of an organised group (§ 171a Para. 2 of the Criminal Code);

the criminal offence of **participating in a criminal conspiracy** (§ 163a of the Criminal Code) should be classified as one of the offences whose perpetrator can obtain a conditional release only after serving two thirds of a prison sentence (§ 62 Para. 1 of the Criminal Code)

3. Other opinions of the experts merely emphasize the previous observations on the gaps in the legal provisions, point out human rights violations and the spreading of dangerous activities, such as „modern slavery“ or coercion to „donate“ organs etc.

⁴ Angelika Kartusch, *Reference guide for anti-trafficking legislative review*.

Criminal Procedure

In the area of Criminal Procedure, the experts, particularly judges, question the provisions regarding police action before the commencement of criminal prosecution which, regulate the subsequent use of certain acts at the later stages of proceedings, especially at the trial stage. The acts which were executed before the commencement of criminal prosecution⁵ cannot be considered to be procedural acts, i.e. they cannot be used in court, barring the exceptions specified by the law.

The most frequent act at this early stage is the provision of the so-called explanations. The official written record of an explanation does not have the character of a so-called exigent or unrepeatable act. The record is not a means of evidence in itself, but it helps the public prosecutor and the accused to consider if the person who gave the explanation should be examined as a witness, and it helps the court to decide whether this person should be called to testify (§ 158 Para. 5 second sentence of the Criminal Procedure Code). If the person who gave the explanation is later interrogated as a witness or as the accused, the record cannot be read to him or her, and its content cannot be divulged in any other way (§ 158 Para. 5 of the Criminal Procedure Code).

In practice, the explanations are the initial testimonies from witnesses (victims, the suspects and other persons), whose content, however, cannot be used as evidence in judicial proceedings, owing to the regulation of the Criminal Procedure Code. With regard to the indispensable role of witness' testimonies in solving crimes, this fact makes the evidence situation considerably harder. „If the perpetrator subsequently makes pressure on the victim or another witness, and they change their testimony or refuse of testifying, it is very difficult – and often impossible – to convict the perpetrator“.

The problem also relates to other acts which the police execute before the commencement of the criminal prosecution. Before the commencement of criminal prosecution, the production of evidence usable in judicial proceedings is limited to the examination of witnesses and to their recognition (identification of a person or a thing), which can be used as evidence during the judicial proceedings only in exceptional cases, upon the condition of being an exigent or unrepeatable act (§ 158 Para. 8 of the Criminal Procedure Code).⁶ In such a case, the police force, at the suggestion of the public prosecutor, interrogates

⁵ *The course of action before the commencement of criminal prosecution is (§ 158 to § 159b) the first stage of criminal proceedings, and, at the same time, of preliminary proceedings (Šámal, P., Král, V., Baxa, J., Púry, F.: Trestní řád, komentář [Criminal Procedure Code, A Commentary], 4th edition, C. H. Beck 2002).*

⁶ §160, Para 4 of the Criminal Procedure Code: An exigent act is such act which, due to the danger of its

such person as a witness, in the presence of the judge as the guarantor of legality (§ 158a of the Criminal Procedure Code). The acquisition of real and documentary evidence, specialist opinions and other expertise is not precluded.

A change in the use of the explanation or, more precisely, of the official record in judicial proceedings was brought about by the amendment of the Criminal Procedure Code implemented by the Act No 292/1993 Coll. Another amendment, implemented by the Act No 265/2001 Coll., substantially broadened the opportunities for the police in solving cases within the criminal proceedings. By this amendment, additional acts were incorporated into the Criminal Procedure Code (and, consequently, into the criminal proceedings); these acts were part of the stage which, before 1 January 2002, was called the pre-trial stage of criminal proceedings. The main reason for this modification is that acts executed with a view to detecting facts which indicate that a criminal offence has been committed and which aim to discover its perpetrator should be executed as part of criminal proceedings, be subject to the supervision of the public prosecutor, and, whenever possible and needed, they should be procedurally relevant to the subsequent stages of the proceedings. The aim is, above all, to create as much room as possible for the quick preparation of prerequisites for the decision on the commencement of criminal prosecution, and also for the search for potential proof which could be produced in court.⁷ Undoubtedly, both alterations significantly facilitate the work of the police force, which means, above all, the course of preparatory proceedings. The practice shows that they pose rather a problem for the deliberation of the court.

Furthermore, the experts emphasize that, in these cases, it is virtually impossible to ensure the presence of the witness in the judicial proceedings, because „she/he *de facto* disappears, and, as a result of the failure of evidence, the whole affair ends with a judgement of acquittal.“

prevention, of the destruction or loss of a proof, and with regard to the purpose of criminal proceedings, cannot be postponed until criminal prosecution is commenced. An unrepeatable act is such act which it will not be possible to execute in court. In the report on the execution of an exigent or unrepeatable act, it must always be stated on the basis of what facts the act was considered exigent or unrepeatable.

⁷ Šámal, P., Král, V., Baxa, J., Púry, F.: *Trestní řád, komentář [Criminal Procedure Code, A Commentary]*, 4th edition, C. H. Beck 2002

Recommendations from the experts

The experts agree in recommending a return to the original legal provision which made it possible to **assemble evidence even before the commencement of the criminal prosecution against a specific person (the so-called commencement of an action)** and to utilize this evidence in the proceedings.

It is demanded that, after the commencement of criminal prosecution, **the „operational“ findings of the preliminary proceedings should be made procedural.**

Some experts suggest **introducing a sort of „protective arrest“ of the witness** in order to ensure his or her presence, testimony, and protection against the influence and threats from the offender etc.

Some experts suggest that securing **„the presence of the witness who incriminates the accused“** should be delegated **„to the plaintiff“, i.e. the Public Prosecutor’s Department**, which should be given the required competence and authority.

An extreme solution might be **introducing the duty for the investigative, prosecuting and adjudicating bodies to carry out, in the case of this type of crime, the initial interrogations of witnesses (in the stage before the commencement of criminal prosecution) in the form of exigent acts**, or in the procedural way, i.e. as the examination of a witness.

Furthermore, some experts pointed out the **shortcomings of a number of provisions of the Criminal Procedure Code**, which cause practical difficulties for them. They include:

Issuing preliminary consent to the detention of a suspected person (§ 76 of the Criminal Procedure Code), without which the residence, other premises and land cannot be entered, as it is, according to § 83c Para. 2 of the Criminal Procedure Code, in the cases of issuing an arrest warrant or, an order to bring a person before court or, an order to commit a convict to prison.

The absence of a legal opportunity to use interception and recordings of a communication device without a judicial order or, more precisely, with a post facto order (this relates to the provision of § 88 Para. 2 of the Criminal Procedure Code – the need to react immediately to an operational situation). If this order were not obtained post facto, it would be a statutory duty to

immediately end the interception and recording and destroy the recordings registered so far.

Non-criminal legislation

1. Nevertheless, the problems of trafficking in persons do not concern only criminal law, but they are related to a number of other branches of the law, especially in the cases of foreign nationals trafficked to the Czech Republic. The experts point out the inability or unwillingness of the public authorities to secure an appropriate legal standing and material backup for the victims – „for the necessary time“. „Necessary time“ means not only the time when the victim acts as a witness in a judicial trial, but also the aftermath of the legal proceedings. In this sense, the problems of trafficking in persons (in women) are related to the Immigration and Aliens Law, Social Security Law, the regulations governing the provision of healthcare, etc. It has been also pointed out that these branches of law lack appropriate rules which would reflect the situation and standing of aggrieved persons.

Recommendations from the experts

If the person involved is a non-Czech citizen, it is necessary to secure the necessary care for him or her, with a view to enabling him or her to return to his or her country of residence.

In exceptional cases, if there are strong reasons and if certain fixed conditions are fulfilled, the opportunity of permanent residence in the Czech Republic or in another country should be secured for such a person. A strong reason would be, above all, the threat of imperilling his or her life and health in the country of residence, be it from the side of the offenders or their accomplices, or because of another danger resulting from religious or other customs. However, it would always have to be verified whether the person in question really faces such a danger.

2. Another, very serious shortcoming is said to be the absence of a legislative framework on prostitution in the Czech legal system. Prostitution is always closely linked to trafficking in women, because it is one of the most frequent purposes of trafficking, not only across the borders, but also within one country. Prostitution is not a criminal offence, but, at present, it is not regulated in any way, although (or perhaps because) it is a socio-pathological

phenomenon⁸ which is related to a number of health, moral and criminal risks, and which, as historical experience shows, cannot be eradicated (the so-called abolitionist approach).

Recommendations from the experts

The interviewed experts suggest the „legalization“ of prostitution as the fundamental way of eliminating the most glaring problems of trafficking in women, in other words: **creating a set (legal) legislative framework for engaging in prostitution.** Within this regulation, the competence of the Czech Police Force and other bodies (such as the Trade Licence Office) must be clearly delimited, and their competence must be rigorously implemented, particularly regarding the permanent control of compliance with legal rules, the conditions of the licence, etc. According to the opinions of some experts, if the various „operators“ of brothels and street prostitution had to carry on their business exclusively on the basis of a „trade licence“, and to respect, with regard to this, the relevant restrictions, such as the compulsory registration of prostitutes, compulsory medical examinations, and compliance with the tax liability, it would mean restricting human trafficking, because the „final customer“ would disappear in the Czech Republic. Although this problem has been discussed for several years by the legislature, the political will and courage to solve it has so far been lacking.

3. In general, most of the experts agree that the fundamental shortcoming of the legal regulation (not only in the area of trafficking in women) is its minimal inter-connection and its incompleteness. They mention the lack of overall inter-connection between the Criminal Procedure Code and other relevant laws. Some experts assess the legal regulation as unclear and inconsistent with regard to the degree of elaboration of the various provisions pertaining to organised crime in general; they say it does not flexibly react to „the development of organised crime on the global scale and its genesis in the Czech Republic“.

⁸ *The term prostitution refers to paid sexual service with another person or other persons; sexual service, in this sense, refers to any kind of gratifying the sexual instinct using the body of another person of any sex; this term is broader than coitus. Šámal, P., Púry, F., Rizman, S.: Trestní zákon, komentář [Penal Code, A Commentary], 5th edition, C. H. Beck 2003.*

7.2 Shortcomings in the implementation

Some of the interviewed experts criticize judges and their decision-making. According to their opinion the judges tend to be perceived as not very upright and credible persons who often sympathize more with the offenders than with the needs of the victims.

Judicial decision-making is often the centre of attention of these experts; we might even say a thorn in their flesh. The experts point out the insufficient willingness of judges to mete out just sentences to perpetrators. According to their opinion, judges usually impose **mild or the mildest sentences**, „so that the case would not return to them“. In other words, if an appeal is lodged, the reason is usually a violation of the rules of procedure, which are, in fact, usually broken; thus, through mild sentences, judges would try to „buy themselves out“ of the potential duty to further deal with the case (the appeal is not lodged, or the court of higher instance does not remand the case to them for further solving; the victim’s right of appeal being very limited). Some of the experts see this as a kind of trade. The failure to use the full severity of sentences is perceived, above all, as a moral and ethical problem. Moreover, it is stressed that there is no system of public control over judges and that there are few possibilities of changing the *status quo*.

On the level of judicial decision-making, the specific problem is the failure to use some provisions of the Criminal Code and the Criminal Procedure Code, particularly those that regulate imposing sentences. They include:

the general failure to use stricter sentences,

in the case of organised groups of offenders, inadequate sentences are passed (such as financial penalty), although, in these cases, the law makes it possible to impose a stricter sentence (the criminal offence committed for the benefit of a criminal conspiracy, § 43, § 44 of the Criminal Code and § 88/2 of the Criminal Code),

in the case of this crime, the courts **do not use the sentence of** (§ 51 of the Penal Code), although the proceeds from this type of crime are huge,

the provision of the Criminal Code which sanctions participation in a criminal conspiracy (§ 163a of the Criminal Code) is not consistently applied.

Recommendations from the experts

According to the experts, **the sentence should be predominantly reformatory, strictly individualized, and it should discourage the offenders from further committing a crime.**

The need has been emphasized to **particularly enhance the public control over the work and decision-making of the individual judges**, while retaining their independence.

7.3 Strengths and shortcomings of criminal investigation

The experts comment upon the issues of the investigation strategy from different viewpoints depending on their position in the justice.

The experts believe that the political will is absolutely crucial in any strategy on the fight against organised crime; a clear and convincing statement from the political representatives that they understand the danger of organised crime and that they are decided to combat it with all available means is essential. The political representatives must persuade the public of these attitudes, especially by proposing and, above all, enacting the necessary legislative measures, and accepting the fact that financial means must be provided. In practice, this has not yet taken place, and, according to the experts, the overall attitude of the political representatives on this issue is at the least unclear.

