

TRAFFICKING IN HUMAN BEINGS IN POLAND

MINISTRY OF INTERIOR AND ADMINISTRATION



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TABLE OF CONTENTS

Foreword	4
Basic Information on Trafficking in Human Beings in Poland	5
KRZYSZTOF KARSZNICKI Trafficking in human beings in the light of the research into the criminal proceedings instituted in the 1995-2006 period	16
Developed by OPERATION AND INVESTIGATION MANAGEMENT AT THE BORDER GUARD GENERAL HEADQUARTERS III CRIMINAL ANALYSIS DEPARTMENT Combating the crime of trafficking in human beings by the Border Guard	29
AGNIESZKA OBSZNAJCZYK Social and demographic profile of the victims of trafficking in human beings	40
MARCIN WIŚNIEWSKI Trafficking in human beings – statistics	49
Operation code-named “ <i>Terra Promessa</i> ”	73
National Programme for Combating and Preventing Trafficking in Human Beings for 2007-2008	79

Foreword

This publication comprises a selection of texts included in a study entitled “*Trafficking in Human Beings in Poland. Materials Intended for a Report*” published in Polish thanks to the efforts of the Ministry of Interior and Administration in January 2008.

The publication also includes a chapter entitled “Basic Information on Trafficking in Human Beings in Poland” that briefly depicts the issue of trafficking in human beings and institutions engaged in combating and preventing the problem; a description of a Polish and Italian operation code-named “*Terra Promessa*” (“*Promised Land*”) that resulted in breaking up a criminal group that exploited the forced labour of Polish citizens in Italy; a text entitled “*National Programme for Combating and Preventing Trafficking in Human Beings for 2007-2008*” – a document constituting a schedule of actions taken by individual units of government administration.

It was prepared and published by the Unit for Trafficking in Human Beings of the Department of Migration Policy of the Ministry of Interior and Administration. If you have any questions and comments, please write to: zespol.handel@mswia.gov.pl

BASIC INFORMATION ON TRAFFICKING IN HUMAN BEINGS IN POLAND

ACTS OF INTERNATIONAL LAW

RATIFIED

UNITED NATIONS

- **Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others**, ratified by Poland in 1952.
- **Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime**, ratified by Poland on 26 September 2003.
- **Protocol against the smuggling of migrants by land, sea and air**, supplementing the United Nations Convention against Transnational Organised Crime, ratified by Poland on 26 September 2003.
- **Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography**, ratified by Poland on 4 February 2005.

EUROPEAN UNION

- **Council framework Decision 2002/629/JHA** of 19 July 2002 **on combating trafficking in human beings** (OJ L 203, 1.8.2002).
- **Council framework Decision 2004/68/JHA** of 22 December 2003 **on combating the sexual exploitation of children and child pornography** (OJ L 13, 20.1.2004).
- **Council Directive 2004/81/EC** of 29 April 2004 **on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have**

been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ L 261, 6.8.2004).

INTERNATIONAL LABOUR ORGANISATION (ILO)

- **ILO Convention No 29 concerning Forced Labour or Compulsory Labour**, ratified by Poland on 28 November 1958.
- **ILO Convention No 105 concerning the Abolition of Forced Labour**, ratified by Poland on 3 June 1958.
- **ILO Convention No 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**, ratified by Poland on 1 March 2004.

SIGNED

COUNCIL OF EUROPE

- **Council of Europe Convention on action against trafficking in human beings** of 2005, signed by Poland at the same year.

POLISH LAW – PENAL CODE

In accordance with binding law (the Constitution), ratified international agreements constitute a part of Polish legal system and can be applied directly. However, the analysis of judicature of Polish courts in cases of trafficking in human beings has indicated that the **definition of trafficking in human beings** included in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* is not always applied in practice. Therefore, a task leading to development and introduction of the definition of trafficking in human beings to the penal code by the Ministry of Justice has been included in the “*National Programme for Combating and Preventing Trafficking in Human Beings for 2007-2008*”.

The following regulations refer directly to the crime of trafficking in human beings:

Article 253

§ 1. *Whoever performs trafficking in persons even with their consent, shall be subject to the penalty of the deprivation of liberty for no less than 3 years.*

§ 2. *Whoever, in order to gain material benefits, organises the adoption of children in violation of the law, shall be subject to the penalty of deprivation of liberty for a term of between 3 months and 5 years.*

Article 204

§ 4. *Whoever entices or abducts another person with the aim of having him/her engage in prostitution abroad shall be subject to penalty specified in § 3 (i.e. deprivation of liberty for a term of between 1 year and 10 years).*

Crime related to trafficking in human beings:

Article 203

Whoever, by means of violence, unlawful threats, deceit or taking advantage of the dependency or critical position, leads another person to prostitution, shall be subject to the penalty of deprivation of liberty for a term between 1 year and 10 years.

Article 204

§ 1. *Whoever, in order to gain material benefits, impels another person to prostitution or facilitates it, shall be subject to the penalty of deprivation of liberty for a term of up to 3 years.*

§ 2. *Whoever gains material benefits from prostitution of another person shall be subject to penalty specified in § 1.*

§ 3. *If a person specified in § 1 or § 2 is a minor, the offender shall be subject to penalty of deprivation of liberty for a term between 1 year and 10 years.*

Article 8 of Provisions implementing the Penal Code

Whoever causes another person to become enslaved or conducts trade in slaves shall be subject to the penalty of deprivation of liberty for a term of no less than 3 years.

Other criminal offences related to trafficking in human beings:

- Forcing another person to behave in a certain way by means of violence or threat (Art. 191 (1) of the Penal Code),
- Unlawful deprivation of liberty (Art. 189 of the Penal Code).

INTER-MINISTERIAL SOLUTIONS

On 5 March 2004 the inter-ministerial **Committee for Combating and Preventing Trafficking in Human Beings** was established under Order No 23 of the Prime Minister. The chairman of the committee is the Undersecretary of State of the Ministry of Interior and Administration.

The Committee comprises of the representatives of the governmental administration units:

- The competent minister in charge of education,

- The competent minister in charge of social security,
- The Minister of Justice,
- The National Public Prosecutor,
- The competent minister in charge of foreign affairs,
- The competent minister in charge of health,
- The competent minister in charge of internal affairs,
- The Office of the Committee for European Integration,
- Head of the Office for Foreigners,
- Police Commander in Chief,
- The Commander in Chief of Border Guard.

Non-governmental organisations dealing with trafficking in human beings have been invited to participate in the Committee's work, i.e. **“La Strada” Foundation against Trafficking in Women** [Fundacja Przeciwno Handlowi Ludźmi i Niewolnictwu “La Strada”], **Caritas of Warsaw Archdiocese** [Caritas Archidiecezji Warszawskiej], **Nobody's Children Foundation** [Fundacja Dzieci Niczyje] and **ITAKA – Centre for Missing Persons** [Fundacja ITAKA – Centrum Poszukiwań Ludzi Zaginionych].

The tasks of the Committee comprise the following:

- Evaluation of implementation of the *“National Programme for Combating and Preventing Trafficking in Human Beings”*,
- Proposing and giving opinions about undertaken actions aiming at efficient combating and preventing trafficking in human beings,
- Cooperation with agencies of government administration and local government, as well as with non-governmental organisations in the scope of combating and preventing trafficking in human beings.

The objective of day-to-day monitoring and information exchange as part of the Committee led to the establishment of the **Working Group**, comprising of experts representing the institutions taking part in the Committee's work.

The **Unit for Trafficking in Human Beings** in the Department of Migration Policy of the Ministry of Interior and Administration is responsible for the following issues:

- Handling the work of the interdepartmental Committee for Combating and Preventing Trafficking in Human Beings;
- Monitoring the implementation of the *“National Programme for Combating and Preventing Trafficking in Human Beings”*;
- Preparing the *“National Programme for Combating and Preventing Trafficking in Human Beings”* for subsequent years;
- Implementation of the *“Programme to Support and Protect the Victims/Witnesses of Trafficking in Human Beings”* intended for foreigners.

NATIONAL PROGRAMMES

Since 2003, documents constituting the **schedule for actions undertaken** by particular **governmental administration units** have been prepared on the initiative of the Ministry of Interior and Administration (the units are: the Ministry of Interior and Administration, the Ministry of Justice, the Ministry of Labour and Social Policy, National Labour Inspectorate, General Headquarters of Police, Headquarters of the Border Guard) **and non-governmental organisations**. Tasks assigned to particular entities are financed as part of budgets at their disposal.

The first document entitled “*National Programme for Combating and Preventing Trafficking in Human Beings*” was passed by the Council of Ministers on 16 September 2003. Currently, the third programme for 2007-2008, outlined by the Committee for Combating and Preventing Trafficking in Human Beings, is being implemented.

ANNUAL CONFERENCES ON TRAFFICKING IN HUMAN BEINGS

In 2005, as part of the “*National Programme for Combating and Preventing Trafficking in Human Beings for 2005-2006*”, **annual domestic conferences on trafficking in human beings**, attended by experts of the governmental administration, enforcement agencies and non-governmental organisations dealing with trafficking in human beings, were initiated.

During the conferences, specific issues concerning trafficking in human beings are being discussed, existing solutions are being analysed, and **recommendations** concerning legal modifications, changes in victim protection system organisation and training courses for practitioners are being created.

Two domestic conferences have been organised so far and post-conference materials have been issued.

ENFORCEMENT AGENCIES

THE POLICE

On 5 September 2006, by decision of Police Commander in Chief, **the Central Team for Combating Trafficking in Human Beings, Human Organs, Child Pornography and Pedophilia** was established at the General Headquarters of Police.

The tasks of the Central Team are the following:

- Coordination and supervision over the **coordinators and teams in regional headquarters of Police and Warsaw Metropolitan Police Headquarters,**
- Carrying on preventing actions,
- Initiating the training courses for officers combating trafficking in human beings and human organs, pedophilia and child pornography,
- Participation in organising international operations,
- Organisation of cooperation with entities other than the Police,
- Cooperation with Human Trafficking Studies Centre of the Warsaw University.

