

Analysis of Institutional and Legal Frameworks and  
Overview of Cooperation Patterns in the Field of

**COUNTER-TRAFFICKING**  
in **EASTERN EUROPE**  
and **CENTRAL ASIA**

Research Report November 2003



# 1. INTRODUCTION

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## 2.1 Background and aims of the project

There has been a consistent increase in the number of persons, especially women and children, trafficked from the countries of the former Soviet Union to South-eastern and Western Europe, as well as to the Middle East and countries in East and South-east Asia. Though there are no exact numbers given the illicit nature of this phenomenon, various studies point out that Eastern Europe and Central Asia (EECA) are a major source of trafficked persons, besides serving as transit and, to some extent, also as destination countries (see for example Laczko, 2002; Laczko and Gramegna, 2003).

Research by IOM, other international organizations and local non-governmental organizations (NGOs) in many countries has shown that trafficking flows are mostly under control of organized crime networks, which operate in origin, transit and destination countries in recruiting, deceiving, transferring and exploiting people in degrading conditions. The problem of trafficking in persons has become relevant for the EECA countries after the dissolution of the Soviet Union and the subsequent opening of its borders in the beginning of the nineties. Massive migration movements between the former constituent republics of the Union as well as towards Western countries started to emerge. This trend of substantial emigration from the EECA countries for the purposes of permanent settlement or temporary labour migration has basically sustained until today. Many migrants, in particular young women, pin their hopes on improving their socio-economic position by working abroad, but instead fall into the hands of unscrupulous traffickers, who exploit them in forced sex work, indentured servitude or degrading industrial work. Particularly hard hit are the countries in the western perimeter of the former Soviet Union, such as Moldova, Ukraine, Belarus and the European part of Russia. There is clear evidence that all other countries in the EECA area have also become targets for traffickers who seek to exploit migrants from these countries in Europe, Asia and the American continent.

The internationally adopted definition of trafficking in persons as applied throughout this report reads as follows:

*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. (United Nations, 2000)*

Despite the fact that public awareness of and concern over trafficking in persons has grown considerably over the past number of years, the knowledge base is still relatively weak. According to Kelly (2003), research on trafficking has not moved much beyond mapping the problem and reviews of legal frameworks and policy, but the need for information to feed into policy debates is pressing. As regards the EECA countries, there is a lack of information on the existing national

mechanisms used by the governments to combat trafficking, however limited their reach and extent may be. Most reports, including those produced by IOM, offer a pragmatic overview of the phenomenon, on policy responses and existing lacunae in measures and legislation, although they do not offer a through analysis on the root causes of trafficking, an area which is needs to be analysed further and addressed through preventive action. The American Bar Association (ABA) has done a recent assessment of the legal framework in place in the countries involved, but this did not focus in any particular detail on the governmental mechanisms and policy responses (ABA/CEELI, 2003).

The attention from the side of the international community to the problem of trafficking in persons in the EECA region has grown substantially over the past decade. A large number of international organizations, including IOM, are present in the EECA region and involved in assisting the host governments in establishing national counter-trafficking policies, conducting preventive information campaigns, implementing research and providing assistance to victims of trafficking.

In this context of international attention to counter-trafficking developments in the EECA region, of particular importance during the last couple of years have been the annual reports of the US Department of State on the situation of trafficking in persons, issued in the framework of the US “Trafficking Victims Protection Act” of October 2000. The annual trafficking report includes those countries determined to have a significant number of victims of severe forms of trafficking and includes 10 countries in the EECA region.<sup>1</sup> The report assesses the efforts of the governments to comply with the minimum counter-trafficking standards as formulated by the US law and assigns the countries to three tiers depending on their level of compliance. In 2003 seven EECA countries, namely Armenia, Belarus, Kyrgyz Republic, Moldova, Russia, Tajikistan and Ukraine, were grouped in Tier 2, which comprises countries whose governments do not fully comply with the minimum standards, but are making significant efforts to do so. Georgia, Kazakhstan and Uzbekistan were qualified as countries whose governments do not fully comply with the minimum standards and are neither making significant efforts to do so and for that reason were classified as Tier 3 countries (US Department of State, 2003).

Despite criticism expressed by a number of observers on the 2003 report (see for example Human Rights Watch, 2003; Dutch National Rapporteur on Trafficking in Human Beings, 2003), the Tier allocation in 2003 has had a major impact on the EECA countries. For the first time the US government linked a Tier 3 assessment with the possibility of certain sanctions, notably withholding non-humanitarian and non-trade related assistance. For that reason the 10 countries in the EECA region concerned, in particular the three countries grouped in Tier 3, were especially interested in the assessment by the US government, which has already gained tremendous importance despite the short period that the report exists.

This example speaks for the importance that the countries in the EECA region attach to the involvement and assessment of the international community of their efforts in combating trafficking in persons, which is corroborated by numerous instances in the country reports compiled in this survey.

This report’s focus is on the analysis of institutional and legal frameworks in place to combat trafficking and an overview of cooperation patterns in the EECA region and beyond. The IOM research project in the 12 EECA countries ultimately seeks to serve as a tool for the enhancement of both IOM’s and national governments’ counter-trafficking activities in the region.