The way and scope of financing the activities is a long-term problem. The specialized units of the Czech Police have been understaffed for a long time, their staff is in want of stability, and their equipment in terms of computer and communication technology, means of transport, outfits and weaponry is insufficient. There has been a long-term lack of financial means for meetings with foreign partners, although one of the hallmarks of trafficking in persons (and of organised crime in general) is the international component. In addition, the various sectors of the public administration have not yet been effectively linked, in such a way that their policies on the fight against organised crime be systematically interconnected and mutually complementary.

The investigation of cases of organised crime in general is a highly specialized activity, and the experts propose selecting a certain number of public prosecutors, who would

permanently specialize in the problems of organised crime as a whole, or in the various types of crime in accordance with the structure of the Unit for the Detection of Organised Crime.

Recommendations from the experts

In the cases of investigation of organised crime, it is necessary to **specifically delimit the subject-matter jurisdiction of the public prosecutors, and to delegate it, from the start, to regional (municipal) public prosecutors**, because district public prosecutors are very busy, and there are not suitable conditions for the selection and specialization of public prosecutors.

Furthermore, the experts recommend to accept the general fact that the bodies specializing in the fight against organised crime (or human trafficking) must have more human and equipment resources than they have at present, receive more training, and, consequently, also more finance. At the same time, the necessary legislative steps should be taken.

The most serious shortcoming is said to be the way of judicial decision-making and the insufficient use of the opportunities provided by the law (see above). A grave fault is seen in the fact that the Czech legal order lacks „a way of construing the law which would be binding for the decision-making of individual judges. In the legislation of the Czech Republic, the binding effect of two kinds of construction can be said to exist – authentic, and this only if its binding effect is expressly declared by the legislator (such as the provisions of § 88 to § 90 of the Criminal Code), and judicial, and this only in connection with remedial measures (such as appeals, complaints, etc.)“. However, this seems totally inconvenient for harmonizing the practice. According to the experts' opinions, this state of affairs results in a disproportionate increase in the costs of criminal proceedings and a prolongation of the preparatory proceedings.

Recommendations

This situation could be solved by **reassessing the binding effect of the jurisprudence of the Supreme Court**. This seems to be the most suitable way of harmonizing legal practice.

Judges have repeatedly pointed out the impossibility to use the acts executed by the police before the commencement of criminal prosecution. This does not concern only witness testimonies (or explanations), but, above all, other acts of the so-called operational component (§ 158 and following of the Criminal Procedure Code). It is necessary „to map out precisely the links and relations between the various entities – persons, companies, as well as their material backup (the specification of real property, vehicles, flows of finance, sometimes including the account numbers). For this purpose, it is necessary, after the commencement of criminal prosecution, to make ‘operational’ findings from the preliminary proceedings procedural“. In the opposite case, in the absence of these findings, it is very difficult to prove the guilt of individual offenders in the judicial proceedings. Consequently, guilt is proved by circumstantial evidence, such as relations with other persons, reasons of contacts etc., which makes the evidence situation considerably more difficult, as well as, of course, the conviction of the perpetrator.

On the other hand, the amendment of the Criminal Procedure Code implemented by the Act No 265/2001, effective since 1 Jan 2002, is seen (particularly by police officers) as a very positive change. The greatest benefits are said to be the abolition of the institute of the investigator, the enhancement of the role of the public prosecutor in the preliminary proceedings, and the incorporation of operational means of searching into the Criminal Procedure Code, and thus into the criminal proceedings as such. A further strength of the fight against human trafficking is said to be the appreciation of the role of prevention in combating this crime, its delegation also at the regional level, the involvement of private entities in financing various projects, and broadening the cooperation with NGOs and international organisations.

International co-operation and prevention

In connection with investigation and operational work of police bodies, judges point out the **very weak and non-functional international co-operation in this area**. They call the cooperation awkward, scarcely flexible and too slow. Moreover, some of the experts point out the **meagre cooperation** (in some areas) **on the part of non-governmental organisations** which look after trafficked women.

Some experts mention the **insufficient attention paid to prevention**. They stress the need for a more consistent monitoring of, for example, the advertisements enticing the women to foreign territory, the purpose of the journeys abroad of some persons, especially those who

might be potential victims of trafficking into foreign territories; as well as the necessity of improving international cooperation in this area, at least within the European Union. More attention must be paid to the issuance of work permits and residence permits to persons from high-risk countries and high-risk age groups.

Misuse of the shortcomings of the fight against trafficking in women by offenders

All the shortcomings which the experts pointed out in their comments on the problems of the fight against human trafficking and their solving in the Czech Republic are very skilfully misused by the perpetrators of this crime. Primarily, they make use of the gaps in the legislation. One of the basic prerequisites is the above-mentioned incompleteness, lack of inter-connectedness and lack of clarity. In this context, the experts speak about the possibilities of influencing the judicial trial by putting pressure on victims – witnesses and other persons; the more callous criminals even threaten the judges themselves.

Because of the lack of clarity and, above all, the lack of inter-connectedness of the legal regulation, its application is clumsy, the law is difficult to enforce, the severity of sentences and other sanctions does not correspond to the seriousness of unlawful conduct. The overall lack of clarity of legal rules is increased by the „absolutely enormous and senseless number of normative acts (subordinate rules, internal regulations, guidelines, bylaws and directives).“

Another weakness of the present official approach to the fight against trafficking in persons for sexual purpose is the so-called **abolitionist approach to the problem of prostitution**. From the three possible approaches (conservative, liberal and abolitionist), the experts see the abolitionist one as the least fortunate, and as the one which is most frequently misused by the perpetrators of this crime. Although, according to the experts' statements, not a single licence permitting the provision of any kind of sexual services has been issued since 1993, nightclubs which offer sexual services advertise in various kinds of publications, in the public media and in public places. It is obvious that prostitution is carried on in these establishments and that their owners exploit prostitution (they undoubtedly commit, „at the very minimum,, the criminal offence of procuring according to § 204 of the Criminal Code, the difference being merely in the way they demand their portion of the profits from prostitutes). However, these establishments are registered with the relevant authorities as inns, restaurants or accommodation facilities, and, in spite of all these facts, they are virtually beyond the scope of interest of the administrative or local authorities.

According to the experts, the following aspects of the area of immigration are most frequently misused: the system of residence permits, the procedure of issuing visas, the control of compliance with the conditions of residence of foreigners on Czech territory; and the severity of sentences for the criminal offence of unlawful crossing of the border is virtually negligible.

The role of the witness

Witness testimonies of the offended are absolutely essential means of proof. In the case of the criminal offence of trafficking in persons, they tend to be the crucial and often the only incriminating evidence in the criminal proceedings against the perpetrator. Without them, it is impossible to prove the guilt of the perpetrator. All the experts without exception agreed on this.

During the investigation of the criminal offence of trafficking in persons, a serious problem arises concerning the motivation of the victims of trafficking to cooperate with investigative, prosecuting and adjudicating bodies, and, above all, to act as witnesses in court. In many cases, according to repeated opinions of the experts, „the women victims of trafficking very quickly identify with their social role of prostitutes, thus de facto establishing themselves in the criminal environment where they are present at the moment.“ These women see any intervention of the police as an attack of the state authority against their way of life, and they refuse to act as witnesses. The customary means of enforcing the witness's testimony according to the Criminal Procedure Code (such as the imposition of a procedural fine) have usually no effect whatsoever in these cases.

Recommendations from the experts

It is necessary, above all, to enhance the victims' motivation and secure their protection. These persons must be given **a feeling of security, and guarantees that their statement will not put them in danger** of revenge from the offenders or other risks connected with their testimony in the process. Furthermore, this protection must include the necessary economic support.

The Criminal Procedure Code contains provisions regulating the possibilities of victim protection. According to the experts, these provisions are frequently applied in the cases of human trafficking. They include, above all, the possibility of concealment of the appearance

and particulars of such persons who (or whose close friends and relatives), according to the discovered facts, are probably in danger of bodily harm or other serious infringement of their fundamental rights in connection with giving testimony. Witnesses are granted this protection on condition that it cannot be secured in any other reliable way (§ 55 Para. 2 of the Criminal Procedure Code).

However, whenever legal instruments fail, room opens for informal ways of working with these witnesses, such as the **activities of various „non-governmental humanitarian organisations“**. It is necessary further to develop and improve the coordination of all the parties involved. Therefore a suitable form of this cooperation must be chosen and, at least partially, institutionalized, in order to secure the legal certainty of all the parties involved.

In this context, the experts mention the so-called Model of Assistance to the Victims of Trafficking in Persons, which is at present (since the autumn 2003) being introduced in the Czech Republic; its guarantor is the Crime Prevention Section of the Czech Ministry of the Interior.

8. The experience of intergovernmental and non-governmental organisations on trafficking in women

The collection of information from intergovernmental and non-governmental organisations gave them the opportunity to express their opinions and needs as to how to improve the present practice, and what realistic goals should be adopted for the future. „The general purpose of this project is to help Czech governmental institutions to improve their response to trafficking in women, special attention being paid to the criminal justice sector, the fight against organised crime groups, and the human rights of the victims.“ The aim of the survey was to gain an overview of the profile of victims, the collaboration of governmental institutions, IGOs and NGOs and the quality of their cooperation, and also to listen to the proposals from the organisation experts.

Within the project, 8 questionnaires were completed. The respondents were representatives of various branches of the following organisations: Czech Catholic Caritas, IOM, La Strada. The respondents (all of them were females) who filled in the questionnaires include a head of the mission, a chairperson, a manager of a project or a manager of prevention, a coordinator of assistance to victims etc. We can consider their responses to be qualified, informed, and also, to some extent, detached and generalised.

Information on the organisation

The organisations involved have worked in the Czech Republic for between 6 and 9 years; their mandate includes organisation and coordination of activities, assistance and support to the victims of trafficking and of other crimes, and general assistance to people in need. They are beneficiary associations, IOM is an intergovernmental organisation. All of them are based in the Czech Republic. The Czech Catholic Caritas, with its 2,500 employees nationwide, is the largest of them; the other organisations have around 20 employees. They frequently cooperate with volunteers.

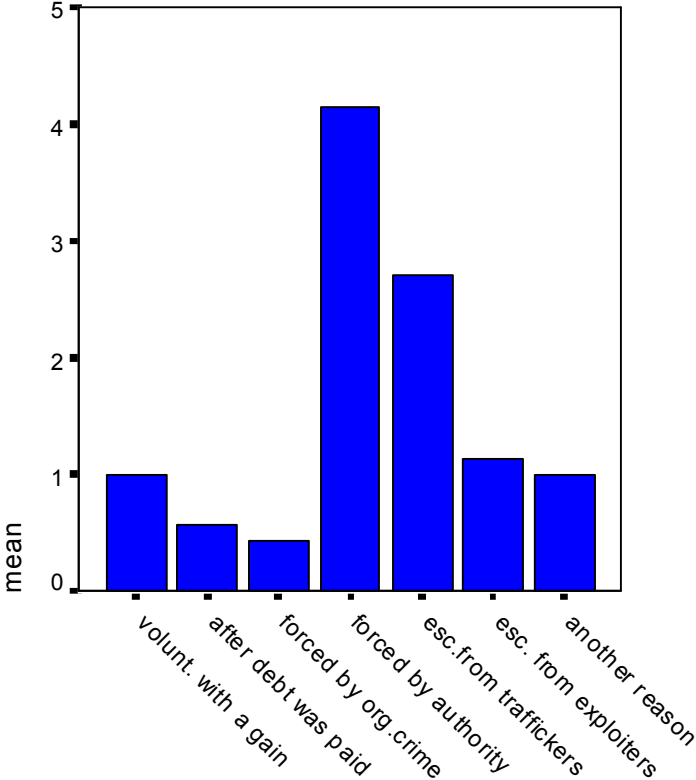
Each organisation is in touch with some 100 victims yearly. The number of contacts with each victim (client) varies; normally, the client is in touch with the organisation for between 1 and 6 months. The majority of clients are adult females from Eastern European countries, exceptionally from other countries; only IOM works with adult males on a larger scale. The number of trafficked males has tended to grow over the last few years, and it is

related to forced labour, not to prostitution. The number of Czech citizens is much lower than the number of foreigners.

The various organisations often refer their clients to other entities, such as governmental institutions, which can offer the victims further services that lay within their authority (such as the issue of documents). They are also involved in the prevention of human trafficking – they organise awareness-raising campaigns (lectures in schools, publication of materials and dissemination of leaflets), they operate information and so-called SOS lines, cooperate with the media and participate in the training of experts.