Regular tasks of Voivodeship Teams for Combating Trafficking in Human Beings, operating as part of the Criminal Divisions of Voivodeship Headquarters of Police are the following:

- Performing duties resulting from the “*Algorithm of proceedings of the enforcement agencies’ officers in the case of disclosing a crime of trafficking in human beings*”,
- Performing reconnaissance in terms of phenomena and occurrences concerning trafficking in human beings and human organs, pedophilia and child pornography,
- Performing preparatory measures and operational matters,
- Performing reconnaissance in the Internet environment – communicators, chats, forums and discussion lists,
- Performing regular inspections of escort agencies, massage parlours and street prostitution sites,
- Maintaining a central database on the issues of trafficking in human beings, human organs, pedophilia and child pornography, with the cooperation of the Criminal Investigation Divisions (as part of information registration system),
- Participation in international operations,
- Maintaining contacts with entities other than the Police and local governments, with special attention paid to criminal prevention (lectures at schools),
- Organising training courses for officers of other departments of Voivodeship Headquarters of Police and subordinate units.

BORDER GUARD

A **coordinator supervising the actions in the scope of combating and preventing trafficking in human beings** has been appointed at the **Headquarters of the Border Guard**, as well as **coordinators** at particular **divisions of Border Guard**. Their duties are, among others, to coordinate the cooperation between the Border Guard and the Police and other institutions and non-governmental organisations in terms of combating and preventing trafficking in human beings.

PROSECUTOR’S OFFICE

In 2003, the Office on Organised Crime of the Prosecutor’s Office created the “*Methodological guidelines for prosecutors carrying out or supervising criminal procedures dealing with trafficking in human beings*”, containing procedures of dealing with unattended foreign children in Poland. The recommendations which have been updated

on 2005 were transmitted to organisational units of the prosecutor's office all over the country.

In this document, attention was drawn especially to the **special situation in which the victims of the human trafficking found themselves** and **possible ways of offering aid to them**, as well as **methods of dealing with victims which do not lead to their secondary victimisation**.

Moreover, the need for applying the **definition of trafficking in human beings** included in an *Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organised Crime* was indicated.

Guidelines encourage prosecutors to give up criminal prosecution of acts committed by victims of human trafficking by use of existing legal possibilities (discontinuation of criminal procedure, refusal to institute proceedings or extraordinary mitigation of penalty), which is particularly important since the victims' actions may bear the mark of such criminal offences as illegal crossing of the border or using fake documents. Legal instruments allowing the pursuing of civil claims for victims in criminal prosecution were also indicated.

This same year the judges **were submitted general information concerning the definition of trafficking in human beings and the text of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**.

In June 2007, prosecutors acting as consultants for trafficking in human beings issues were appointed throughout **the appeal prosecutors' offices**. This is another element of a **system** being worked out, which is supposed to guarantee efficient prosecution of this criminal offence and giving professional aid to its victims.

EMPLOYMENT LEGALITY CONTROL

NATIONAL LABOUR INSPECTORATE

Since 1 July 2007, the competence in terms of employment legality control concerning Polish citizens and aliens has been the responsibility of the **National Labour Inspectorate** (earlier this function was performed by Voivodes with the assistance of employment legality control units at Voivodeship Job Centers).

“Employers shall be subject to control of the National Labour Inspectorate – as well as entrepreneurs not being employers, for whom natural persons work, including self-employed persons, regardless of the basis of providing work, in terms of work safety and hygiene and employment legality control” (Article 13).

Taking into consideration the threats of trafficking in human beings for forced labour, the tasks of the National Labour Inspectorate are of great importance; these tasks include:

- *Employment legality control, other gainful work control, business activity control and duties observance control:*
 - *Making an entry of business activity, which is dependant on obtaining such entry into the employment agency,*
 - *Running the employment agency in accordance with conditions specified in regulations on employment promotion and labour market institutions;*
- *Employment legality control, other gainful work control, control of the work of foreign nationals;*
- *Cooperation with EU Member States' authorities responsible for supervision over labour and employment conditions for employees;*
- *Prosecuting offences against employment rights specified by the Employment Code; offences referred to in Articles 119-123 of the Law of 20 April 2004 on the promotion of employment and labour market institutions, and other offences as stated in Laws and participation in these cases as a public prosecutor.*

Control proceedings, which aim at establishing the factual state in the scope of employment rights observance, in particular the observance of regulations and rules concerning the safety and hygiene at work, as well as employment legality regulations and presentation of documents of arrangements made, **are carried out by Regional Labour Inspectorates.**

CUSTOMS SERVICE

Since 1 July 2007, the Customs Service, maintaining **control over the observance of legality of the employment of foreign nationals**, has been granted **new competences**. *Since then its tasks have also been “legality control of the business activity of foreign nationals, entrusting them with work and other gainful work”.*

AID FOR VICTIMS OF TRAFFICKING IN HUMAN BEINGS

LAW

Law of 16 February 2007 amending the Law on social assistance introduces regulations constituting a basis for **granting support due to the direct fact of being a victim/witness of trafficking in human beings:**

- **for Polish citizens**

- **for foreign nationals entitled to benefit from social assistance**, in accordance with Article. 5 (2) and Article 5 (3) of the Law on social assistance (*i.e.*: if the person has a permanent place of residence and resides on the territory of the Republic of Poland on a basis of the authorisation of establishment, longterm resident's EC residence permit, residence permit for a fixed period in connection with a circumstance referred to in Article 53 (1) (13) of the Law of 13 June 2003 on Aliens, consent on a tolerated stay or in relation to obtaining a refugee status in the Republic of Poland – *Article 53 (2) or Article 53 (3)* – having the place of residence and residing on the territory of the Republic of Poland for citizens of the UE Member States, citizens of the European Free Trade Association Member States – parties to the agreement on the European Economic Area or the Swiss Confederacy and members of their families).

- **foreign nationals who received:**
 - **residence visa** under Article. 33 (1) (5):
“Residence visa may be issued to an alien, despite of the circumstances that justify the refusal of the visa, if there is a well-founded reason to suspect that an alien is a victim of trafficking in human beings within the meaning of Framework Decision of the Council of 19 July 2002 on combating trafficking in human beings (OJ L EC L 203 of 1.08.2002), and this has been confirmed by an authority competent with respect to conduct procedure on combating trafficking in human beings. The visa referred shall be granted for a period of residence necessary to take by an alien the decision whether to cooperate with an authority competent with respect to conduct procedure on combating trafficking in human beings, not exceeding 2 months”.

 - **permission for residence for a specific period**, in accordance with Art. 53 (1) (15) of the amended Law on aliens. A permit may be granted to an alien, who *“resides on the territory of the Republic of Poland, has undertaken cooperation with an authority competent with respect to conduct procedure on combating trafficking in human beings, has terminated contacts with persons suspected of committing related to trafficking in human beings or, if circumstance, on which he/she applies for this permit justifies his/her residence within the territory of the Republic of Poland for the period exceeding 3 months”.*

Law amending the Law on social assistance entered into force on **1 April 2007**.

Moreover, these foreign nationals are entitled the *“right for services such as crisis intervention, shelter, meal, necessary clothing and designated benefit”*. The aid is granted to foreign nationals on a basis of a certificate issued by the Police, Border Guard or Prosecutor's Office, which pronounces the person a victim of trafficking in human beings.

The Law allows these foreign nationals to stay at a **crisis intervention centre** (social assistance organisational unit) for a period compliant with a validity period of the residence visa and residence permit for a fixed period, issued to those persons due to prosecution on trafficking in human beings.

Additionally, the need to give aid to victims of trafficking in human beings as a condition to grant social assistance benefits.

VICTIM SUPPORT PROGRAMME

Since 1 January 2006, on a basis of agreement commissioning the carrying out a public task, concluded between the Minister of Interior and Administration and the “**La Strada**” **Foundation against Trafficking in Women**, the “*Programme for Support and Protection Victims/Witnesses of Trafficking in Human Beings*” for foreign nationals has been implemented.

Detailed material scope of the task:

- **Crisis intervention:**
 - Diagnosis of the victim’s need by the Foundation worker;
 - Case-management (consultations, advising, support, providing safety, organisation of aid while working individually with a person);
 - Providing an interpreter;
 - Transport of a victim on the territory of Poland;
 - Safe shelter (transport, accommodation, satisfying the basic life needs: food, clothes, hygienic measures) and change of appearance;
 - Medical and psychological consultations, medical examinations and purchase of medicines.
- **Assisting the victim during the contacts with enforcement agencies and Area of Justice** – legal consultation,
- **Organisation of the residence legalisation,**
- **Organisation of a safe return of a victim to the country of origin** (providing continuity of support, if possible – allowing the contact with a competent organisation in the country of origin, on the basis of a victim’s consent).

In 2006, 10 victims were included in the Programme, in 2007 – 20 (with 3 persons remaining in the Programme), while between January and June 2008 – 10 (with 4 persons remaining in the Programme).

The coordinators of the Programme implementation are the representatives of: Unit for Trafficking in Human Beings of the Department of Migration Policy of the Ministry of Interior and Administration, Border Guard, Central Team for Combating Trafficking in Human Beings of the General Headquarters of Police and “La Strada” Foundation.

G6

Since 2006, Poland has been a member of **G6 – a group of six largest European countries (the United Kingdom, Spain, France, Germany and Italy) cooperating in the particularly vital areas concerning security** (terrorism, organised crime, exchange of operational data, border control and illegal immigration).

Undertaken actions:

- 8 November 2006 – meeting of the G6 countries’ representatives in Warsaw entitled “*International Cooperation in the Area of Combating and Counteracting Trafficking in Human Beings. Experience Sharing – Future Proposals*” (Polish and British initiative in the scope of combating trafficking in human beings);
- 4 July 2007 – meeting of G6 Group experts in Warsaw – **four areas of common actions were defined:**
 - 1) Collecting and exchanging information;
 - 2) Operations of enforcement agencies;
 - 3) Organising campaigns aimed at raising awareness on trafficking in human beings;
 - 4) Protection and support for victims.

It was assumed that common actions would take place from the autumn of 2007 to December 2008. **Polish Presidency in the G6 Group:** July – December 2007.