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<sup>1</sup> The 2003 report of the US Department of State does not cover Azerbaijan and Turkmenistan, on which the US government did not have enough information available.

## 1.2 Synthesis

Trafficking in persons has become a pressing issue for all 12 EECA countries that are covered in this survey. The country reports compiled in this survey all confirm the fact that the governments of these countries recognize that trafficking is a serious issue that requires urgent counter-action. Despite the overall recognition and increased awareness by governments and the civil sector, there is a great difference between the various countries in terms of the concrete measures they have implemented or devised. Several countries have made considerable progress over the last couple of years in improving legislation, establishing appropriate policy mechanisms, protecting victims of trafficking and prosecuting traffickers. Other countries, however, have been less active in bridging the gap between initial recognition and concrete follow-up measures genuinely contributing to the combat of trafficking. Few states have as of yet taken all necessary and possible steps in order to protect their citizens in terms of prosecution of traffickers, assistance to victims, and preventive information campaigns. For example, the phenomenon of trafficking in persons as such has remained a low priority in the view of many law enforcement agencies in EECA countries, as the policy and legislative bases are not sufficiently specific or even completely absent. This low priority is also caused by a poor understanding of the complexities of trafficking, which is only in some countries being alleviated by targeted training courses and other awareness raising activities.

All 12 countries share the same recent history as constituent republics of the former Soviet Union and the inheritance in terms of institutional frameworks and legal mechanisms. During the process of nation building after the dissolution of the Soviet Union many countries needed to start from scratch and applied standard formats applicable in the former Soviet Union, for example for the creation of national criminal legislation. Until recently almost all countries had a provision in their Criminal Code about 'trafficking in minors', usually in the context of preventing illegal adoptions. Trafficking in persons as a generic concept was however completely absent in the national legislation until recently. Currently most countries have adopted a specific counter-trafficking clause or have indicated the willingness to do so.

In addition to the relevance of effective practices in neighbouring countries, the internationally adopted CT standards, as formulated in the United Nations Convention against Transnational Organized Crime and its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, have gained widespread recognition and are regarded by many governments as the primordial guidelines in drawing up national legislation and policy mechanisms. However, few states have as of yet taken the actual step of creating and amending national legislation in accordance with international standards, despite the fact that most countries in the EECA region have already ratified or will soon ratify the UN convention concerned.

Probably the weakest component of the national CT policies in the 12 EECA countries is the lack of bilateral cooperation to facilitate the prosecution of traffickers and the assistance to victims of trafficking. Few governments have taken initial steps to conclude bilateral instruments with destination countries in the specific context of trafficking in persons, whereas most countries participate in regional *fora* that focus primarily on the prevention of terrorism and irregular migration. Trafficking in persons as a separate issue requiring a transnational and interdisciplinary approach has not yet emerged on the agendas of the relevant regional organizations in the EECA region, despite the existence of positive examples in adjacent geographical areas, such as the Balkans.

As a logical example of the absence of laws or their recent adoption, the law enforcement bodies in the countries concerned have little experience in investigating cases of trafficking and prosecuting traffickers. There are however certain positive examples, which could function as potential guidelines for law enforcement bodies throughout the EECA region. Bilateral exchange visits and targeted training for key police officers and prosecutors are indispensable elements to increase the professional qualities of law enforcement officers and thus improve the chances of effective prosecution of traffickers.

Despite the shortcomings that can be noted to a varying extent in all countries involved in this study, there are clear signals that governments are making progress in understanding trafficking and subsequently putting in place appropriate legislation and institutional structures. IOM will very much remain involved in assisting the governments to develop counter-trafficking policies that will comply with all relevant international minimum standards.

### **1.3 Application of Research Methodology**

IOM conducted the research in the 12 EECA countries from February 2003 to the end of May 2003. The 11 IOM missions in the countries of research<sup>2</sup> in coordination with the management team at the Technical Cooperation Centre of IOM in Vienna appointed national researchers in all countries. The IOM Mission in Astana, Kazakhstan, kindly cooperated in facilitating the research in Uzbekistan. The national researchers received instructions about the focus of the study and methodologies to be applied. The prime research method consisted of interviews with key government officials who are in charge of planning, implementing and monitoring the national counter-trafficking policy. Other methodologies applied were the collection of information from sources such as IOM missions, other international organizations, local NGOs and Internet, aimed to complement the information provided by government sources.

The national researchers were given a standard format for the reporting of the research results, facilitating a comparison between the 12 countries where the research was implemented, but at the same time flexible enough to cover all national peculiarities and relevant developments in an appropriate way.

Due to the deadline of May 2003 to deliver the research results this report does not cover developments that have taken place after that period. For example, events developed in quick succession just after the release of the “Trafficking in Persons Report 2003” by the US State Department on 12 June 2003. These events, which were still evolving at the time this publication went to the printer, have therefore not been fully covered in this report.

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<sup>2</sup> IOM has a representation in all EECA countries except Uzbekistan.

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## 2. COUNTRY REPORTS