Return and assistance to victims

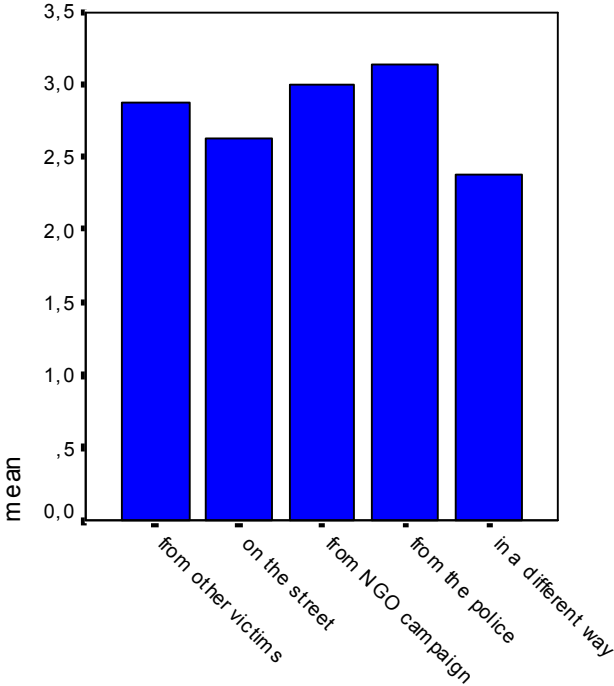
Chart 8.1 Why victims return to the Czech Republic



Czech victims of trafficking return to the Czech Republic predominantly because they were officially expelled from their destination country. A successful escape from traffickers or exploiters is less frequent, and the number of women who managed to earn a sufficient amount of money and return voluntarily is negligible.

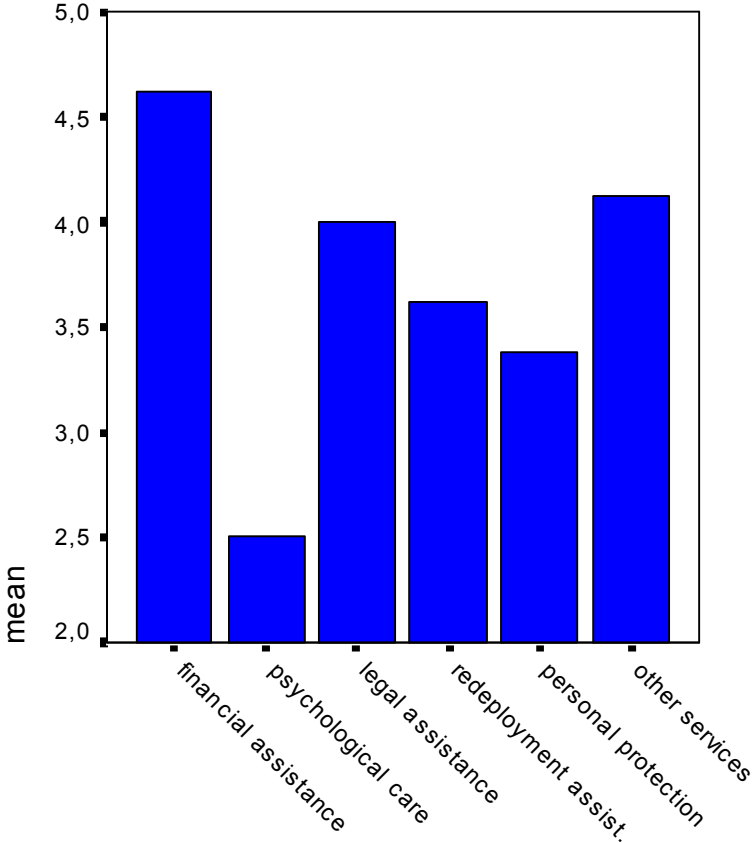
Victims usually learn about organisations' services from the police, or from the awareness campaigns of NGOs; frequently also from other victims or directly on the street. We can say that the awareness of the existence of organisations which can be approached is quite high among victims, and that, therefore, approaching these organisations by victims is often the matter of a practical opportunity.

Chart 8.2 How victims learn about the services provided



Among the services provided by the organisations, the victims need, most frequently, financial and legal assistance, and also help of another specific kind, such as help in pregnancy, and care of children (including placing the child in foster care). Psychological care is in least demand.

Chart 8.3 Which services are sought out by victims most frequently



Not infrequently, human trafficking endangers the life of the victim. In such a case, the victim feels most strongly that she will be protected if a safe refuge is provided (which is often connected with a transfer to another area), and also relevant legal assistance. As a service needed to achieve the feeling of security, the acquisition of a new identity is mentioned less frequently. In this kind of personal situation, however, victims demand psychological and psychotherapeutic care very often.

From the range of services which the victim primarily needs in her first steps to create, for herself, a new and secure way of life, the various organisations can offer her, at present, only a certain portion, and even this does not lack problems. The respondents mention that their organisations can offer some limited services – for instance, financial assistance to foreigners returning from the Czech Republic to their country of origin. According to their statements, other organisations cannot afford to offer this service, or it is not possible for them (probably not even in coordination with organisations in the country of origin) to guarantee a safe refuge to their clients after their return to their native land. On the whole, respondents from the participating organisations expressed the opinion that they would need (within the bounds of their mandate) more adequate opportunities to provide for their clients financially.

However, from the point of view of the respondents, the provision of services by *governmental institutions* is not wholly adequate either. One of the most frequently mentioned matters is the protection of those victims of trafficking who decide to testify in court. This is also related to the fact that, in the course of police investigation, the approach to the victim is not always sufficiently sensitive, especially with regard to the fact that the victim was often badly traumatized. In addition, the police are not obliged to inform the victim of possible assistance from the organisations. According to the respondents, the legal status of foreign victims is also unsatisfactory; usually, their residence in the Czech Republic is insufficiently legalized. They also say that the present Czech legislation does not reflect trafficking for other purposes than prostitution, and trafficking within the Czech Republic.

The services which are, at present, provided for the victims of trafficking in the Czech Republic are assessed as good to adequate (if provided by IGOs and NGOs) and adequate to bad (if provided by governmental institutions). The following are assessed as good: the financing of services provided by the organisations from the resources of the Czech Ministry of Labour and Social Affairs, complex psychosocial and advisory services provided by La Strada, and the cooperation with the Unit for the Detection of Organised Crime (of the Czech Police Force) in the mediation for assistance to the victims of trafficking.

As new and desirable methods of victim protection and ways of improving and optimizing the present services, the respondents from the participating organisations list, above all, formalizing the relationship between them (e.g. La Strada) and the Czech Police Force with regard to the mediation of contacts with victims and provision of assistance. In addition, it would be useful if the institute of witness protection could be applied also to the victims of human trafficking, and if the victims of trafficking could be given a short-term temporary residence permit for the Czech Republic; in this way, a victim of this crime would obtain temporary protection, and s/he would also be entitled to free health care. The acquisition of such a visa should not be conditional on cooperation with the investigative, prosecuting and judicial bodies.

Other recommendations include:

- the need to clarify legislation
- instead of ostracizing tolerance, to formulate clear rules
- to systematically search for traffickers and mete out harsh sentences to them

- to severely prosecute corruption among public officers (see the border areas where the cooperation between procurers, taxi drivers and police officers is publicly visible, but, evidently, no one minds)
- to give financial support to organisations programmes of victim assistance
- to finance and organise national campaigns against trafficking and forced prostitution, to influence public opinion
- to investigate the causes of the demand for sexual services.

Coordination between IGOs, NGOs and governmental agencies

At present, the coordination of activities of these two groups of entities in the protection and assistance of victims of human trafficking is assessed as mediocre, or even as minimal, rarely as good. The organisations regularly cooperate with the social sections of municipal authorities, employment agencies, medical personnel, the police, and also with units of the Ministry of Labour and Social Affairs.

The mutual coordination between the various IGOs and NGOs in preventive activities is assessed more favourably – IOM, La Strada and Caritas collaborate on a good (or satisfactory) level; as for possible improvements, they suggest, above all, setting up a good system of prevention.

9. Survey on the victims' experience

The questionnaire for victims of organised trafficking in women focused on obtaining empirical data and information on human trafficking in the Czech Republic, and from the Czech Republic to several destination countries. The aim of the survey was to acquire, through interviewing the victim as the most valuable source of information, an overview of the ways, trends, routes and methods of recruitment, and the experiences of trafficking in women abroad.

10 questionnaires were completed as part of the project. The respondents (all females), victims of trafficking, were interviewed by workers of the NGO La Strada.

Demographic data

Most of the victims come either from the Czech or from the Slovak Republic; if they are foreigners, they come, as expected, from the so-called „near foreign countries“: Byelorussia and Ukraine (with one exception when the victim was trafficked to the Czech Republic from as far as Vietnam).

The age of the victims ranges from 20 to 28 years; only one Ukrainian woman is considerably older (37 years).

Three of the women completed primary school (including the Vietnamese), 2 attended but did not complete a secondary school, others attended secondary vocational schools, and 1 Slovak woman even passed the school-leaving examination (*maturita*).

When they left their native country, two of the women were married and each of them had two children, other two women were divorced (including the Vietnamese, who had 1 child), the others were single.

At present (when completing the questionnaire), the changes in their marital status are as follows: one married woman has filed a petition for divorce, one has given birth to a child, the Slovak woman who had 2 children when she left her native country has a new boyfriend and she is expecting his child. The marital status of the other women has not changed. In their answers, three women said that they could not look after themselves or anyone else; the other women stated that they did not lack this ability.

Before the departure abroad, a half of the women were jobless, one engaged in prostitution, women from Ukraine and Vietnam were workers, and another Ukrainian woman

was a teacher. In the time of the interview, all of them were jobless, except for two women who were on maternity leave.

Most of them went abroad to look for a job once, twice or thrice, a woman from Ukraine four times (as the only one, she kept her family, and, as the only one, she worked abroad as a worker, too), and a woman from the Czech Republic even said that she had left the country ten times.

See the table 9.1 for details.

Table 9.1

Respondent	Country of origin	Age	Original occupation	Present occupation
1	Ukraine	37	unemployed	unemployed
2	Ukraine	23	teacher	unemployed
3	Czech Republic	21	prostitution	maternity leave
4	Vietnam	26	worker	unemployed
5	Slovakia	24	unemployed	maternity leave
6	Czech Republic	23	maternity leave	unemployed
7	Byelorussia	28	unemployed	unemployed
8	Ukraine	27	worker	unemployed
9	Czech Republic	28	unemployed	unemployed
10	Slovakia	20	unemployed	unemployed

As for the destination countries, a wholly predictable trend can be discerned: Czech women travel further westwards (predominantly to Germany, Belgium and the Netherlands); Slovak women are trafficked first to the Czech Republic, then, sometimes, westwards; women from Eastern Europe and Asia are trafficked to the Czech Republic.

When the victims first left their native country, their age ranged from 20 to 26 years. The duration of their sojourn abroad was between 2 months and three years (in the case of a Ukrainian woman).

Expectations, plans

Almost all respondents agreed in stating that they had left their country in search of a „better life“. This idea proved to be not very differentiated, vague. The Vietnamese woman specified that she had been compelled to decide to look for a job elsewhere by the tough living

conditions in her native country. A Slovak woman admitted that she had had no reasons and that she had been forced to leave her country. She gave no further explanation.

The women's expectations concentrated on their wish to find a good job, a new family, in some cases even „a fortune“. They feared the same things, too: the strange environment and they were afraid of the intermediary. They usually expected that they would work as waitresses, cooks, dancers, barmaids or workers abroad. 8 women out of 10 knew that some women had fallen victim to criminal trafficking. A woman who was trafficked to Italy was convinced that prostitution was forbidden in Italy, and that, therefore, she was in no such danger.

Identity papers

In general, women from the Czech Republic and Slovakia left the country using their passport and did not need a visa, whereas women from the East and Asia did need a visa for travelling. The women (including the foreigners) stated that their papers were authentic. The only exception was the Ukrainian worker who, from the start, knew that she would work – and she did work (in slave conditions, as a labourer); she arrived using a work visa whose authenticity she was not sure of. Really illegal papers were used only by the Vietnamese woman, who paid 6,000 US\$ for them, and the Byelorussian woman, who, according to her testimony, was issued a counterfeit passport bearing the name of another person of Lithuanian nationality (experience shows that Czech authorities are more benevolent towards citizens of the Baltic republics than to the citizens of Russia, Ukraine and Byelorussia), for which she paid 300 Euro. The Ukrainian worker paid 4,000 CZK for her work visa.

The travel documents of eight women out of ten were seized en route to the destination countries. None of them could get them back.

Methods of recruitment/ Costs and debts

When asked whether they had been abducted or left their country voluntarily, all women answered „voluntarily,“; but 7 of them stated that they had been deceived.

The main geographical areas where the women were recruited from were, above all, border localities. This may be connected with the lower rate of employment in those regions, as well as with the higher demand for paid sexual services, and with the easier and less costly way of transporting the victim.