TRAFFICKING IN HUMAN BEINGS IN THE LIGHT OF THE RESEARCH INTO THE CRIMINAL PROCEEDINGS INSTITUTED IN THE 1995-2006 PERIOD

I. INTRODUCTION

The extent of trafficking in human beings, especially trafficking in women from Central and Eastern Europe, was the largest in the beginning of 1990s, thus coinciding with the fall of the communist regime in Europe. Economic liberalisation was also conducive to the emergence of organised criminal groups dealing in sexual services and pornography. The industry connected with organised crime has become widespread to such an extent that trafficking in women and prostitution are now serious commercial undertakings. This was undoubtedly influenced by high level of unemployment resulting from economic developments.

Before 1990, hotels and restaurants were main centres of prostitution in Poland. In the period following 1990, the number of brothels disguised as massage salons and spas controlled by organised criminal groups increased drastically. The occurrence of the so-called roadside prostitution is also visible. Such prostitutes are usually foreigners staying in Poland on a tourist visa. They provide services to customers driving long-distance trucks, usually not far from border checkpoints.

Almost all penal proceedings against trafficking in humans that have been conducted in Poland are connected with the **market for sexual services** rendered by the victims. In just a few cases the abuse was of a different nature: the crimes consisted in trafficking in human beings for **forced labour** exploitation and **illegal adoption**.¹

¹ The ban on illegal adoption was introduced by Article 253 (2) of the Penal Code. Another legal document forbidding illegal adoption is the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography adopted in New York on 25 May 2000, ratified by Poland on 4 February 2005 (Articles 2 and 3).

II. LEGAL SITUATION

(a) Penal Code of 1969

The crime of trafficking in human beings was initially typified in Article IX (1) and (2) of provisions implementing the Penal Code of 1969.²

In (1), the regulator described **behaviour consisting in bringing, luring or kidnapping a person in order to prostitute oneself, even upon his/her request**. The way the provision was formulated suggests that the occurrence of crime under Article IX (1) of provisions implementing the Penal Code was not conditional on whether the bringing, luring or kidnapping a person in order to prostitute himself/herself took place against the consent, without the consent or with the consent of the victim. **The consent or its lack was only taken into consideration when establishing the extent of the punishment.**

Paragraph (2) depicts behaviour consisting in **trafficking in women** even upon their consent, as well as behaviour consisting in **trafficking in children**. In this case, the purpose of trafficking in human beings was not important from the point of view of the occurrence of the crime.

The Penal Code of 1969 states that **those who impelled another person to prostitute oneself as well as those who drew pecuniary benefits from somebody's prostitution or prostituted themselves to draw pecuniary benefits shall be held criminally liable**. The crimes have been described in Article 174 (1) and (2) of the Penal Code of 1969.

(b) Penal Code of 1997

Regulators introduced **significant changes** to the dispositions and sanctions of regulations on trafficking in human beings in the Penal Code of 6 June 1997.³

The crime under Article IX (1) of the provisions implementing the Penal Code of 1969 has been incorporated into **Article 204 (4) of the new Penal Code**, yet the two provisions are not identical. **The regulators omitted** the expression “**even upon his/her request**” included in Article IX (1) of the provisions implementing the Penal Code. It was probably done in order to change the faulty regulation suggesting that it is possible to kidnap someone with his/her consent.

This does not suggest, however, that those who bring a person in order to prostitute him/her with his/her consent shall not be held criminally liable. Such behaviour is still penalised and has been described in Article 204 (1) and (2) of the new Penal Code.

The said provisions differ in terms of sanctions. In the case of exploitation of prostitution with the consent of the victim, the perpetrator is subject to punishment of up to 3 years' imprisonment, while in the case of drawing or kidnapping a person in order to prostitute oneself, the perpetrator is subject to punishment of 1 to 10 years in prison.

Apart from the above regulations, Article 253 of the new Penal Code also plays an important role. It says that **whoever conducts trafficking in human beings, even with their consent, shall be subject to the penalty of deprivation of liberty for a minimum term of 3 years and a maximum of 15**.

In this case, neither the aim of trafficking in human beings nor the consent of the victim is of importance. Accumulative qualification of the acts is most frequent when formulating the charges. **Features of two provisions, namely Article 204 (4) of the Penal Code and Article 253 of the Penal Code aspire to one type of criminal behaviour.**

² Act of 19 April 1969 – Provisions implementing the Penal Code (Journal of Laws of 1969, No. 13, item 95).

³ Journal of Laws of 2 August 1997 (Journal of Laws of 1997, No. 88, item 553).

III. ANALYSIS OF PROCEEDINGS CONDUCTED IN THE YEARS 1995-2006

(a) Completed proceedings

In the years 1995-2006, 386 preparatory proceedings were completed in cases connected with trafficking in human beings, **of which 282 proceedings ended by lodging a bill of indictment** and 104 were dismissed.

A total of 729 people were charged in this respect. Currently, there are 22 preparatory proceedings conducted.

In connection with the conducted cases, **1,834 persons were discovered to be injured parties.**

- In connection with proceedings completed in 2003 alone, 261 crime victims were discovered, of which 21 were under 15 years of age.
- In connection with proceedings completed in 2004, 98 crime victims were discovered, of which 2 were under 15 years old.
- In connection with investigations completed in 2005, 99 crime victims were discovered, of which 10 were 16-17 years of age.
- In 2006, 126 crime victims were discovered, of which 19 were under 18 years old.

In 2002, 11 victims were covered by Police protection until the end of court proceedings. In 2003, such protection covered only 3 persons and in 2004 – none.

The same persons were provided with the support of NGO “La Strada”. Out of 98 victims appearing in criminal proceedings that were completed in 2004, only 6 were covered with the support of “La Strada”. The organisation also helped 6 victims in 2005. In 2006, out of 126 victims discovered during completed investigations, 10 were provided with the support of “La Strada”. Information provided by the organisation state that it offered welfare and psychological support to 99 people (including 38 foreigners) in 2004. **This means that the majority of victims of trafficking in human beings did not inform law enforcement bodies of a crime committed to their harm.**

(b) Dismissed proceedings

In the years 1995-2006, a total of 104 proceedings were dismissed, of which:

- 23 proceedings were dismissed because the perpetrator has not been discovered;
- 81 proceedings were dismissed as a crime has not occurred, due to lack of data sufficiently substantiating the suspicion of a crime or due to lack of statutory features of a forbidden act.

The most frequent reason behind dismissing proceedings was the lack of sufficient evidence of a crime.

(c) Legally valid sentences

In the years 1995-2004, courts sentenced about 200 persons and only 9 were acquitted (the data pertain to sentences issued by 1st instance courts).

The most severe sentence was issued by the Voivodeship Court in Szczecin in 1997: the defendant was sentenced to 7 years in prison. In appeal proceedings, as a result of an

appellation of the prosecutor, the Appeal Court in Poznań changed the sentence by increasing the period of imprisonment to 10 years. The case was connected with providing German and Turkish citizens with 51 women for prostitution, of which 40 women were aware of the purpose of their trip and 11 were misled as to the nature of the work abroad.

Three Bulgarian citizens who traded Ukrainian women in the vicinity of Warsaw received equally severe sentences: 10 years in prison each.

IV. METHODS EMPLOYED BY THE PERPETRATORS OF TRAFFICKING IN HUMAN BEINGS

The table below presents selected methods of the perpetrators of trafficking in human beings with the aim of exploiting forced labour, illegal adoptions and prostitution.

PURPOSE OF TRAFFICKING IN HUMAN BEINGS	METHODS OF THE PERPETRATORS
FORCED LABOUR	<ul style="list-style-type: none"> • Help in illegal border crossing and work “to repay the debt”; • Press announcements advertising work abroad and work “to repay the debt”; • Employment for illegal work;
ILLEGAL ADOPTION	<ul style="list-style-type: none"> • Children born and sold abroad;
PROSTITUTION	<ul style="list-style-type: none"> • Offering jobs in escort agencies; • Press announcements advertising legal jobs abroad; • Forced kidnapping; • Kidnapping after the victim was given hypnotic drugs; • Misleading the victim (holidays abroad).

(1) FORCED LABOUR

(a) Poland as destination country

- **Help in illegal border crossing and work “to repay the debt”**

In 2004, the Regional Public Prosecutor’s Office in Kielce filed charges against three Vietnamese citizens who forced another Vietnamese citizen to perform slave labour for no remuneration whatsoever. One of the defendants offered to help the victim in entering the territory of Poland illegally. In line with their arrangements, the help was to cost him USD 3,000, but the victim only managed to collect USD 2,000. The defendant decided to lend the victim the missing amount of money (USD 1,000) and the victim committed himself to work it off in Poland. The work performed by the victim in Poland consisted in selling various kinds of goods at markets. After a few weeks the victim learned that he would not receive any

remuneration for his work for five years. Only then did he realise the seriousness of the situation he found himself in and decided to notify law enforcement bodies.⁴

- **Illegal work**

Instances of illegal employment of Ukrainian citizens in the construction sector for no remuneration whatsoever are becoming increasingly frequent. Such persons are aware of the consequences of illegal employment and do not inform law enforcement bodies of being exploited by their employers. Their only recourse is to stop performing their work, on the condition that the employer allows them to leave the job. None of the public prosecutor's offices has yet pursued criminal proceedings in a case of this kind.

- (b) **Poland as the country of origin**

- **Press announcements advertising work abroad and work “to repay the debt”**

In 2006, the Department for Organised Crime of the Regional Prosecutor's Office in Krakow conducted an investigation into trafficking in Polish citizens with the aim of exploiting forced labour at plantations located in the vicinity of the town of Foggia in Italy. On the basis of gathered evidence it was concluded that the perpetrators placed advertisements in national newspapers offering work at tomato picking in Italy. Persons providing information on working conditions and departure dates over the phone introduced themselves using false personal data. Phone numbers featured in job offers were changed frequently. The charge for the journey to Italy was PLN 400 to PLN 800; workers were additionally charged ca. EUR 150 upon arrival. Transport was provided by private companies, mainly from the Podkarpacie region, as well as by individual carriers.

Recruited workers were transported directly to plantations, where work organisation and supervision was in the hands of Poles and Ukrainians. Workers were totally enslaved in the holdings, they were subject to physical and psychological violence. In order to prevent them from contacting anyone from the outside, they were supervised by sentinels during the work and at night they were locked in the premises where they slept; frequently, their mobile phones and documents were taken away.