The question „Who recruited you?“ suggests all the possible varieties of answers. This may be an acquaintance, a friend, a member of the family, a job agency, an unknown person who approached the victim at a tram stop, a group of people headed by the so-called „client“ (s/he mediates jobs for foreign workers whose wages s/he then, to a large extent, appropriates; a kind of procurer outside the environment of prostitution), and, finally, a person who had been the object of human trafficking before.

Most of the women were sought out by a recruiter (the swingeing majority of answers); it may be said that they fell victim to human trafficking as soon as the recruiter contacted them. One of the women got in touch with the recruiter through an advert; three women were approached directly on the street, on the spot where they usually offered sexual services; two women were contacted in nightclubs and bars. In the case of the other women, the contact was mediated by acquaintances, and, in one case (of the Ukrainian who worked as a labourer), the recruiter was contacted by a member of the family.

With two exceptions, the women said they had not realised they would incur the danger of exploitation, forced labour or prostitution.

Half of the women contracted a debt with the recruiter (from 4,000 CZK for the Ukrainian's work permit to 1,000 DM which another Ukrainian had to pay for her papers). The time for the repayment of the debt ranged from 1 month (1,000 DM) to an indefinite period (according to the testimony of a Czech victim). Except for one woman, all of them paid off their debts; the money was received either by the owner of the club, or by the recruiter in person, or by the so-called agency.

One of the women admitted that if she had not paid off her debt, she would have put herself in danger of physical violence; the other women did not comment on this. One Czech woman although she allegedly paid off her debt, had to work on under threats, and received only a quarter of her wages. The Vietnamese woman was apprehended by the police; the other women gave no answer to the question what had happened after they had paid off their debt.

Routes and experience en route

En route to the destination countries, all means of transport seem to have been used: a private car, a bus, a train, a plane, hitchhiking and going on foot (the Vietnamese woman stated that they had gone on foot from Moscow to Prague). Border crossing-points are used to enter foreign territory; the length of the journey ranges from several hours (from the

Czech Republic to Germany, the Netherlands etc.) to several months if distant countries are involved.

Of course, the time spent by the women en route cannot be unified; it differs from case to case. Sometimes they travel almost without stopping, uninterruptedly; in other cases, as a woman from Slovakia stated, they stopped in every country. As an illustration, let us cite her testimony: 1 week in Znojmo, 1 month in Cheb, and several days were spent in Prague. After that, in Germany, she spent 1 month in Berlin, 1 month in Hamburg, 2 weeks in Dortmund and 8 and half months in Frankfurt am Main. Most frequently, the women travelled abroad with procurers – recruiters (5 women), or with the organisers of the journey (1 person). Four women left the country together with other persons recruited by the same „agency“.

After the women left the Czech Republic, they were joined by other persons only in two cases: a Slovak woman talks about 1 person, another Slovak mentions even up to 10 persons. More than a half of the women were not exposed to physically dangerous situations en route; the older woman from Slovakia said that she had been in danger of violence under the influence of toxic substances; the remaining 3 women (the Vietnamese and two Slovaks) said that they had been in immediate danger of hunger, dehydration, they had been controlled incessantly, and physical violence had been used against them. None of the 10 women had realised what danger would await her en route.

In half of the cases, the women, before their arrival in the destination country, were held captive in safe houses where their passports were seized. The majority of the respondents travelled mostly at night; during the day, they slept in boarding-houses. Seven women out of ten said that they had never been allowed to leave the buildings they had stayed in unaccompanied; they were guarded by recruiters as well as by other persons. The prohibition to leave the building was in force even if no one guarded them; but there was an „oral warning“ (the testimony of a Czech woman). A Slovak woman even said that they had been locked in the building all the time. Sadly, it goes without saying that the women were denied (or it was at least restricted) the freedom of movement, the possibility to communicate with others including by writing and phoning.

Lying, coercion and exploitation

Apart from intimidation, lying and coercion are time-tested methods of controlling another person and forcing him or her to do something s/he would never consent to do voluntarily. Lying is usually the first step, a kind of „gateway“ into the world of injustice and

violence. From the very start, all the victims of trafficking involved in our research were exposed to unrestrained, total lying: about the nature of work, about working and living conditions in the destination country, about the immigration regulations in the destination country, and sometimes even about the destination country. It seems that the original promises were kept only with regard to the means of transport. They were promised work in bars, restaurants, industry (to the women from Ukraine and Vietnam) and households, the work of a hostess in a bar and of a dancer, never came true. Apart from one of the Ukrainian women, who ended up in a sugar refinery, all the women were forced to work as prostitutes. In addition, one of them had to participate in another crime, too: the robbing of a driver. The woman from Byelorussia was forced to use drugs, and she handed over another 100 Euros to the police every month, as a bribe for the opportunity to stay in the Czech Republic illegally. The weekly wages were between 10,000 BF (Belgian Francs) (for street prostitution) and 3,000 CZK (work per week) and all the respondents had to hand over almost their whole wages to their procurer. Except for the Ukrainian working in the sugar refinery, none of them could send money home. All the women confessed that they had been exposed to coercion and real violence. The perpetrators of violence were traffickers in the Czech Republic as well as in the destination country (8 replies), furthermore „employers“ in the destination country (2 replies). Two women were incessantly exposed to all kinds of violence: from threats and detention to sexual violence. In two cases, the family was threatened, as well: in the one case, they threatened that if the woman did not fall into line, they would force her sister to do the same thing, announce the whole matter in her native village, and, on top of that, her parents would have to pay off the alleged debt. In the other case (one of the Slovak women), they systematically threatened to liquidate her two-year-old son. Because of her fear, she even denied to the police several times that she had been forced into prostitution (although she realised that it was the police who could set her free).

Involvement of organised crime

For the information on the number of persons who were directly involved in human trafficking and with whom the woman came into direct contact, see the following table.

Table 9.2 Number of persons involved

Respondent	Recruitment	Dealing with documents	Transport	Placement in the destination country
1	-	-	1 - 2 persons	3 - 5 persons
2	3 - 5 persons	1 - 2 persons	1 - 2 persons	1 - 2 persons
3	1 - 2 persons	1 - 2 persons	1 - 2 persons	-
4	1 - 2 persons	1 - 2 persons	1 - 2 persons	1 - 2 persons
5	1 - 2 persons	1 - 2 persons	1 - 2 persons	1 - 2 persons
6	1 - 2 persons	1 - 2 persons	1 - 2 persons	6 - 9 persons
7	1 - 2 persons	1 - 2 persons	1 - 2 persons	1 - 2 persons
8	1 - 2 persons	1 - 2 persons	1 - 2 persons	3 - 5 persons
9	1 - 2 persons	1 - 2 persons	1 - 2 persons	1 - 2 persons
10	1 - 2 persons	1 - 2 persons	3 - 5 persons	more than 10 persons

All the victims believed that the persons who took part in the various stages of human trafficking were in contact with each other.

The persons who trafficked and exploited the women were both Czech citizens and foreign nationals (Albanians, Russian and Ukrainian mafia, Vietnamese and Germans), depending on the victim's country of origin, and the country of destination she was transported to. The Albanian and Russian mafia are active outside their territory, too.

At work, eight women out of 10 were controlled with the help of the above-mentioned – and unchangeable – repertoire of methods: coercion, threats, violence, and control of movement. One of the women was raped repeatedly.

All the women were also redeployed and trafficked among clubs (even the Ukrainian who worked in the sugar refinery was redeployed to other establishments); 4 women were redeployed among criminal groups, too; in addition, 2 women were trafficked also among countries.

As for the information about other persons exploited by the same group of persons as the interviewed women, all but 3 confirmed that they personally knew about such people. The Ukrainian woman said that she knew about 30 persons; the other answers contained numbers from 4 to 15 people. One of the women did not know anything about people who met the

same fate as she did, but, on the other hand, she knew 2 families and about 20 procurers who pursued this trade.

The response of the police, the government and NGOs

To what extent do the law enforcement bodies in the Czech Republic monitor and regulate job agencies and travel agencies with a view to preventing recruitment for the purposes of human trafficking? Seven women answered that, according to their experience, employees of these institutions themselves cooperated with the mafia; 2 women believed that some monitoring did take place, but it was definitely insufficient.

Only 2 of the women approached a Czech embassy or consulate (or diplomatic corps in a given country) with their problems. In the one case, the Czech consulate in Germany acquired new papers, but did not provide financial assistance. In the other case, the Ukrainian consulate in the Czech Republic provided a ticket to Ukraine.

Only one woman approached the authorities in the destination country. The reasons why the women did not approach the authorities with their problems included: threats of violence (4), mistrust of government authorities (2) and the language barrier (1). According to the women, the cause of such „passivity“ had been fear of their life, or they did not know how to approach the authorities. Five women approached NGOs for help and they assess the cooperation as good. In two cases, these organisations offered assistance and support; in one case, concealed accommodation and social services; in the remaining two cases, they offered counselling and contacts. If the women did not approach associations and NGOs, it was only because they did not know how to do it; they did not have contacts. If they did learn of the possibility to approach NGOs, it was from an advertisement (1 answer) and from the police (2 answers). In the destination country, 6 of the women came into contact with the police; 4 of them were arrested. All the arrested women were accused of criminal offences: obstructing the execution of an official decision (1 answer), illegal immigration (2 answers) and illegal prostitution in Germany (1 answer). Only one person controlling one of the respondents was accused of a criminal offence (a recruiter from the Czech Republic), but she was soon released from custody. Eight women managed to escape from their employers: in one case, a male citizen of Turkish origin gave help by contacting the police and offering basic assistance. In another case, the police arrested the woman, thus setting her free at the same time; the remaining cases involved classic escapes.

Passive participation and corruption

When trying to facilitate the journey to the destination country, none of the victims encountered corrupt officials, only for two women – foreigners, a „client“ who had contact persons in the Czech Republic dealt with everything. One woman encountered a corrupt official when registering with the police in Písek (in the Czech Republic as her destination country).

Suggestions

All the women agreed that assistance to the victim, especially in the first stage after her return to so-called „normal life“, should be as comprehensive as possible: financial, psychological, legal, and protection from threats. The foreigners preferred a quick return to their native countries. The Czech victims demanded assistance in looking for a job and for accommodation, in some cases re-training.

As for the strategies employed by the law enforcement bodies against trafficking in persons and sexual exploitation, the respondents believe that the legislation is problematic, and they suspect the Czech police (especially in the high-risk areas) of being corrupt. They see the ineffectiveness of suppressing human trafficking in the fact that mild sentences are meted out to the offenders; in addition, the offended women themselves do not say anything, i.e. they are unwilling to cooperate with repressive bodies (one respondent thinks that maybe 1 girl out of 100 says something). According to the respondents' opinions, this ineffectiveness is further enhanced by the fact that investigation takes a long time. Two women think that prostitution should be banned and abolished.

The women's views of how trafficking in persons should be combated also agree. Apart from the above-mentioned suggestion to ban prostitution, they propose stricter sentences for the perpetrators, better technological equipment for the police, and better treatment of victims of these criminal offences. According to their opinion, the perpetrators should be taken into custody straightaway, because they influence and bribe witnesses. Furthermore, the respondents suggest that the police should control the streets and in bars more; in this way, the prostitutes' earnings would diminish, and so would the procurers' proceeds.

The victims' opinions and ideas about how human trafficking could be prevented and which means of awareness could be more effective are an extremely important source of information, and they have a high informative value. Most of the victims mention the

necessity of screening agencies which offer work abroad. Furthermore, they think it is necessary to inform the public about the whole issue, and to keep highlighting the risks connected with working abroad, especially through documentaries on television and on the radio.

10. The experience of the Embassies

A significant dimension of trafficking in persons is the movement of persons from the countries where the victims are recruited to the destination countries and back. This movement, in itself, can be legal or illegal, it can have various forms and take place in different ways and through different routes. Research was aimed also at obtaining facts and information on trafficking in Czech citizens, and, possibly, on the involvement of organised crime groups in this activity, from Czech embassies abroad. The reason was the fact that victims of trafficking, when in need, often approach the diplomatic corps of their country abroad, or the embassies are contacted by the police or other authorities in connection with (often illegal) sojourns of their citizens.

Direct experience of the employees of embassies, if they come into such contact with the victims of trafficking, is therefore very valuable. „The aim of the survey is to gain an overview of the specific data obtained on the basis of concrete cases, experience or criminal information about the smuggling of immigrants and trafficking in persons abroad; of empirical data identifying the routes of human trafficking, methods of recruiting and exploiting persons; and of the developing trends and the involvement of organised groups in trafficking in persons from the Czech Republic and their subsequent exploitation in the destination countries.“ The project explicitly named 4 countries: Germany, Austria, the Netherlands and Finland.

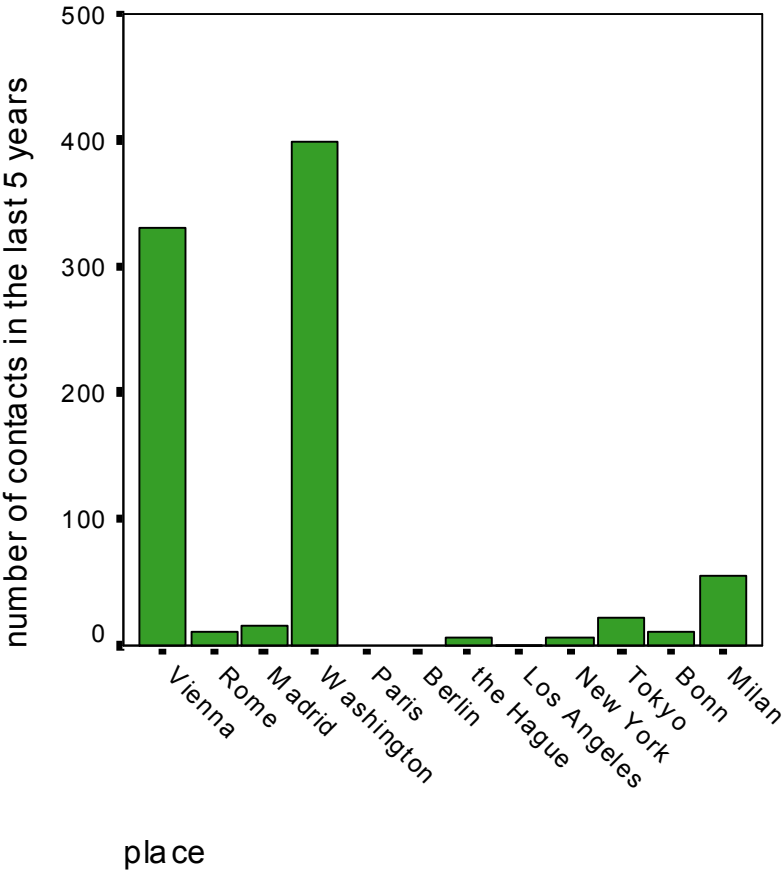
Via the Ministry of Foreign Affairs of the Czech Republic, 12 fully completed questionnaires from Czech embassies in 8 countries were obtained.¹ Most of the respondents held posts of consuls or heads of consular sections; therefore they were, again, well-informed and competent persons.

General data

Over the last 5 years (or in the last year), individual embassies have been contacted by a varying number of Czech victims of trafficking and smuggling (or the local police have informed them of such cases). Over the last five years, the highest numbers of contacts have taken place at the embassies in Washington (around 400) and Vienna (roughly 330). In comparison with that, the overall figure for Italy, which the public opinion tends to see as a destination country, was unexpectedly low (65).

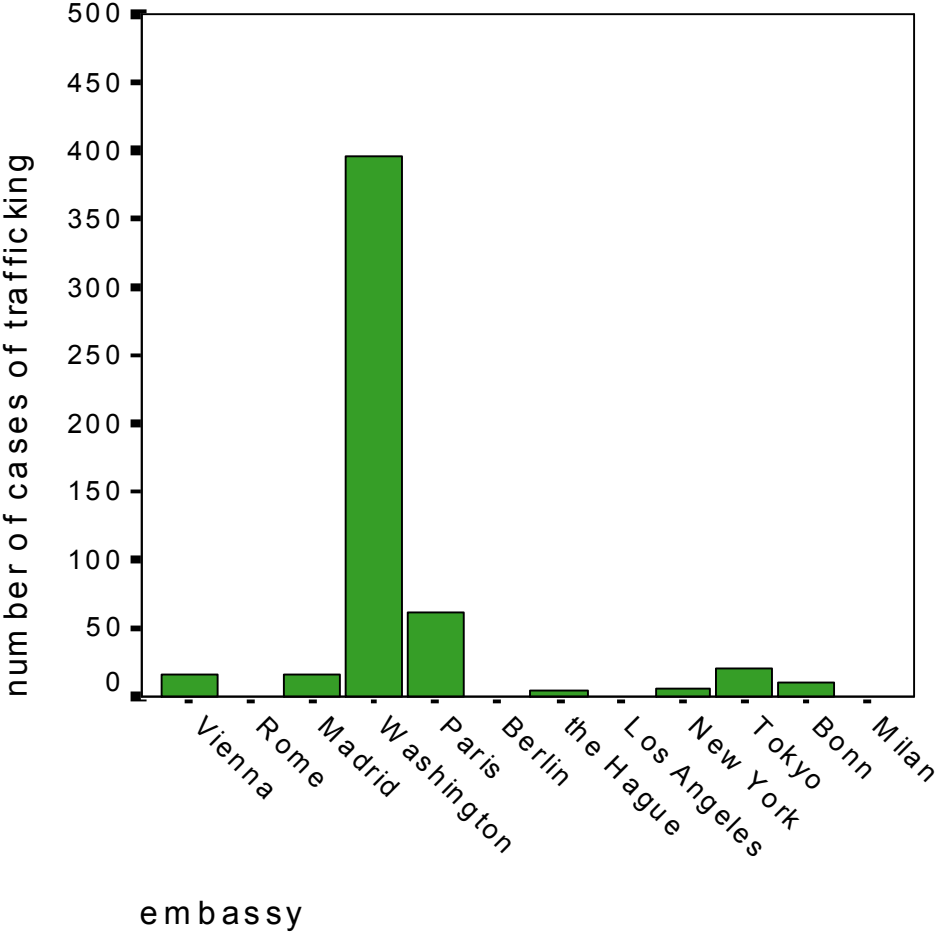
¹ The Czech embassy in Helsinki did not encounter the phenomenon of trafficking Czech citizens to Finland, therefore the questionnaire for Finland was not completed.

Chart 10.1 Number of contacts with victims or authorities in cases of trafficking (information from embassies of the Czech Republic)



If we separate *only the cases of trafficking* from the overall number of contacts, only the figure for Austria changes significantly; it follows from this that most of transborder movement to Austria comprises smuggling of persons. The embassy in France registered 65 cases of trafficking. As for the percentage of trafficked persons in terms of sex and majority, almost all respondents who filled in this piece of information stated unanimously that 100% of them were adult women. Only the embassy in Germany gave 70% adult women and 30% juvenile females. The information from Washington (80% adult men and 20% adult women) is a striking exception; it may be presumed that this trafficking takes place for the purpose of forced labour of the victims, not for the purpose of their prostitution.

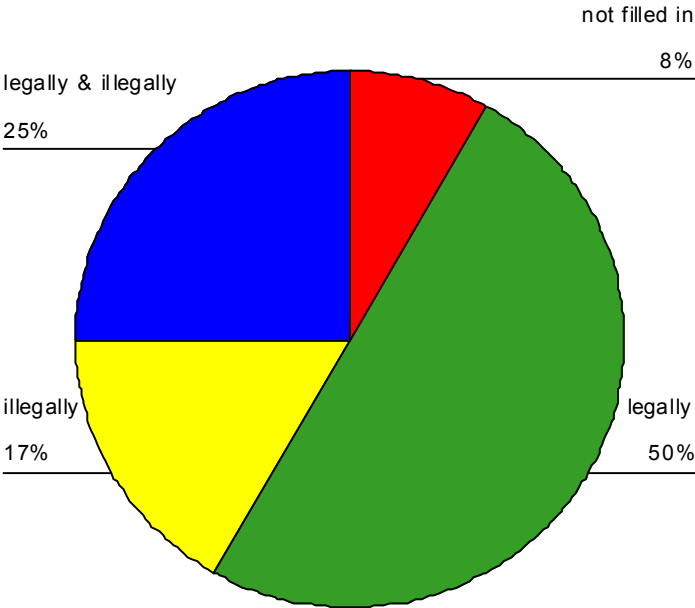
Chart 10.2 Number of cases of trafficking (information from embassies of the Czech Republic)



Routes and experience en route

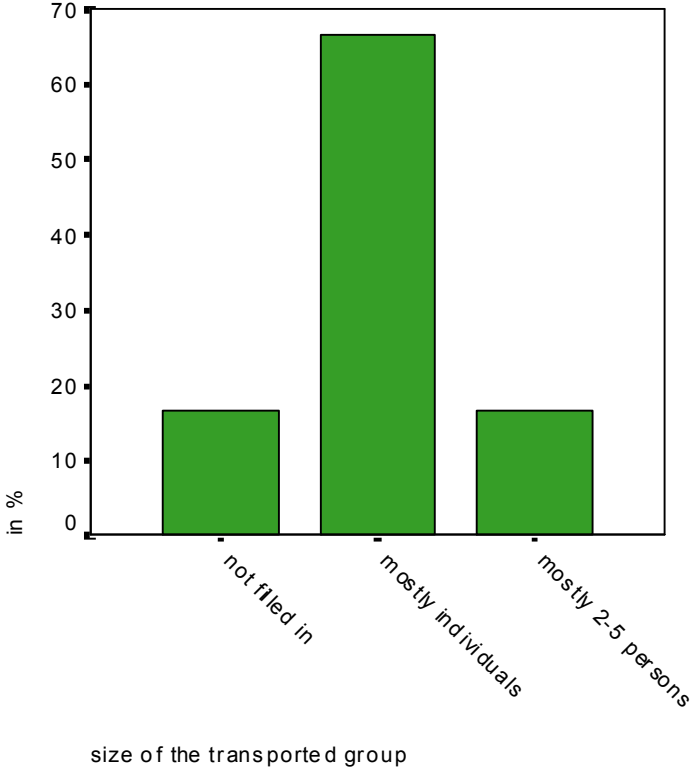
According to the information of embassies on the experience of the victims of trafficking en route, victims usually travel on their own and legally to the destination country, in most cases individually, sometimes in small groups of up to 5 persons. Organised illegal transportation takes place in less than a fifth of cases.

Chart 10.3 Experience en route – how the victims travelled



Note: The percentages are illustrative only, because do not reflect the numbers of persons, but the numbers of cases of such crossing of the border.

Chart 10.4 Experience en route – the size of the transported group



At the beginning of the journey, there is the geographical area (region) where victims are recruited most frequently. It becomes apparent that, in the Czech Republic, these are, in the first place (from the point of view of their importance and order, as indicated by the respondents), Northern Bohemia and Northern Moravia, which are areas with high unemployment and lower living standards; in the second place, Southern Moravia and Western Bohemia; and in the third place, Central Moravia and Eastern Bohemia.

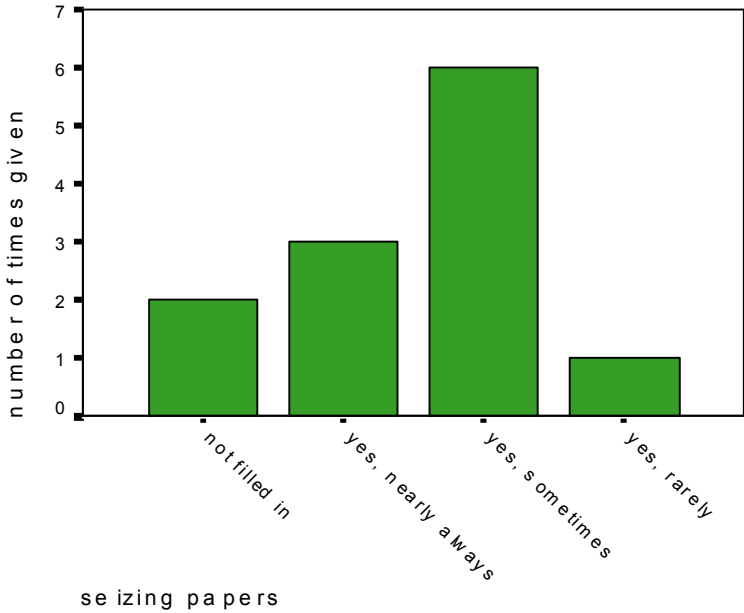
After the victim contacted the embassy, the situation was usually solved in one of the standard ways. In cases where the Czech embassies were responsible, the most important way of registering the victim was assistance from the local authorities, followed by ordered and organised repatriation. In addition, the victims (Czech citizens) often cooperated with the local authorities (the police, courts) in the preparation and course of criminal proceedings against the organisers of trafficking.

Lying, coercion and exploitation

Lying is a frequently used method of recruiting victims and retaining their loyalty. Half of the respondents did not know the answer to the question concerning the type of lie which is used most frequently against victims. In the remaining cases, it turned out that, most frequently, victims succumb to false information about the type of work and working conditions abroad.