One of the methods of forcing the recruited workers to perform slave labour was charging them with excessive costs of accommodation, electricity and other costs, e.g. for the possibility to go shopping, during the first few weeks of their stay abroad. The costs were so inordinate and earnings so low that they did not cover the alleged debt, even after a few months. The work was organised in a piecework system and the daily norm was so high that it was impossible to meet. In case the employee failed to meet the norm, the employer charged him/her with a fine and thus the indebtedness of the employee kept increasing.

The victims were accommodated in premises completely unfit for humans, mainly in ruined outbuildings with no water, electricity or furnishings; in many cases workers were forced to live in tents. The ‘sentinels’ carried guns and were extremely brutal.

At present, the victim status is granted to 285 persons. Decisions on filing charges have been issued in respect of 28 persons.

⁴ More information on the issue can be found in the article prepared by the National Headquarters of Border Guards, p. 36.

(2) ILLEGAL ADOPTION

a) Poland as the country of origin⁵

- **Children born and sold abroad**

Currently, the District Public Prosecutor's Office in Konin conducts proceedings connected with an attempt to sell a newborn baby by her mother – a Polish citizen who left to Germany when her pregnancy was advanced and gave birth to a baby girl in her friend's apartment. She intended to sell the baby for EUR 10,000 to a German citizen who was present during the delivery.

(3) PROSTITUTION

Considering the issue of trafficking in women, **Poland undoubtedly is: (1) the country of origin, (2) transit country and (3) destination country** for traders in women from former USSR countries, Bulgaria and Romania; therefore the low detectability of crimes in the two latter areas (Poland as transit country and destination country) is worrying. It is possible that the **deportation policy** is an influence as it happens frequently that foreign women staying in Poland illegally are immediately deported to the border.

Immediate deportation of women makes collecting evidence and establishing the real scope of the problem impossible. Victims are thus deprived of the possibility to testify and incriminate the perpetrators.

There were also cases of Polish citizens engaging in the illegal practices abroad. Currently, penal proceedings are conducted against an organised criminal group buying young women in Sri Lanka and selling them to night clubs in Switzerland, Great Britain and Canada.

(a) Poland as destination country (the place of trafficking in foreign women)

As a result of proceedings in which Poland was destination country, in the period under consideration **516 victims were revealed** (of which 230 were Belarusian women, 174 Ukrainian women, 28 Bulgarian women, 18 Romanian women, 17 Moldovan women, 12 Russian women, 8 Latvian women, 7 Vietnamese women and 1 Vietnamese man to perform slave labour in a market without remuneration, 5 Lithuanian women, 4 Sri Lankan women, 3 Mongolian women and 2 Costa Rican women).

In 2005 alone, 34 harmed Ukrainian women and 3 Belarusian women were revealed, while in 2005 – 25 Ukrainian women and 18 Belarusian women.

It is characteristic that **Bulgarian women** were forced to perform **roadside prostitution**, while all revealed **Ukrainian** victims were sold to **escort agencies to prostitute themselves**. Almost in all cases, **a citizen of the country of the victims' origin cooperated with the perpetrators**.

It was most frequently the case that the **victims were promised work as salespersons at markets** or sometimes also **work in the field**.

It happened sometimes that **women came to Poland out of their own initiative** to find **seasonal employment in agricultural holdings or at strawberry plantations**. After the work ended **suddenly someone offered the women further employment and deceitfully**

⁵ In 1998, the Public Prosecutor's Office in Krakow conducted an investigation against persons dealing with illegal adoptions. The persons organising illegal adoptions were proven guilty in a few cases, but it is possible that in reality they perpetrated more such acts.

kidnapped them. They were subsequently sold to Bulgarian citizens who are mostly engaged in illegal practices in the territory of Poland. One of the victims was kidnapped with significant participation of her female friend who assured her that she found jobs in Poland for the two of them. Shortly after crossing the border the woman was handed over to two men.

Women deceived to come to Poland are frequently **resold to subsequent traders a few times at a higher price** thus changing their whereabouts, which makes searching for them very difficult if they are reported missing.

The highest activity of criminals dealing in trafficking in women and forcing them to prostitute themselves is concentrated in **central Poland** (areas in the vicinity of Warsaw, Płock, Żyrardów and Radom) **and in its eastern part** (areas in the vicinity of Rzeszów and Białystok).

- **Offering jobs in escort agencies**

One of the most serious cases was conducted by Regional Public Prosecutor's Office in Rzeszów. The investigation concerned an organised criminal group ran by a Ukrainian citizen who gained on trafficking in women from Lviv and its vicinity. Investigation revealed that the Ukrainian citizen leading the group sold about 60 women to persons operating escort agencies charging USD 200 each. At the same time, in the framework of arrangements with agency owners, she charged USD 100 monthly from each woman she sold for the possibility to render sexual services. She continued the practice for at least 2 years. All victims were aware of the kind of services they were to render in Poland. Proceedings revealed the personal data of only 20 victims. Charges were filed against 15 persons (including two Ukrainians).

- (b) **Poland as the country of origin of victims**

The most serious cases of this type were conducted at the end of 1997 and at the beginning of 1998 by the then Voivodeship Prosecutor's Office in Szczecin (51 women victims) and the then Voivodeship Prosecutor's Office in Opole (89 women victims).

In both cases women were recruited to work in Germany.

The highest activity of criminal groups dealing in recruiting women (from Poland) to work in western Europe concentrated along the border with Germany (areas in the vicinity of Szczecin, Poznań and Gorzów Wielkopolski).

- **Press announcements advertising legal work abroad**

German and Turkish citizens were provided with women for prostitution. The women were recruited by a Polish citizen who was offered cooperation with a Turkish citizen settled permanently in Berlin.

Women were contacted by placing advertisements in press. The job in Germany allegedly consisted in housekeeping. When the women arrived in Berlin, the Polish citizen was paid from DEM 500 to DEM 3,000 each. The women's passports were taken away immediately.

The women worked as the so-called 'call girls' – they were taken to see customers on an order made by phone. The driver – 'bodyguard' – received money for the service rendered by the woman from the customer and left the victim alone with him after checking the

apartment. The price of the service amounted to DEM 120-150, of which the victim received only DEM 30-40.

Subsequently, the Polish citizen became the co-owner of the agency where he collected DEM 10 for each hour of sexual services rendered by all the women whom he provided to the Turkish citizen.

A few women managed to escape thanks to the help of agency drivers. The case has already been adjudicated upon validly. The Polish citizen dealing in recruiting women to work in Germany was sentenced to ten years imprisonment.

- **Recruitment of women in Polish escort agencies to prostitute themselves abroad**

Another case conducted by the Voivodeship Prosecutor's Office in Wrocław revealed that the recruitment of women was conducted by an employee of a 'spa'. The spa also offered sexual services.

One of its customers, an Italian citizen living in Germany, offered an employee of the spa cooperation consisting in recruiting women to render sexual services in Germany.

The said employee recruited about 30 women out of those who provided services in the 'spa'. In this case, the women were aware of the kind of work they were to perform and they usually agreed to the offer. The offers were made to young women with difficult material statuses.

- **Kidnapping with the use of force**

Cases of kidnapping victims to be taken abroad with the use of force are revealed more and more frequently. Currently the case connected with kidnapping and detaining a Polish citizen in a basement within the territory of Poland and then transporting her to Sweden to force her to prostitute herself is underway.

- **Kidnapping after the victim was given hypnotic drugs**

In another case, a married couple together with two unknown men transported a young woman to Italy after she was given hypnotic drugs. The woman was sold to a night club.

- **Luring by misleading**

In 2004, the Regional Prosecutor's Office in Włocławek filed charges against a Polish citizen who lured a young woman to Sweden under the pretext of spending holidays with her and after crossing the border he took her passport away and forced her to prostitute herself.

(c) Poland as transit country

Poland may also be transit country, especially for victims from Lithuania, Latvia and Moldova. The destination country is in this case Germany and the smuggling takes place near Świnoujście and Szczecin.

While the victims cross the eastern border of Poland legally, crossing the Polish-German border takes place on the basis of forged documents (passports issued to Polish citizens where original photos have been replaced with photos of the foreigners).

- **Organisation of illegal border crossing**

Case 1.

Regional Prosecutor's Office in Szczecin conducted proceedings connected with the operations of an international criminal group dealing in the recruitment of Latvian and Moldovan women to render sexual services in Germany. The group consisted of four Polish citizens. The victims crossed the Polish border in a legal manner by train with the tickets sponsored by the criminal group. In line with earlier instructions, they met a Polish citizen in Szczecin who organised their illegal crossing of the Polish-German border in a minibus with a group of illegal immigrants from Iran consisting of 15 persons.

Case 2.

In December 2003, the Regional Public Prosecutor's Office in Gorzów Wielkopolski filed charges against 40 persons engaged in trafficking in human beings. Gathered evidence suggests that in the period 1997-2002 the defendants sold in Germany at least 100 Belarusian citizens (personal data of 64 victims were revealed) and 18 Polish citizens in order to render sexual services.

Belarusian women were recruited by Belarusian citizens in the town of Baranovychi. The women were then transported to Międzyrzecz and accommodated there for a few weeks. During that time, documents enabling them to enter Germany were prepared. The criminal group employed various methods of crossing the border that would not give rise to suspicions. The most frequently used border checkpoint was the pedestrian crossing in Buk, in the vicinity of Kołbaskowo. The victims crossed the border with bikes borrowed from the defendants. The women changed to cars of the criminals engaged in trafficking in human beings a few kilometres away from the border.

After one instance when the Police revealed the practice the defendants started to use the services of the inhabitants of Międzyrzecz to smuggle women.

Another method of smuggling the victims through the border was using trains running between border towns on the Polish and the German side of the border. One of the collaborators of the criminals was the engine driver who smuggled women inside the locomotive.

The police revealed numerous cases of cooperation between the criminals and truck drivers who hid the women in semi-trailers. The women worked in night clubs and brothels in Hamburg, Berlin and Kiel. Final recipients running brothels paid the Polish recruiters a usual sum of DEM 1,500-2,000 for bringing the women to Germany.