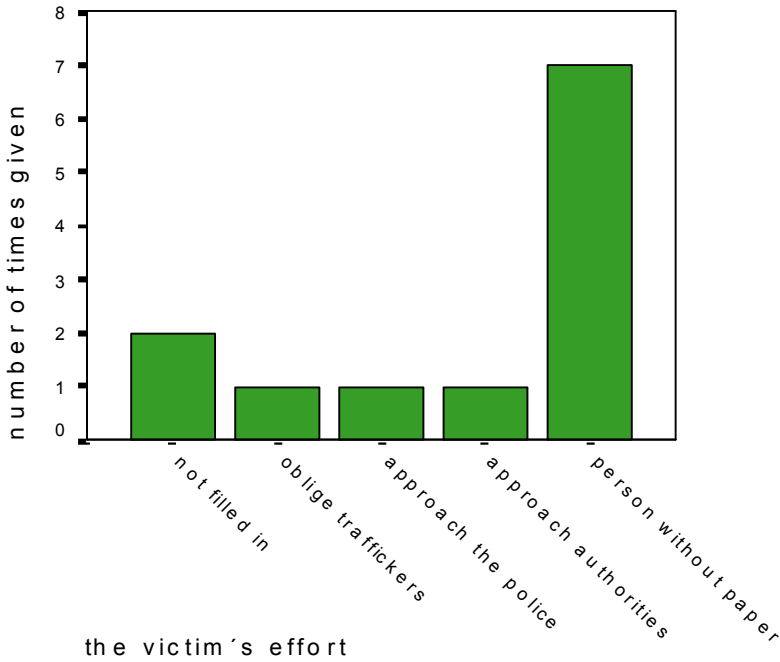
Another common method of controlling the victim by traffickers is seizing his or her papers, thus taking away from them the possibility of free movement. The experience of respondents from embassies who came into contact with such cases shows that the papers of Czech victims are sometimes seized. Respondents in New York, Tokyo and Milan gave the answer „nearly always“.

Chart 10.5 Coercion, lying and exploitation – seizing the victims’ papers



As for the victims’ effort to get their papers back, the respondents assess approaching the police or authorities as the most effective way; however, most of the cases they encountered involved victims who had had no papers in the first place.

Chart 10.6 Coercion, lying and exploitation – victim’s effort to get their papers back

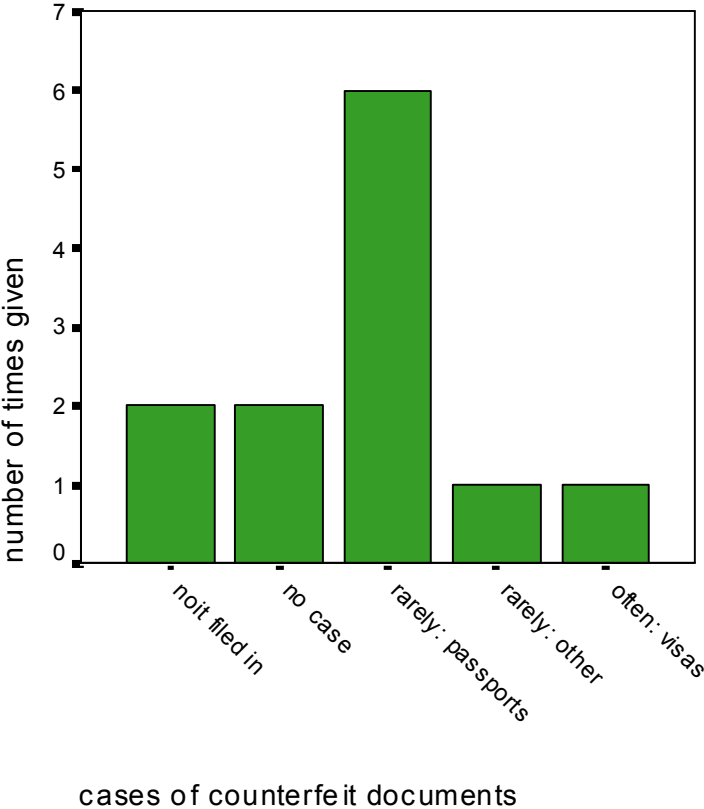


Most of the respondents lacked relevant information on whether the traffickers and exploiters use, as a method of pressure, also threats to and intimidation of the victim’s family. Employees of the embassy in Madrid and of the consulates general in New York and Milan said that such conduct sometimes takes place.

Other criminal methods

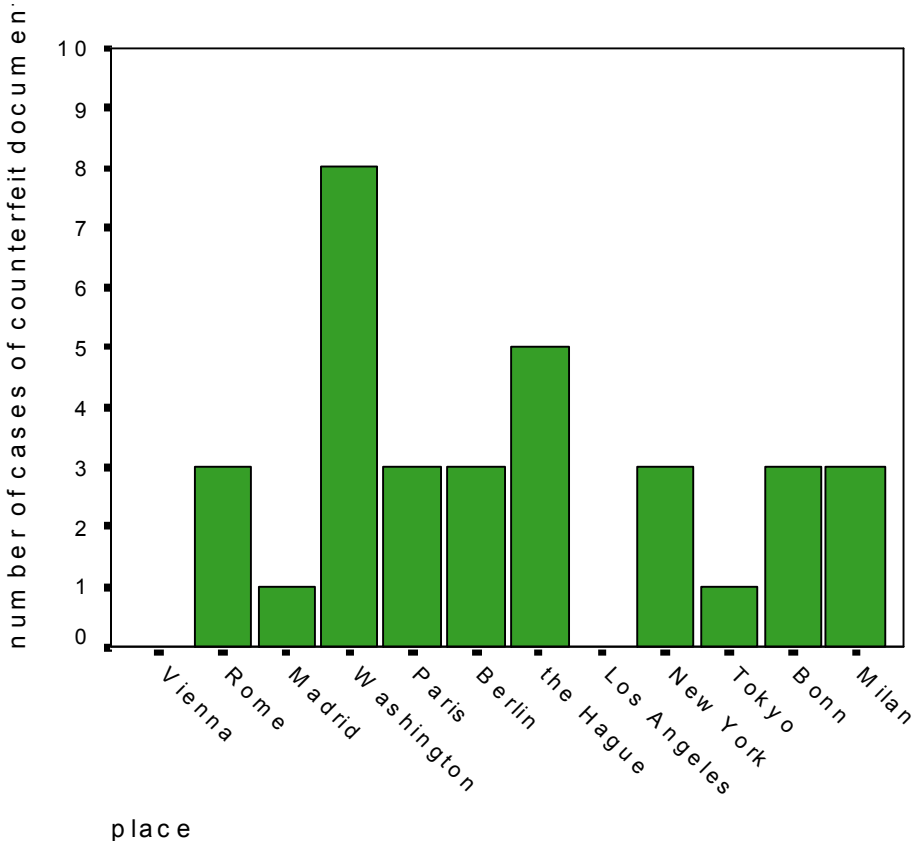
Other criminal methods are also used in trafficking in persons. One of them is forging travel documents and other papers. The Chart 10.7 shows how many times the respondents encountered cases of counterfeit documents, what documents were involved, and whether, in their opinion, such cases often or seldom take place. It has turned out that forging documents seems to take place rather seldom; in these cases, the counterfeit document is usually a passport.

Chart 10.7 Counterfeit documents – numbers of cases according to the type of document



In geographical terms, the employees of embassies in Washington and The Hague encountered such cases most frequently.

Chart 10.8 Counterfeit documents – number of cases per place



Proceeds from crime

Only the employees of embassies in Tokyo and Washington had information on how much Czech victims pay to traffickers for smuggling into these countries. The amount for smuggling into Japan (if converted) was 1,000 US\$; the amount for smuggling into the USA was 500 US\$. As these pieces of information are isolated, their informative value must be taken with a grain of salt. A respondent from Germany gave some interesting information which, however, concerned the payments by foreign nationals to Czech traffickers for smuggling into Germany. These sums were roughly 1,000 CZK per person.

Involvement of organised crime

The employees of embassies were also asked whether they were aware of any indications of the involvement of organised crime groups in the cases of human smuggling and human trafficking from the Czech Republic abroad. More than a third of the respondents (5) gave certain indications of commercial involvement by organised crime groups in these criminal activities; the same number knew nothing about such indications. Two respondents denied the possibility of involvement of organised crime in trafficking. Those respondents that

answered in the affirmative characterised organised crime groups predominantly as internationally active.

The respondents also partly confirmed the assumption of the interviewers that victims of human trafficking are redeployed or sold both among groups and among localities; on the other hand, they did not confirm the assumption that the exploiters force their victims to commit other crimes. Only the respondent from The Hague answered in the affirmative. Those respondents that commented on the nationality of the persons involved in human smuggling or human trafficking mentioned, above all, citizens of Southern and Eastern European countries (Slovakia, the countries of former Yugoslavia and former USSR, Turkey, Albania), sometimes also citizens of the states of the Near and Far East (countries of the Arab world, Pakistan, China).

International cooperation

On the basis of their experience or information, the respondents assessed international cooperation between Czech and foreign authorities (in the respective country) in cases pertaining to human trafficking as, predominantly, quite good, good or even very good (8 respondents). Some of them mentioned examples of successful joint operations, interventions or investigations in the fight against this type of crime, such as, in the Netherlands, the action Medusa in Rotterdam; in the USA, the case of the Czech entrepreneur Kosmel in 2000 and the Wal-Mart case in 2003.

The respondents' list of the strong points of international cooperation which should be retained in the future included, for instance, the willingness of the local authorities to cooperate, conscientiousness, direct informing of the Czech Police Force by the foreign police force, and effective work of the police when detaining persons for whom a search has been launched. The weaknesses which should undergo changes included corruption and the language barrier, the failure of the local authorities to inform the Czech embassy, and the need to increase the effort to prosecute higher levels of the hierarchy of organised crime.

11. Conclusions

On the basis of the information obtained, it can be stated that the groups of perpetrators involved in human trafficking in the Czech Republic are in different stages of the development of organised crime. The existence of organised groups has been confirmed by the findings from selected case files, and, above all, by the identical opinions of experts.

As yet, groups that are involved in human trafficking on Czech territory are not interconnected, and they have not evolved into large and structured criminal organisations. They lack a more distinct separation of the middle and higher level of management, but possess the hallmarks of organised crime. A typical mark of all the analysed cases is a link abroad; i.e., the contacts and activities of the persons involved go beyond the borders of the Czech Republic. This crime is committed in a systematic and coordinated way; there is (for the most part) a division of tasks and the effort to achieve a long-term and maximum benefit.

All the analysed groups focus on one type of crime only (this is a mark of a lower stage of the development of organised crime) and they are often part of a wider international criminal network, but they are not subject to it. Rather than that, they cooperate or fulfil various functions and partial tasks.

Some of the Czech groups function relatively independently but, according to the experts' assessment, the task of Czech citizens is predominantly to provide services (above all, their knowledge of the „local“ situation is utilised); sometimes they function as hired external collaborators. According to their comments, Czechs often function as intermediaries between Russian or Ukrainian traffickers, and Western European procurers.

This means that, in organised crime which focuses on trafficking in persons (women), citizens of the Czech Republic work both as executive workers (at various levels) for foreign organisations (or organisers), and as organisers and leaders of their own groups.

In comparison with the information contained in the empirical probe „Prostitution as one of the Possible Activities of Organised Crime,“ which was undertaken in the Czech Republic in 1995, no significant shift in the structure of the organised crime groups involved in trafficking in women in the Czech Republic has taken place.

The conclusions of this probe are still valid today:

From the case file analysis, it can be deduced that this criminal activity is committed in a systematic and coordinated way; there is (for the most part) a clear division of tasks, and international links between offenders. Other formal marks of organised crime, such as a multi-

level organisational arrangement and the effort to penetrate into official social structures have not been ascertained from the available information.

Although the criminal activity connected with trafficking in women is cited as one of the developed forms of organised crime in the Czech Republic, the research implemented has not succeeded in sufficiently confirming this. This is related to the lack of concrete information and general awareness; to the fact that, on the legal level, proving this offence is time-consuming, difficult and, according to the current legislation, also quite problematic. The connection of this offence with organised crime is considered to be typical, and huge illegal proceeds which can be gained from prostitution are, almost automatically, associated with organised crime.

On the basis of our new data, we can more or less agree with these conclusions.

In contrast with the conclusions of the above-mentioned probe (Prostitution...), the alterations relate to the original claim that modifications relate to the original statement that ... another possible explanation why organised crime in the Czech Republic is not yet closely connected with prostitution is the quite considerable spontaneous offer of women who engage in prostitution and, consequently, scant attraction and financial reward of this activity for the perpetrators of organised crime. The fact that the organisers of prostitution are, for the most part, ethnic Romanies who are often unwilling and unable to cooperate on a wider scale may also play a certain role.

This conclusion does not apply anymore, for both the experts' responses and case file analysis confirm that ethnic Romanies have already become successfully involved in organised crime groups which traffic in women from the Czech Republic, but above all, on Czech territory.

As with other lucrative offences (production and distribution of drugs, thefts of antiques, car thefts, etc.), organised crime groups have become active in this crime too, by making good use of the spontaneous offer of women, as well as of the present structure of offenders.

It can be deduced that Czech citizens involved in the organised crime of trafficking in women work predominantly as co-operators of foreign groups (or of perpetrators), at the very highest on the level of middle links of these groups. Most often, they provide services, sometimes they perform executive functions or work as hired external collaborators.

The structure of the various criminal groups is becoming more and more flexible in connection with the work of the investigative, prosecuting and adjudicating bodies, with

demand for specific services and with the number of competitors. The involvement of individuals – specialists who can perform specific services and who, moreover, can remain outside the structure of the organised group enables such groups to quickly respond to the needs of the market. Much more frequently than before, cooperation between various organised groups occurs too, which facilitates rapid reorganisation of illegal activities.

11.1 Concluding recommendations

The problems of the fight against trafficking in persons (in women) must be solved quite comprehensively, through a whole number of preventive and repressive measures and systematic support of the victims of this crime, so as to fulfil both the interest of the state to eliminate and punish such wholly harmful conduct and, at the same time, to fulfil the need of protection of the individual and his or her human rights.

These concluding recommendations are based on the experts' opinions formulated within the UNICRI research undertaken by the Institute for Criminology and Social Prevention (IKSP); on the comments and suggestions of specialised non-profit non-governmental organisations (the beneficiary association La Strada Czech Republic, Czech Catholic Caritas); and also on other initiatives (a project of the beneficiary association proFem addressing the problems of the fight against human trafficking in the Czech Republic). The impulse to introduce criminal liability of legal entities was given in a speech by Professor Musil in the Chamber of Deputies (the lower chamber of the Czech Parliament).

Prevention

1. Education and information

It is necessary to implement, promote and finance information campaigns for the purpose of raising the general public's awareness on the issues of human trafficking, ideally in the public media.

To focus regular national preventive campaigns on the high-risk groups of persons (particularly girls and young women) who want to assert themselves abroad.

To provide more specific information about the risks connected with job opportunities abroad (especially those offered in advertisements), about the methods of recruitment implemented by offenders, about the „sex industry“ and health risks, and about the socio-economic conditions of the environment.

To refer to organisations and institutions where more information can be obtained (information is provided by NGOs, and also by local authorities, Employment Agencies, etc.).

It is desirable to incorporate information about the problems of human trafficking into the curricula of suitable subjects in the last years of basic schools, as well as into the curricula of secondary schools.

To introduce high-quality sex education; in its framework, it is very suitable to introduce young persons to the existence, seriousness and risks of prostitution, sex industry and trafficking in persons.

To educate, even at secondary school level, young persons in the area of law, to incorporate the essentials of law into the curricula, and, in this way, to enhance the legal knowledge of the general population.

2. Education and methodology

An indispensable prerequisite of an effective fight against human trafficking is unambiguous and sufficient awareness and qualification of all the civil servants who, at work, come or may come into contact with the high-risk groups of persons or concrete victims of human trafficking.

It is necessary systematically to educate and methodically to guide the officers of all police units (particularly of Foreign, Border and Criminal Police), workers who are in touch with foreigners, employees of Employment Agencies, and officers of the local authorities (municipalities and regions) with regard to the problems of human trafficking.

To incorporate the necessary information into the activities of these bodies and authorities, be it by publishing the information at the seat of the authority in a place which is open to the public, or the provision of such information by specific persons

To select workers who will specialise in the fight against trafficking in persons, in assistance to victims, etc.

In addition, to earmark financial resources for this purpose which will match the needs of the fight against trafficking in persons and against organised crime in general.

To adopt methodological guidelines or integrated internal regulations for the various institutions (at least for some of them) for the purpose of education and methodological guidance.

It would be suitable to design the methodological guidelines in collaboration and coordination with non-governmental non-profit organisations which have experience in this area. To utilise the opportunities and experience of non-profit organisations. Above all, these guidelines should concern:

Identifying the victim of the criminal offence of trafficking in persons

Specific treatment of these victims

Giving the victim sufficient information on his or her rights and concrete opportunities of assistance

Mediating concrete assistance and support

3. Other preventive measures

In general, more attention should be paid to prevention by, particularly:

monitoring advertisements, monitoring and consistently controlling establishments where prostitution obviously takes place

paying more attention to granting residence permits, granting asylum and work permits; designing a more effective system of control of these permits and applications for them, particularly in the case of persons who may be pinpointed as a high-risk group.

Legislation

1. Criminal Law

In Criminal Law, the following amendments should be considered:

In the Penal Code, to define the body of the criminal offence of trafficking in persons in such a way as to penalise not only trafficking in persons for sexual purpose (prostitution).

In the Penal Code, the body of the criminal offence of trafficking in persons should provide more severe sanctions when the victim is a person below the age of 18 years or a mentally handicapped person.

To lay down and mete out appropriate sentences for the criminal offence of trafficking in persons and related offences.

In specific terms, this means increasing the sentences for the criminal offence of trafficking in persons and for other offences which are related to human trafficking, especially the criminal offence of the unlawful crossing of the border.

Consistently to impose penal sanctions which reflect the seriousness of this crime and which have a deterrent effect on other (and potential) perpetrators. Consistently to impose, apart from sentences of imprisonment, also the sentence of the confiscation of property, increase the maximum financial penalty, and, in specific cases of trafficking in persons, to impose high financial penalties.

To introduce criminal liability of legal entities

More and more often, new kinds of antisocial activities appear which are produced by legal entities. Not infrequently, legal entities participate in trafficking in persons as, for instance, business associations which operate hotels, bars, night clubs or gambling houses; job agencies that mediate work abroad; travel and transport agencies; publishing houses and printing works which produce pornographic materials, etc. These „establishments“ are often real „hotbeds“ of criminal phenomena as human trafficking. These new forms of committing crime are so serious that they must be addressed by the most severe instruments provided by the legal system and, in particular, Criminal Law, which is seen as the most repressive legal branch. „Individual liability vanishes here in the face of the notorious clumsiness of international legal aid and of the failure to obtain evidence. If criminal prosecution takes place, only so-called small fry are usually prosecuted. Persons who remain at the background of the whole enterprise, who organise the whole thing, effectively manage to avoid criminal prosecution; for instance, they reside mostly abroad, manage the whole enterprise from a distance, etc.“ (Prof. JUDr. Jan Musil, CSc.)

In theory, a number of arguments and reasons are cited both for and against introducing criminal liability of legal entities. The above-mentioned reason is one of the pros; in this way, Criminal Law would fulfil its repressive function not only against natural persons, but also against legal entities. However, penalising legal entities presents a very high risk, which corresponds to their economic and actual power. In this sense, the liability of legal entities is much higher than the liability of individual natural persons who make up the substratum of a legal entity. Another pro is also the element of defamation which is connected

with penalisation, and which it is easy to imagine also in the case of legal entities; as they function in the competitive environment of the market economy, defamation undoubtedly has a significant impact on their competitiveness.

The cons are more ideological and they are not quite consistent; nevertheless, they are also quite weighty. Although introducing criminal liability of legal entities cannot be expected to be a miraculous weapon in the fight against human trafficking or other forms of crime, it is undoubtedly a modest but commendable step forward⁹.

To find the optimum solution pertaining to the possibility of using, in judicial proceedings, those acts that were performed before the commencement of criminal prosecution, in order to facilitate clearing up the criminal offence of trafficking in persons.

With regard to this, we must refer to the above-mentioned recommendations of experts bearing on this problem. Obviously, solving this requires a more detailed analysis of the criminal proceedings and, consequently, the adoption of an adequate solution either within the current legal regulations, or by modifying the Criminal Procedure Code in such a way as to make it suit the needs of the contemporary modern Criminal Law (proceedings).

To implement the requirement of specialisation of investigative, prosecuting and adjudicating bodies (police organs, public prosecutors, judges), but also civil servants participating in the fight against human trafficking in the Czech Republic.

In agreement with the recommendation of the experts, it would be suitable to recommend designing an effective system of public control over judicial decision-making, and thus to positively influence its quality in relation to the EU legislation.

2. Non-criminal legislation

Prostitution

To design and adopt a standard (a law) which would regulate engaging in prostitution in the Czech Republic in a satisfactory fashion.

⁹ At present (March 2004), the Legislative Board of the Government is already discussing a bill which should introduce criminal liability of legal entities as part of the re-enactment of the Penal Code.

Especially to lay down conditions: engaging in prostitution, registration of prostitutes, rights and duties, regular medical examinations, operating brothels, etc.

To create a system of efficient control over compliance with the conditions laid down by the law – by bodies earmarked for this purpose and endowed with the necessary competence (members of the Czech Police, members of the Municipal Police, local authorities).

Immigration and Aliens Law

At present, the Immigration and Aliens Act (Act No 326/1999 Coll. governing the residence of aliens) does not regulate the status of foreign nationals who have fallen victim of human trafficking in the Czech Republic and who usually stay on Czech territory illegally. If these persons are detected, the Immigration and Aliens Law does not offer many opportunities of legalising their sojourn on Czech territory; on the contrary, provisions ordering their expulsion are predominantly applied in these cases. According to the current legal regulation, it would be possible, for the purpose of legalising their sojourn, to apply the provision of the Act governing the residence of aliens (§ 35 Para.1 letter a)) in these cases – to grant a visa for the purpose of benefiting from a sojourn. The police grant a visa to a foreigner who cannot leave the country because of an obstacle which is independent of his or her will. Theoretically, a victim of human trafficking may also apply for a permanent residence permit for humanitarian reasons. However, these present institutes do not seem to be sufficient for an effective approach to the fight against trafficking in women.

In the current Immigration and Aliens Act, it is desirable:

to lay down an exception to the immediate expulsion for the victims of trafficking, or to lay down the possibility of suspending the execution of a decision on expulsion for a determined period (between 3 and 6 months) in order to give the victim the time to decide whether s/he will act as a witness in court, and also for his or her (at least partial) social rehabilitation.

In justified cases (for example, when the victim is willing to act as a witness in court), expressly to lay down the possibility of permitting the victim's sojourn on Czech territory at least for the course of the criminal proceedings.

In exceptional cases and for specific reasons, to lay down the possibility of granting a victim of trafficking a permanent residence permit.

Social Security Law

In the system of social protection (social security), it is necessary to create legislative prerequisites for making social assistance and support accessible to the victims of human trafficking, especially if they are foreign nationals.

Consequently, together with the demand for amending the Immigration and Aliens Law, the demand must include amending (at least some of) the acts in the area of Social Security Law (State Social Security Act No 117/1995 Coll., Social Need Act No 482/1991 Coll.).

According to the Czech Charter of Fundamental Rights and Freedoms, Article 30 Para. 2, „anyone who is in material need has the right to such assistance as is necessary for securing the basic living conditions“. However, these rights can be claimed only within the limits of the laws which implement this provision of the Charter (Article 41 Para. 2 of the Charter). All acts in the area of Social Security Law always bind the creation of a claim predominantly (apart from other conditions) to the Czech citizenship of the given person, or, at least, to the permanent residence of such a person on Czech territory; thus persons who do not meet this condition are exempted from the operation of these laws. It is therefore necessary to adopt a regulation, precisely within these executive laws, which would adequately reflect the „unusual situation,, of trafficked persons, and which would make social assistance and support accessible to them, too.

Therefore it would be highly appropriate:

to change the personal applicability of these laws or to adopt a special provision which would make it possible to grant social benefits to a certain group of persons who are not Czech nationals and do not reside permanently in the Czech Republic, but whose sojourn has been legalised on the basis of the special procedure laid down in the Aliens and Immigration Act (see above) and who find themselves in a difficult situation, for instance as a result of having fallen victim to human trafficking.

To pass a law regulating the provision of social care and general support to persons who, because of certain objective causes, have found themselves in a difficult situation and which would grant these rights, *inter alia*, to the victims of human

trafficking; in this way, their needs would be covered (at present, a Material Poverty and Social Exclusion Bill is being drafted, which will comprise the problems of persons become materially impoverished and are threatened by social exclusion; it is planned that, within the conceptual work on this Bill, the group of victims of human trafficking will have to be taken into account¹⁰).

In a similar way, problems of trafficking in persons must be solved in the area of the provision of health care; during their legal sojourn on Czech territory, victims should participate in the health insurance system and, in all necessary cases, their premium should be covered by the state.

Police Acts

To consider the possibility of supplementing the Czech Police Force Act, and possibly also the Municipal Police Act, by laying down the police officer's duty to inform the victim of the possibility of approaching specialised NGOs which offer assistance to these women, and of the possibility of applying for social assistance. The duty would apply to all justified cases (i.e., cases when a reasonable suspicion arises that the person is victim of the criminal offence of trafficking in persons or procuring).