The main recipients of women in Germany were pimps of Turkish origin and a Polish citizen cooperating with them.

Regardless of the practice connected with smuggling Belarusian women, the defendants also dealt with recruitment and transport of Polish women prostituting themselves in Poland.

V. CHARACTERISATION OF VICTIMS

(a) Victims of trafficking in human beings to exploit forced labour

In the case of trafficking in human beings to exploit forced labour, in Italian plantations whole families fell victims. The youngest victim was a boy aged 17. Unaware of

the danger, Polish citizens answered to advertisements placed in local and national newspapers as well as on the internet.

(b) Victims of illegal adoption

As the abovementioned case shows, the victims of illegal adoption are frequently newborn babies delivered and sold by Polish women abroad.

(c) Victims of trafficking in human beings to exploit prostitution

The majority of discovered victims were aware of the aim of the journey abroad and of the type of work they would perform. The suspects dealing in recruiting women willing to leave Poland to prostitute themselves took advantage of their difficult economic situation.

The majority of recruited women were aged 16-20 (it is interesting that in 2004 most of the victims were aged 27-33) with primary education and low economic status. The suspects dealing in recruiting women were paid EUR 1,000-2,000 for providing one woman.

The 'employer' was usually a foreigner (most frequently a German citizen) living in Germany or in the Netherlands.

The victims decided to notify of a crime only after they returned to Poland and only if they were raped or there were drastic forms of exploitation of prostitution.

VI. CHARACTERISATION OF SUSPECTS ENGAGED IN TRAFFICKING IN HUMAN BEINGS

The majority of cases previously or currently investigated in Poland suggest that the traffickers are mainly of Polish, Russian, Bulgarian, Turkish and German origin.

According to police sources, it seems that the Turkish minority in Germany is particularly engaged in trafficking in women. Men from the territory of former Yugoslavia play an equally significant role.

In Poland, Bulgarian and Ukrainian citizens are the most active in this field of criminality.⁶

The analysis of cases revealed that former victims also engage in illegal practices. The women are most frequently the recruiters; they are the first to establish a link with future victims.

VII. LEGAL STATUS OF A VICTIM IN CRIMINAL PROCEEDINGS

• Acting as an auxiliary prosecutor

Trafficking in human beings and crimes connected with prostitution are prosecuted *ex officio*. According to **Article 53 of the Code of Penal Procedure**, the victim has the right to act as an **auxiliary prosecutor of the public prosecutor** in cases prosecuted *ex officio*. The only requirement is that he/she must submit a statement of the will to act as one until the beginning of the court proceedings the latest. The auxiliary prosecutor enjoys all the rights of the parties foreseen in the Code of Penal Procedure: he/she may be present during the interrogation of the defendants and witnesses regardless whether he/she has testified or not,

⁶ Detailed data in this respect can be found in the article by M. Wiśniewski, in Table 6. *The number of defendants of foreign origin (divided by citizenship)*, p. 57.

he/she may question the defendants and witnesses, submit motions as to evidence and appeal against verdicts of courts. The auxiliary prosecutor may appoint his/her representative.

- **Support of a community representative**

In the case of crimes such as trafficking in women, the victim may be supported by a **community representative**. According to **Article 90 (1) of the Code of Penal Procedure**, the participation of a community representative is possible if there is a need to defend social interests or important individual interests within the statutory purposes of a social organisation, especially in matters pertaining to the protection of human rights and freedoms. The representative of a social organisation who has been admitted to participate in court proceedings may participate in the trial, make statements and submit statements in writing.

- **Interrogation by court at the stage of preparatory proceedings**

In cases connected with trafficking in women the victims frequently return to their country of origin after they testify and there is no real guarantee that they would appear during trial in order to testify in court. Therefore, **Article 316 (3) of the Code of Penal Proceedings** is of utmost importance. It states that **the witness may be interrogated by the court at the stage of preparatory proceedings**. The condition for petitioning to the court for such an interrogation is the possibility that the witness will be unavailable during the trial.⁷ Yet, in such case the perpetrator should have the right to question the interrogated witness; otherwise the rule of adversary trial system might be breached because the defendant would not have the possibility to question the victim in court proceedings (if the victim is absent).

Article 316 (3) of the Code of Penal Procedure was invoked in 61 cases (8 cases in 2001, 13 cases in 2002, 16 cases in 2003, 10 cases in 2004 and also 10 cases in 2005). In the context of problems emerging due to the unavailability of victims during court proceedings, the amendment to the Code of Penal Proceedings is of utmost importance as it introduces the **possibility to interrogate a witness over a distance** with the use of video equipment. The amended provisions of the Code of Penal Procedure entered into force on 1 July 2003.

- **Testimony in the absence of the defendant**

Another important right of the victim is the **possibility to testify** during court proceedings **in the absence of the defendant (Article 390 (2) of the Code of Penal Procedure)**. The rule is that the defendant has the right to be present during the hearing of evidence. In certain cases, however, if there are grounds to believe that the presence of the defendant would intimidate the testifying witness, the presiding judge may order the defendant to leave the courtroom for the period when the given witness testifies. When the defendant is allowed to return, the presiding judge immediately informs him/her of the course

⁷ Interrogation of a witness by court in the mode foreseen in Article 316 (3) of the Code of Penal Procedure was deemed necessary in all cases due to the abovementioned risk of lack of another chance to interrogate him/her during the trial; see: "Algorytm postępowania funkcjonariuszy organów ścigania w przypadku ujawnienia przestępstwa handlu ludźmi [The Algorithm of Conduct of Law Enforcement Officers in Case of Revealing a Crime Consisting in Trafficking in Human Beings]" in: *Procedury postępowania z ofiarą/świadkiem handlu ludźmi. Materiały szkoleniowe opracowane przez Grupę Roboczą Zespołu ds. Zwalczania i Zapobiegania Handlowi Ludźmi [Procedures for Handling a Victim/Witness of Trafficking in Human Beings. Training Materials Prepared by the Working Group of the Committee for Combating and Preventing Trafficking in Human Beings]*, Warsaw 2006, p. 53.

of the trial during his/her absence and allows him/her to submit explanations as to the evidence heard.

- **Anonymous witness status**

Apart from the abovementioned legal solutions strengthening the legal status of the victim, the Polish Code of Penal Procedure established also the possibility to become an **anonymous witness**. According to **Article 184 of the Code of Penal Procedure**, the essence of anonymisation consists in **classifying the personal data of a witness as secret**. This demands issuing a court order and in preparatory proceedings – the prosecutor’s order. The condition for becoming an anonymous witness is a justified concern for the safety of life, health, freedom or loss of property of considerable dimension regarding the witness or his/her next of kin. The occurrence of the reasons to employ the provision of Article 184 of the Code of Penal Procedure in the given case is subject to the assessment of the prosecutor or the court, depending on the stage of proceedings. The concern for the safety referred to in Article 184 of the Code of Penal Procedure is of an objective nature. It is thus not decisive whether the witness feels threatened but if there is justified concern for the safety referred to in the provision given the circumstances revealed in the proceedings.

Apart from the reasons for establishing an anonymous witness listed in Article 184 of the Code of Penal Procedure, also a non-statutory reason is very important – as indicated by professor Janusz Tylman and professor Piotr Hofmański. It is plausible to establish an anonymous witness only in such factual circumstances that make anonymisation possible. In other words, classifying the personal data of a witness as secret and available only to the court and the prosecutor is plausible only if the defendant and the defence counsel are unable to establish his/her identity on the basis of his/her testimony. The victim is rarely fit to become an anonymous witness. That is why in cases connected with trafficking in women in the years 1995—2005 the measure was only employed in 10 cases (in respect of victims in 4 cases only).

The victim may become an anonymous witness only when there are many victims and it is likely that the content of his/her testimony would not make it possible for the defendants to identify the person.

- **Pecuniary compensation for injury sustained**

Almost all contemporary codes allow for pursuing **pecuniary compensation** resulting directly from crime, in the course of the penal proceedings. The trigger in this regard is the **filing of a civil action (Article 62 and the following of the Code of Penal Procedure)**. The action may be filed by the injured party, as well as by the prosecutor on his/her behalf, by the start of the court proceedings at the main trial. The matter of the civil action in the penal proceedings may also be pecuniary compensation for non-pecuniary damage. The provisions of civil law apply in this regard, especially those concerning the liability for illicit acts. In the case of the crime of trafficking in human beings in order to sexually abuse them, **Article 445 (2) of the Civil Code** applies, pursuant to which the court may award an appropriate amount to the injured party as **pecuniary compensation for the injury sustained**. Only the accused may be a defendant in pursuing the compensation for the civil liability in the penal proceedings. The claims against another liable person may be pursued only in separate civil proceedings.

At some time, numerous doubts surrounded the issue of the limits of substantive force of law of the penal sentence. Judicature was strict. The adjudication of a specific amount of money to the plaintiff as compensation was in principle an obstacle to pursuing further

amounts of money in civil proceedings. **The new wording of Article 415 (6) of the Code of Penal Procedure** removes all doubts related to this issue: **if the adjudicated amount does not constitute full compensation, the injured party may pursue additional claims in civil proceedings.**

COMBATING THE CRIME OF TRAFFICKING IN HUMAN BEINGS BY THE BORDER GUARD

I. LEGAL ISSUES – POWERS OF THE BORDER GUARD

Within the framework of its competence specified by the Act on the Border Guard, the Border Guard's responsibilities include the identification, prevention and detection of crimes, including the crime of trafficking in human beings.

The Border Guard was established pursuant to the Act of 12 October 1990. It is an armed unit whose members wear uniforms and whose role is to protect the state border on land and sea and to control the border movement.

The Chief Commander of Border Guard reports to the minister competent for internal affairs and is the central authority of the government administration competent for the defence of the state border and control of the border traffic.