Protection of and assistance to the victim

Above all, it is desirable to identify the victim in time, to guarantee him or her legal residence on Czech territory, personal inviolability, security, subsistence, accommodation and access to medical care, and to create the conditions for his or her safe return to the country of origin.

The victim must be granted a certain specific complex of rights which correspond to the nature of his or her situation and which are necessary for covering his or her needs that have arisen as a negative cause of the criminal offence of trafficking in persons. The main aim of protective and supportive measures should be protecting the human rights and dignity of the victim and, at the same time, increasing the victim's motivation to cooperate with the investigative, prosecuting and adjudicating bodies in detecting, incriminating and punishing the offenders.

¹⁰ *Resolution of the Government of the Czech Republic No 849 of 3 Sep 2003 on the National Strategy of the Fight against Trafficking in Persons in the Czech Republic.*

For this purpose, it is necessary to implement, in practice, legislative, organisational, personal and financial measures, within whose framework the victim will be provided and guaranteed:

Free health care; especially an initial voluntary comprehensive medical examination, including gynaecological and laboratory examinations (with regard to infectious diseases, including HIV test).

Psychosocial assistance (counselling); it would be suitable to incorporate specialist advisory bureaux directly into the work of investigative bodies (especially police organs); this function could be partly performed by non-profit organisations.

Access to health and social services.

Secure accommodation, for example in specialised asylum houses or facilities.

Financial support and subsistence – access to social benefits – measures to make the labour market accessible to these persons.

Access to further education, re-training, schooling, etc.

Free legal counselling and representation, especially in legal claims for the compensation of damages caused to victims.

Creation of conditions for a safe return to the country of origin.

A suitable measure would be introducing a free 24-hour telephone line which could be dialled in case of danger, but also to obtain the information needed.

Witness protection

For the criminal proceedings where the victim acts as a witness, it is necessary to guarantee, above all:

His or her **personal inviolability and security, thus to prevent, in particular, the offenders from influencing his or her testimony** (to guarantee temporarily increased protection of the victim); at the same time, to secure his or her presence in the criminal proceedings, especially in the judicial proceedings.

To guarantee the **concealment of the personal data of the victim (witness).**

To enable the victim to **implement and assert his or her rights to the compensation of damages** caused to him or her – within the criminal proceedings (in collateral

proceedings), or later in administrative proceedings; and to give him or her **free legal counselling and representation.**

Cooperation

Non-governmental non-profit organisations play an indispensable role in the fight against such crimes as trafficking in persons, and, particularly, in the area of assistance to the victims of this crime. It is therefore highly desirable that the state should promote cooperation with these organisations. For this purpose, it is necessary:

To create a legal framework for institutionalised cooperation between governmental institutions and NGOs which offer support and assistance to the victims of this (and other types of) crime.

In this area, it would be suitable to incorporate NGOs directly into the system of measures which aim to assist and support victims.

To give financial support to (to subsidise) non-profit non-governmental organisations that are active in this area.

It is necessary to earmark or establish an organisation or institution which will coordinate the activities and measures implemented by various governmental and non-governmental entities in the area of the fight against trafficking in persons.

At the same time, this organisation should play the role of the so-called National Rapporteur on trafficking in persons, whose task will be to monitor and analyse information on the state of trafficking in persons, its development, and the effectiveness of measures implemented in this area.

To promote international cooperation in the fight against trafficking in persons and assistance to the victims of this crime:

in the area of information exchange, for the purpose of harmonising the techniques of investigative bodies.

To promote various projects of cooperation in border areas, participate in programmes and projects organised by international institutions and organisations, and utilize the opportunities of their support

Financing

It should be always borne in mind that the implementation of almost any measure in the fight against trafficking in persons will require earmarking sufficient financial resources from the state budget

In detecting this crime, the state should put more emphasis on confiscating the huge proceeds from it. The funds obtained (or at least part of them) can be used for support and compensation of the victims of this crime.

11.2 Model of Assistance to and Support of the Victims of Trafficking in Persons for the Purpose of Sexual Exploitation in the Czech Republic

By way of conclusion, we should mention that, at present, the Czech Republic shows considerable interest in the problems of the fight against trafficking in persons. In September 2003, the Czech Government adopted a Resolution on the National Strategy of the Fight against Trafficking in Persons for the Purpose of Sexual Exploitation in the Czech Republic; within its framework, the Model of Assistance to and Support of the Victims of Trafficking in Persons for the Purpose of Sexual Exploitation in the Czech Republic has been designed and, at present (January 2004), it is being implemented. This should serve as the basis of a future system of victim assistance; as yet, only NGOs have tried to provide this at least to some extent, but their activities only partially cover the real needs.

This document makes it clear that the Czech Government is aware of the problems and shortcomings in this area, and is prepared to address them in successive steps and measures. Above all, cooperation with non-governmental non-profit organisations plays a key role in this. „The aim of the Model of Assistance to and Support of the Victims of Trafficking in Persons for the Purpose of Sexual Exploitation is to set up a system in which each institution involved in victim assistance will know its role, what to do and who to approach in any given moment. All institutions must act to promote the best interest of victims, which does not mean that they could not demand compliance with certain rules from them. At the same time, the model is designed in such a way as to minimise its potential abuse by victims or by the criminal environment.“¹¹

¹¹ *Resolution of the Government of the Czech Republic No 849 of 3 September 2003 on the National Strategy of the Fight against Trafficking in Persons in the Czech Republic.*

Primarily, the assistance will comprise a one-month emergency intervention. It will be possible to offer a further perspective, exceeding the framework of the one-month emergency intervention, to those victims that show willingness to cooperate with the investigative, prosecuting and adjudicating bodies and to help them in investigating and prosecuting the procurers and human traffickers. Services connected with secure accommodation, basic needs and the acquisition of a further perspective will be provided by NGOs and supported financially by the state.

Annex 1

Survey of the sentences meted out to the various perpetrators convicted in accordance with § 246 of the Penal Code (case file analysis)

The perpetrators of the analysed criminal offences were sentenced as follows:

Case 1 – seven victims – three perpetrators, each of them a 2-year suspended sentence and a probationary period of 3 years

Case 2 – one victim – two perpetrators – each of them a 3-year suspended sentence with supervision and a probationary period of 2 years

Case 3 – one victim – one perpetrator – a 3-year suspended sentence with supervision and a probationary period of 4 years

Case 4 – 4 victims – one perpetrator (a German citizen) – a 3-year unconditional sentence and expulsion from the Czech Republic for 10 years

Case 5 – one victim (minor) – two perpetrators – one of them a 7-year unconditional sentence, the other one a 6-year unconditional sentence

Case 6 – 3 victims – one perpetrator – a 4-year unconditional sentence

Case 7 – 2 victims – one perpetrator – a 3-and-half-year unconditional sentence

Case 8 – an underage victim – one perpetrator – a 3-and-half-year sentence

Case 9 – seven victims – six perpetrators, the main perpetrator a 4-and-half-year unconditional sentence, another perpetrator a 3-and-half-year unconditional sentence, other three perpetrators each a 3-year suspended sentence with supervision and the probationary period of 5 years; a female perpetrator a 3-year suspended sentence with supervision and the probationary period of 3 years

Case 10 – 5 victims – 2 perpetrators, a one 94-month unconditional sentence, the other perpetrator a 3-year unconditional sentence

Case 11 – an underage victim – one perpetrator - a 4-year unconditional sentence

Case 12 – one victim – two perpetrators – a 3-year suspended sentence with supervision and a probationary period of 5 years and the prohibition of abode in the Teplice District for 4 years (the same sentence for both perpetrators)

Case 13 – two victims – one perpetrator – a 4-and-half-year unconditional sentence

Case 14 – two victims – two perpetrators – one offender a 3-year conditional sentence with supervision, suspended for 4 years; the other offender a 3-year conditional sentence with supervision, suspended for 2 years and 6 months

Case 15 – one victim – one perpetrator – a 3-and-half year unconditional sentence

Annex 2

Experts opinion on the number of persons involved in trafficking of women in the most frequent destinations

Germany

Stage	Expert 1	Expert 2	Expert 3	Expert 4	Expert 5
recruitment	1 - 2 persons	1 - 2 persons	6 - 9 persons	1 - 2 persons	6 - 9 persons
dealing with documents	3 - 5 persons	1 - 2 persons	1 - 2 persons	-	-
transport	more than 10 persons	1 - 2 persons	3 - 5 persons	1 - 2 persons	6 - 9 persons
placement in the destination country	1 - 2 persons	3 - 5 persons	1 - 2 persons	1 - 2 persons	6 - 9 persons

Italy

Stage	Expert 1	Expert 2	Expert 3	Expert 4	Expert 5
recruitment	1 - 2 persons	1 - 2 persons	-	-	6 - 9 persons
dealing with documents	3 - 5 persons	1 - 2 persons	-	-	6 - 9 persons
transport	more than 10 persons	1 - 2 persons	-	-	6 - 9 persons
placement in the destination country	1 - 2 persons	3 - 5 persons	-	-	6 - 9 persons

Austria

Stage	Expert 1	Expert 2	Expert 3	Expert 4	Expert 5
recruitment	1 - 2 persons	-	-	1 - 2 persons	-
dealing with documents	3 - 5 persons	-	-	-	-
transport	more than 10 persons	-	-	1 - 2 persons	-
placement in the destination country	1 - 2 persons	-	-	1 - 2 persons	-

Annex 3

Czech academic degrees

CSc. – „candidate of sciences“ (a former postgraduate degree roughly equivalent to PhD)

JUDr. – Doctor of Law (LLD)

PhDr. – Doctor of Philosophy (lower doctorate)

Ing. – „engineer,, (a university-trained technical or commercial specialist)

Mgr. – MA

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-160/1922 Coll. – a decree of the Minister of Foreign Affairs (of 8 Feb 1922)

-160/1924 Coll. – International Convention for the Suppression of the Traffic in Women and Children (of 30 Sep 1921)

-32/1936 Coll. – International Convention for the Suppression of the Traffic in Women of Full Age (of 11 Oct 1933)

-104/1991 Coll. – Convention on the Rights of the Child (Notification of the Czechoslovak Ministry of Foreign Affairs)

-134/2002 Coll. – amendment of § 246 of the Penal Code with the explanatory report

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Palermo – Dec 2000: UN Convention against Transnational Organized Crime.

Annex I – Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.

Overview of international instruments

International Agreement for the Suppression of the „White Slave Traffic“ – No 160/1922 Coll.

• of 18 May 1904 – Paris

• The Agreement was promulgated in the Austrian Imperial Code sub No 26/1913.

International Convention for the Suppression of the White Slave Traffic – No 160/1922 Coll.

• of 4 May 1910 – Paris

- The Convention was promulgated in the Austrian Imperial Code sub No 26/1913 along with the **Agreement of 18 May 1904** (this was published as an “Annex“)
 - The approach of the Czechoslovak Republic to the instruments of 18 May 1904 and 4 May 1910 was implemented by the above-mentioned decree of the Minister of Foreign Affairs No 160/1922 Coll.

International Convention for the Suppression of the Traffic in Women and Children – No 123/1924 Coll.

- of 30 Sep 1921 – Geneva

International Convention for the Suppression of the Traffic in Women of Full Age – No 32/1936 Coll.

- of 11 Oct 1933 – Geneva

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

- of 2 Dec 1949 (in force since 25 Jul 1951) – New York
- This Convention was not published in the Czechoslovak Collection of Laws; the Czechoslovak Government approved it on 11 Sep 1957 and Czechoslovakia acceded to it on 14 Mar 1958
- When this Convention between parties came into force, the previous **international instruments of 1904, 1910, 1921 and 1933** (No 26/1913 of the Imperial Code and 160/1922, 123/1924 and 32/1936 Coll.) ceased to apply. The Czech Republic is bound by this Convention as a successor state.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime

- After being adopted by the UN General Assembly, the text of the UN Convention against Transnational Organized Crime was opened to signatures at a high-level conference in **Palermo between 12 and 15 Dec 2000**. The Czech Republic, too, signed the Convention there; the supplementary Protocols were to be signed later.
- **3 Protocols** are part of the Convention, supplementing its text and relating to
 - a) **trafficking in persons, especially women and children**,
 - b) the smuggling of migrants,
 - c) the illicit manufacturing of and trafficking in firearms.

The drawing up of the Convention rounded off an important stage of the international effort to suppress organized crime.

Convention on the Rights of the Child:

- was adopted in New York on 20 Nov 1989 and entered into force on 2 Sep 1990
- for Czechoslovakia, it entered into force on 6 Feb 1991 – it was published sub No 104/1991 Coll.

Other specialized materials

Resolution of the Government of the Czech Republic No 849 of 3 Sep 2003 on the National Strategy of the Fight against Trafficking in Persons for the Purpose of Sexual Exploitation in the Czech Republic

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TRAFFICKING IN WOMEN: THE CZECH REPUBLIC PERSPECTIVE

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