The tasks of the Border Guard include:

- (1) Protection of state border;
- (2) Organisation and performance of cross-border movement control;
- (3) Issuing permits for crossing the state border, including the visas;
- (4) Identification, prevention and detection of crimes and offences and the pursuing of their perpetrators, within the competence of the Border Guard, and in particular:
 - a) Crimes and offences concerning the compliance of the crossing of state border with the regulations, related to the marking of the border and the reliability of documents authorising to cross the state border;
 - b) Fiscal crimes and fiscal offences listed in Article 134 (1) (1) of the Fiscal Penal Code;

* Prepared by A. Mrowiec, III Department of ZOŚ KGSG (Operation and Investigation Board of the General Headquarters of Border Guard).

- c) Crimes and offences related to the crossing of the state border or the movement through the state border of goods and excise goods subject to the compulsory marking with excise bands, as well as the objects referred to in the provisions on weapons and ammunition, on explosives, on the protection of the cultural goods, on the national archive resources, on counteracting drug addiction and on the registration of population and identity cards;
 - d) Crimes and offences specified in the Act of 13 June 2003 on foreigners and the Act of 13 June 2003 on granting protection to foreigners on territory of the Republic of Poland;
 - e) Crimes against the public security and the crimes against the safety in transport, related to the air transport;
- (5) Ensuring the safety in the international transport and the public order within the territory covered by the border crossing, and also in the border zone within the competence of the Border Guard;
 - (6) Establishment and maintenance of border signs on land and the preparation, updating and storage of border geodetic and cartographic documentation;
 - (7) Protection of the intact character of signs and devices used for the protection of the state border;
 - (8) Collection and processing of information on the protection of state border and the border traffic control and its provision to the relevant state authorities;
 - (9) Supervision over the use of the Polish sea territories and the observance of the regulation in force on these territories by vessels;
 - (10) Protection of the state border in the air space of the Republic of Poland by means of the surveillance of aircrafts and flying objects, flying over state border at low altitudes and informing the competent units of the Air Force of the Armed Forces of the Republic of Poland;
 - (11) Prevention of the transport of waste, harmful chemical substances and nuclear and radioactive materials through the state border without the permission required pursuant to separate regulations, and the prevention of the contamination of border waters;
 - (12) Prevention of the movement of intoxicants and psychotropic substances and weapons, ammunition and explosives through the state border without the permission required pursuant to separate regulations;
 - (13) Performance of tasks laid down in other acts.

The Border Guard performs the tasks resulting from international treaties and agreements, and cooperates with the border protection services of other countries in the field of state border protection and border traffic control.

In order to identify, prevent and detect crimes and offences within the scope laid down in Subparagraph 4 above, the Border Guard officers perform border service, conduct border operations, perform the operation and reconnaissance activities, administrative activities and conduct preparatory proceedings according to the provisions of the Code of Penal Procedure, and perform the activities at the order of courts and prosecutors and other competent state authorities within the scope laid down in separate provisions.

In order to perform its statutory tasks the Border Guard may use the information about the person, including the personal data obtained by the authorised bodies, services and state institutions as a result of performing operation and reconnaissance activities or operational control, and may process them within the meaning of the Act of 29 August 1997 on the protection of personal data, without the knowledge and consent of the person to whom the data refer.

The Border Guard may, within the scope necessary for performance of its statutory tasks, use the criminal information gathered in the National Criminal Information Centre.

While performing operation and reconnaissance activities, the officers may use the documents which do not allow to establish the date identifying the Border Guard officer and the measure he uses to perform his tasks.

Pursuant to the Act on Border Guard, the Border Guard is authorised to use the qualified **forms of operational work**, namely:

- (1) **Operational control** – while performing operation and reconnaissance activities undertaken by the Border Guard in order to prevent, detect and find the perpetrators and to obtain and preserve the evidence of intentional crimes, subject to the public prosecution, when other measures proved to be ineffective, or it is highly probable that they will prove to be ineffective or useless.

It is conducted in secret and consists in:

- Controlling the contents of correspondence;
 - Controlling the contents of parcels;
 - Using technical measures allowing to secretly obtain information and evidence and to preserve them, in particular the images, contents of telephone conversations and other information transmitted by means of telecommunications network.
- (2) **Controlled purchase** – i.e. secret purchase, disposal or takeover of items coming from crime in the cases concerning crimes related to corruption, committed by the Border Guard officers and employees in relation to the performance of duties, related to the organisation of the illegal crossing of the state border, and also some other crimes specified in the Fiscal Penal Code and related to the transport of items specified in the provisions on firearms and ammunition, explosives across the border and the counteracting of drug addiction. The controlled purchase is aimed at checking earlier obtained reliable information about the crime, identifying the perpetrators and obtaining the evidence of crime. It consists in the secret purchase, disposal or takeover of items coming from crime, which are subject to forfeiture or whose production, possession or trade is prohibited, and also while accepting material gain. The operation activities may also consist in making an offer to dispose, purchase or take over the abovementioned items.
 - (3) **Secretly supervised consignment** – this form is used in order to document certain crimes (i.e. illegal crossing of the border, document forgery, fiscal crimes, bribery – committed by the Border Guard officers or employees in relation to performance of their duties, crimes prosecuted pursuant to international agreements), or to establish the identity of persons participating in those crimes or to confiscate the items of crime.

While performing the tasks related to the protection of the state border, the officers are authorised to i.a.:

- (1) Perform border control;
- (2) Perform personal search, and the search of the luggage contents, checking the cargo in ports and stations, as well as in the means of air, road, rail and water transport;
- (3) Issue visas and other permits for crossing the state border on the basis of separate provisions;

- (4) Check the ID documents of a person or establishing the person's identity in another way;
- (5) Detain people according to the procedure and in the cases laid down in the provisions of the Code of Penal Procedure and other acts and to presenting them to the competent body of the Border Guard, court or the prosecutor's office;
- (6) Search people, things, rooms and means of transport according to the procedure and in the cases laid down in the provisions of the Code of Penal Procedure and other acts;
- (7) Observe and register the incidents on the roads and in other public places, using the technical measures for recording image and sound.

In the case of danger for the intactness of the state border or the disobedience of the orders issued in accordance with the law and the direct threat to their life or health or the life or health of any other person, the officers may use the **coercive measures**. If the abovementioned coercive measures prove to be insufficient or if, due to the circumstances of the incident, their use is impossible, the officer may use the **firearms** in the cases precisely determined by the act.

II. DESCRIPTION OF THE PHENOMENON

(1) Introduction

Within the scope of its competence laid down by the Act on the Border Guard, the Border Guard is obliged to identify, prevent and detect crimes, including the crime of trafficking in human beings. In order to increase the Border Guard's efficiency in combating crime, the provisions of the Act on Border Guard concerning the extension of territorial and material competence with regard to the identification, prevention and detection of crimes and offences and pursuing of their perpetrators were amended. The Border Guard was authorised to carry out operational control, controlled purchase and the secretly supervised consignments with regard to prosecuting organised crime (including the trafficking in human beings).

In the preparatory proceedings conducted by the Border Guard, the foreigners who were victims of trafficking agreed to cooperate with law enforcement bodies and testified as the injured parties which allowed to catch the perpetrators, lay the charges and bring the indictment to the court. It should be emphasized that in such cases the testimonies of the witnesses – victims are of huge importance, since very often they are the only witnesses to the crime. However, they are in a very difficult situation from the psychological point of view since they have to overcome a psychological barrier (feeling ashamed) to making a testimony.

Such crimes are a domain of organised crime groups with international links. The crime groups dealing in human trafficking have a hierarchical character. One or two persons from the group are involved in the criminal activities both in the country of the victim's recruitment and in the country of destination. Crime groups are also involved in forgery of documents necessary to obtain a passport/visa (such as birth certificates, marriage certificates) which are subsequently filed along with the requests for the issue of legal documents. The victims are subject to violence (being held captive, physical violence and sexual violence) from traffickers in Poland, in the transit countries, as well as from the traffickers and employers in the countries of destination.

(2) Methods of investigation in individual preparatory proceedings conducted by the Border Guard officers

Between 2003 and 2005 the Border Guard initiated 7 preparatory proceedings concerning crimes referred to in Article 253 of the Penal Code. The proceedings were conducted in the form of an investigation or according to the procedure of Article 308 (1) of the Code of Penal Procedure⁸ in the cases which were handed over to the Police for further processing.

• Podlasie Border Guard Division

Between 2003 and 2005 the Podlasie Border Guard Division conducted three proceedings concerning trafficking in human beings supervised by the District Prosecutor's Office in Białystok.

On 23 October 2003 a Belarusian citizen came to the Podlasie Border Guard Division and submitted a notification of crime consisting in her sale by the Belarusian citizen to a Bulgarian citizen. The Appellate Prosecutor's Office in Białystok entrusted the investigation to the Border Guard. Legal qualification of the initiation of the proceedings – Article 253 (1) of the Penal Code.⁹

As a result of the proceedings, preceded by the testimonies of 5 women - victims, a citizen of Bulgaria was arrested in November 2003. In addition, it was established that a Belarusian citizen was responsible for the recruitment of women in Belarus.

Following further questioning, as a result of operation and investigation activities, the place of stay of the second suspect (a Bulgarian citizen as well) was established. He was arrested in December 2003. The further investigation allowed to establish that a third suspect (a Bulgarian citizen) participated in this practice as well. As a result, in February 2004 a decision was issued about the seeking of the suspect by "wanted" notice. On 6 October 2004 the materials concerning the third prostitution procurer were excluded by the prosecutor for separate proceedings. On 25 October 2004 the proceedings were suspended. The suspect was arrested on 12 November 2005 at the road border crossing of Zasieki, as a result of which the proceedings were launched and registered under a new number.

The investigation used inter alia the possibilities from Article 316 (3) of the Code of Penal Procedure (If there is a danger that the suspect cannot be questioned at the trial, a body conducting the proceedings, may submit a motion to the court demanding that the suspect be heard by the court). The close cooperation was conducted with the Authorities of Border Troops of the Republic of Belarus, and with the officer at the Bulgarian Embassy in Poland. In addition, by means of international legal assistance, the District Prosecutor's Office in Białystok applied to the Prosecutor's Offices in Belarus, Ukraine and Bulgaria and obtained the necessary assistance.

In October 2004 the materials concerning the citizen of Belarus who recruited women in his country were excluded from the discussed case. On 16 December 2005 the prosecution

⁸ Article 308 (1) of the Code of Penal Procedure: Within the limits necessary to secure evidence of the crime against loss, distortion or destruction, the prosecutor or the Police in cases of utmost urgency, may always carry out the necessary inquiries. This can be done even before the issuance of the order on the institution of the investigation or inquiry and they can in particular inspect, if necessary, with the participation of an expert, conduct searches and effect other actions set forth in Article 74 (2) (1) with respect to the suspect, and undertake all other necessary actions, including taking blood, hair and faeces samples for tests. Upon completing such activities, in cases in which the investigation by the prosecutor is mandatory, the person conducting the inquiry shall refer the case to the state prosecutor without delay.

⁹ Article 253 (1) of the Penal Code: Whoever performs trafficking in persons even with their consent, shall be subject to the penalty of the deprivation of liberty for no less than 3 years.

of the crime was transferred to the territory of Belarus. He was sentenced to a 7.5 year in prison and forfeiture.

By the decision of the District Court in Białystok III K 92/05 of 19 August 2005, two accused were found guilty of acts imputed thereto and sentenced to 5 years and 3 years 4 month in prison. The third accused received a 5-year imprisonment sentence in October 2006.

- **Śląsk Border Guard Division**

One preparatory proceeding according to Article 308 (1) of the Code of Penal Procedure was initiated in the Śląsk Border Guard Division. It was handed over through the District Prosecutor's Office in Cieszyn to the District Prosecutor's Office in Tarnów according to their competence in terms of the place where the crime was committed. During the proceedings one victim (a Polish citizen) was questioned. The victim left Poland by car through the Czech Republic to Austria using a forged passport (with the replaced photograph).

- **Lubuskie Border Guard Division**

In 2004 one preparatory proceeding was initiated. As a result of operational activities, the officers of the Border Guard Station in Świecko learned that there are women lured on the territory of the Lubuskie Voivodeship to work as prostitutes in Germany. They also established that the lured women may be sold on the territory of Germany. Two witnesses of those activities were found and questioned as witnesses with the instruction for the injured party. On the basis of information obtained from witnesses – victims, it was established that the luring of women could have taken place for at least two years. The responsible was the citizen of Italy permanently residing in Germany, assisted by the citizen of Poland residing in the territory of the Lubuskie Voivodeship. In the course of the case, over 20 questionings of persons involved in the case were conducted. 16 victims were identified – all women are the citizens of the Republic of Poland. The conducted proceedings were circumstantial in nature in many leads and encountered difficulties due to young age of the victims, their lack of education and the reluctance to testify.

The victims were also subject to other acts accompanying the main deed, i.e. were beaten and forced to prostitution, their documents and money were taken and they were deprived of freedom.

The verification proceedings conducted on the territory of Germany allowed to establish that the German party conducts the proceedings against the organised of the practice, an Italian citizen, in relation to document forgery, forcing women to prostitution, illegal employment of Poles, prohibited hazard games, deception, etc.

The proceedings were suspended by way of decision of 19 October 2004 due to the prolonged inability to perform the acts of legal procedure with the suspect (Italian citizen) who is residing in Germany. The District Prosecutor's Office in Stubice applied to the German Prosecutor's Office for the provisions of materials gathered against the suspect, as a part of the legal assistance.

- **Pomorskie Border Guard Division**

The investigation initiated in 2003 in the Pomorskie Border Guard Division was suspended due to the fact that the perpetrator of the crime was abroad. He was arrested by the Spanish Police for prostitution procurement. He was not presented with any charges in

Poland. The Victim was a 17-year old Polish woman, abducted and taken out of the country to be used in sex business in Germany and Spain.

- **Nadwiślański Border Guard Division**

In August 2003, the officers of the 10th Department of the outer Operation and Investigation Board of the KGSG in Kielce, during the activities consisting in routine checks on foreigners, arrested a Vietnamese citizen in the town market in Kielce. During the check the injured presented a forged Vietnamese driving license to the Border Guard officers.

The first finding in the case indicated that the injured person arrived in Poland illegally crossing the border. Due to the above, the 10th Outer Department in Kielce, under the supervision of the District Prosecutor's Office in Kielce, carried out an inquiry against the injured person suspected of crime referred to in Article 264 (2)¹⁰ and Article 270 (1)¹¹ of the Penal Code. The inquiry was completed by the submission of the indictment to the court. At the same time, in the course of proceedings against the injured person, at the stage of preparatory proceedings, the findings were made which suggested that during his travel to and stay in Poland the injured person fell victim to crime referred to in Article 253 (1)¹² of the Penal Code. Due to the above, on the basis of the materials excluded from the inquiry, the 10th Outer Department of ZOS KGSG in Kielce initiated and conducted, under the supervision of the District Prosecutor's Office in Kielce, the investigation in the case of crime referred to in Article 253 (1) of the Penal Code and other crimes committed to the detriment of the injured Vietnamese citizen.

The facts in the case were established on the basis of the victim's testimony given at the beginning of the preparatory proceedings, the testimonies of other witnesses, the information from the record of the victim's detention and the record of the seizure of items from the victim.

During the inquiry it was established that two suspects – Vietnamese citizens, with the assistance of a crime group, organised the illegal crossing of the border of their compatriot – the victim, and then used his situation (illegal stay, lack of documents, lack of means to live, lack of the knowledge of the language) and forced him, under the pretence of the granted loan, to perform a slave work for them for an unspecified period of time. Therefore, the suspects received the charges of crime specified in Article 253 (1) of the Penal Code, Article 264 (3)¹³, Article 270 (1) of the Penal Code in relation to Article 11 (2)¹⁴ of the Penal Code and in relation to Article 12 of the Penal Code.¹⁵

In the course of proceedings, the suspects provided their explanations. The explanations were rejected during the reconstruction of the facts and deemed not credible due

¹⁰ Article 264 (2) of the Penal Code: Whoever crosses the border of the Republic of Poland with the use of violence, threats or deceit or in co-operation with other persons, shall be subject to the penalty of deprivation of liberty for up to 3 years.

¹¹ Article 270 (1) of the Penal Code: Whoever, with the purpose of using it as authentic, forges or counterfeits or alters or uses such a document as authentic shall be subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for a term of between 3 months to 5 years.

¹² See p. 33.

¹³ Article 264 (3) of the Penal Code: Whoever organises the crossing of the border of the Republic of Poland for other persons, in violation of the relevant regulations, shall be subject to the penalty of deprivation of liberty for a term of between 6 months to 8 years.

¹⁴ Article 11 (2) of the Penal Code: If an act has features specified in two or more provisions of penal law, the court shall sentence the perpetrator for one offence on the basis of all concurrent provisions.

¹⁵ Article 12 of the Penal Code: Two or more prohibited acts of conduct undertaken at short intervals with premeditated intent shall be regarded as one prohibited act; if the subject of assault is a personal interest, the condition for regarding many acts as a single prohibited act, is the specific identity of the injured.

to their being in contradiction to the testimony gave by the victim at the beginning of the investigation.

As a result of the proceedings the perpetrators were sentenced by the District Court in Kielce with valid sentences for acts specified in Article 253 (1) of the Penal Code for 3 years and 3 years and 6 months of imprisonment.

(3) Methods of investigation in individual preparatory proceedings conducted by the Border Guard officers

FORCED LABOUR

(a) Poland as transit country

- **Help in illegal border crossing and work “to repay the debt”**

The conducted proceedings proved that it was an organised form of trafficking in human beings. The group was hierarchical – different persons organised the process at individual stages. One person provided the passport and visa for the victim, another met the victim in Moscow and accommodated him, yet another person brought him close to the Polish border and a fourth person took him across the border. Later on some other persons took him to Warsaw.

The victim – a Vietnamese citizen – was used for slave work at the market places. The first employer sold the victim to another Vietnamese who also made profits from his work. In Poland, yet another person from the group provided the victim with forged documents. It was probably the person in charge of the crime group in Poland. At each stage of the process, one or two persons from the crime group were involved. Two members of the same crime group – Vietnamese citizens – were arrested.

The case was conducted by the Nadwiślański Border Guard Division.¹⁶

PROSTITUTION

(a) Poland as destination country

- **Offering jobs in escort agencies**

In 2003, the Belarusian citizens involved in the purchase of women from Belarus, Ukraine and Bulgaria resided on the territory of the following municipalities near Warsaw: Sękocin Stary, Pruszków, Nadarzyn and others, and on the territory of Lubień Kujawski. They facilitated the provision of sexual services by those women on the route Warsaw-Katowice and Gdańsk-Łódź and obtained financial gains from the prostitution of those women.

A Belarusian citizen was providing the women from Belarus. In Grodno and other town in Belarus he offered the women, in person or through other people, a travel to Poland for money. The majority of the later victims knew they would work as prostitutes, but they were supposed to be working in agencies, clubs and not “on the road”. However, some women from among the victims were promised to work as a domestic help. The Belarusian made such

¹⁶ More on the subject in the article by K. Karsznicki, pp. 19-20.

offers too women in difficult circumstances (lack of parents, an ill child in need of costly treatment, a widow). He often helped to complete all visa and passport formalities. After recruiting the women in Belarus, he took them in his car to the hotel in Sękocin Stary and then sold them to the Bulgarian citizen who in this way bought 12 women (11 Belarusian citizens and one Ukrainian). All Belarusian citizens entered Poland legally through the border crossing in Kuźnica. The abovementioned Bulgarian citizen facilitated the prostitution by taking the women to the Warszawa-Katowice road and near this road in order to work as prostitutes. He provided them with accommodation and board. He took the money and documents away from them and did not let them to leave the apartment.

One more Bulgarian citizen took part in this practice. He brought at least one Bulgarian citizen to Poland. He facilitated and gained material benefits from prostitution of Bulgarian and Ukrainian citizens. He took all earned money from the victims. In exchange for not repaid debts he resold at least one of three women to the suspect who was also a Bulgarian citizen.

The case was conducted by the Podlasie Border Guard Division.

(b) Poland as the country of victims' origin

• Recruitment for legal work abroad by a known person

Case 1.

The victim came from the surroundings of Tarnów. The recruitment was made by a known person, and the recruiter looked for his future victim. The victim and the recruiter contacted through their acquaintances. Before the departure, the victim was unaware of the risk of being used or forced to work (as a prostitute) in country of destination. The woman left Poland by car and was taken to Austria through the Czech Republic. The woman was deceived as to the nature and conditions of work and the living conditions in the country of destination. Her documents were taken away from her.

The case was conducted by the Śląsk Border Guard Division.

Case 2.

The practice was organised by an Italian citizen, permanently residing in Germany, assisted by a Polish citizen residing on the territory of the Lubuskie Voivodeship. The perpetrators employed the same method in respect of all women victims. They offered them work in Germany as waitresses or cooks. In the majority of cases they introduced themselves as a married couple, the owners of the venue, restaurant or a discotheque in Germany. The victims were recruited either directly or through their friends. The recruitment usually took place in discotheques. After establishing that the women have the documents necessary to cross the border, they crossed the border of Poland with them. In Germany the documents were taken away from the women. The women were deprived of freedom by the order not to leave the apartments in which they stayed. They were subject to violence and forced to provide sexual services. The money they earned was taken away from them.

The case was conducted by the Lubuskie Border Guard Division.

Case 3.

The recruiter found the victim. The place of recruitment – a bar/restaurant in the Pomorze region. The recruiter was a single person – an acquaintance of the victim. The victim was abducted. She was taken out of Poland in a car, through Germany and France to

Spain which was the destination country. During the transport, she was subject to violence. The woman was deceived as to the purpose of the journey. She was recruited under the pretence of work.

The case was conducted by the Pomorskie Border Guard Division.

(4) The characteristics of the suspects in the preparatory proceedings conducted by the Border Guard

In the course of conducted proceedings, 6 suspects received the charges. All suspects were men aged 34 to 41. They included one citizen of the Republic of Poland and 5 foreigners – the citizens of Vietnam and Bulgaria. The citizens of Vietnam stayed legally on the territory of the Republic of Poland, while the Bulgarian citizens entered the territory of the Republic of Poland legally but their stay was illegal.

The suspects completed elementary or secondary education. They declare that their income is small or that they have no property at all.

The traffickers, both in Poland and in transit or destination countries, use physical and sexual violence against the victims of the human trafficking. There are cases when the victims are imprisoned and their documents are taken away from them. In addition, the traffickers threaten to use violence against the victim's family and friends in order to intimidate the victim if the victims wanted to inform the law enforcement bodies about their situation.

The information about using violence against the Polish women who were recruited under the pretence of working abroad and against foreigners forced to prostitution on the territory around Warsaw.

BG organisational unit	Podlasie Border Guard Division			10 th Outer Department of ZOS KGSG in Kielce		
	Number	1	1	1	1	1
Nationality	Bulgarian	Bulgarian	Bulgarian	Polish	Vietnamese	Vietnamese
Sex	M	M	M	M	M	M
Age	38	41	36	38	34	41
Nature of stay on the territory of the Republic of Poland	legal entry, illegal stay	legal entry, illegal stay	legal entry, illegal stay	-	legal	legal
Education	elementary	secondary	Secondary – a training school for non-commissioned officers	elementary	secondary	secondary
Profession	driver	driver	army officer	-	no profession	cook
Place of education, work	-	maintains himself from savings	trade in the market place	-	business activity	business activity
Monthly income, material status	-	-	700-1000	1000	1200	1000

(5) Characteristics of victims in the preparatory proceedings conducted by the Border Guard

The proceedings conducted by the Border Guard in 2003 and 2004 revealed 34 victims of trafficking in human beings. They were mostly young women (in two cases minors) who were used in the sex business.

One case concerned a man (a Vietnamese citizen) used for illegal work in market places, who was resold to subsequent employers during his stay in Poland. He was illegally transferred to the territory of the Republic of Poland by an organised crime group.

It is characteristic that in the majority of the cases the victims were recruited by the acquaintances of the victim (usually a single person). It was the recruiter that looked for a potential victim and contacted her through friends. The places of recruitment often included bars/restaurants.

In the case of citizens of Poland and Bulgaria, the recruiters committed a fraud. The victims were recruited under pretence of work and finally went to sex business. Other foreigners on entering Poland knew that they would work as prostitutes but were deceived by recruiters as to the conditions of work. They were sold to other traffickers without their consent and forced with spoken and physical threats to prostitute themselves near the roads, in the surroundings of Warsaw.

The victims of trafficking in human beings – the citizens of Ukraine, Bulgaria and Belarus – entered the territory of Poland legally, but their stay was illegal.

Only the Vietnamese citizen forced to work like a slave in market places crossed the Polish border illegally. His stay on the territory of the Republic of Poland was also illegal. He was transferred through the border by an organised crime group (by plane from Vietnam, through Russia and Belarus to Poland). The documents were taken away from the victim and not returned.

BG organisational unit	Śląsk Border Guard Division	Pomorskie Border Guard Division	Podlaskie Border Guard Division	10th Outer Department of ZOŚ KGSG	Lubuskie Border Guard Division
Number	1	1	15	1	16
Citizenship	Polish	Polish	Belarusian, Ukrainian, Bulgarian	Vietnamese	Polish
Sex	F	F	F	M	F
Age	17	17	20-33	34	17-24
Nature of stay on the territory of the Republic of Poland	-	-	legal entry, illegal stay	illegal	-
Occupation	unemployed	-	-	farmer	mostly unemployed

SOCIAL AND DEMOGRAPHIC PROFILE OF THE VICTIMS OF TRAFFICKING IN HUMAN BEINGS

Determination of social and demographic profile of victims in human trafficking that this report aims at is only possible due to the documentation provided by "La Strada" Foundation that combats and prevents trafficking in human beings and supports the victims. The organisation, which has also an office in Poland, is one of the nine organisations operating in Central and Eastern Europe that are involved in actions and debate on the victims of trafficking in human beings.

The report is based on the case analysis of trafficking in women who are the most common victims of human trafficking and at the same time clients of the "La Strada" Foundation. The quantity analysis of the documents that constitute the basis for the first part of the report has been supplemented with the interviews with "La Strada" case managers. A separate subsection includes an outline of a male representing those who also enjoyed the support of the Foundation.

PART I

(1) Aim and method

1.1 Aim of study

The aim of the study is to determine the social and demographic profile of victims applying to "La Strada" Foundation. The analysis of the information concerning the victims allows for determining risk groups, and thus directing preventive actions at them. It is also important to complement the knowledge of the employees of the governmental and non-governmental agencies, who undertake actions in order to prevent such practices.

The following social and demographic factors were taken into account to determine profile the "La Strada" female clients:

- age
- marital status
- number of children

- education
- nationality

The study included also information of the type of crime committed against the Foundation clients, as well as the type of entity that reported the victim to the organisation.

1.2 Method of study

The basis of the study was a quantitative analysis of the documents from the years 2004-2006 produced by the “La Strada” Foundation on its female victims who had benefited from its assistance. A total of 70 best documented cases were analysed in the study.

The table below does not show the changes in the number of clients during those years. It presents the distribution of cases selected for the analysis in each year.

Period	Year	Number of analysed cases	%
1	2004	30	42.9
2	2005	18	25.7
3	2006	22	31.4
Total		70	100%

Table 1. The distribution of the analysed cases in each year.

(2) Study population

Due to the fact that most of the “La Strada” clients are women, the analysed material concerns solely the female clients of the Foundation.

2.1 Age

The average age of the clients in the study cases was 24 in 2004-2006. The youngest female client was 13, the oldest 52, with six minors. The largest group included female clients of 21 to 25 years of age, whereas five out of every seven clients were not older than 26.

Age	N=70
10-15	2
16-20	18
21-25	30
26-30	15
31-35	1
36-40	1
40+	3

Table 2. Distribution of the age groups within the study groups according to five-year ranges.

2.2 Nationality

Nationality	N=70
Polish	41
Ukrainian	12
Moldavian	9
Bulgarian	4
Romanian	2
Chechen	1
Vietnamese	1

Table 3. The number of clients according to their nationality.

In most of the study cases, the clients that had enjoyed the assistance of the “La Strada” Foundation were Polish women (58.6%). The most numerous group of foreign clients (total of 41.4%) were Ukrainians (17.1%). The remaining women were: Moldavians (12.9%), Bulgarians (5.7%) and Romanians (2.9). Individual cases included victims of Chechen (1.4%) and Vietnamese (1.4%) nationality.

2.3 Marital status

Marital status	N=70
Not married	53
Married	12
Divorced	4
Widow	1

Table 4. The number of clients according to their marital status.

In most of the analysed cases the clients of the Foundation were unmarried women (75.7%). Ten of the women lived in non-marital partnerships, with 12 married and 2 in separation at the moment of being reported to the Foundation. A total of four were divorced, with only one being a widow.

2.4 Number of children

Number of children	N=70
0	46
1	15
2	7
3	2

Table 5. The number of clients according to the number of children.

In most of the analysed cases, the clients of the Foundation were childless women (65.7%). Women with one child accounted for 21.4% of the study population, with 10% having two children and 2.9% having three children.

2.5 Education

Education level	N=70
Special	2
Elementary	23
Lower secondary	5
Secondary	30
Higher	3
Vocational	4
None	3

Table 6. The number of clients according to their education level.

The analysis shows the education levels that the clients have completed at the moment of starting cooperation with the Foundation. Most of the analysed clients had secondary education (42.9%), whereas 12 out of 30 women had started higher education studies, with three of them having suspended and the rest discontinued the studies. Another distinctive group of clients were women with elementary education (32.9%). Nine out of 23 had started secondary education, with four of them having resigned. Other education levels reported by the clients according to the percentage were: lower secondary (7%), vocational (5.7%), higher (4.3%), and special (2.9%). Two clients with lower secondary education and one client with vocational education made attempts to gain a higher degree of education. The study group included three persons who had not completed any level of education (4.3%).

(3) Type of crime committed against the Foundation clients

Type of crime	Number of responses N=148
Trafficking in human beings	39
Limitation of liberty	28
Exploitation of prostitution	27
Forced prostitution	26
Rape	24
Forced labour in slavery-like conditions	3
Forced marriage	1

Table 7. The number of clients according to the type of crime.

The table shows the number of responses from the clients which may not be equated with the total number of analysed cases, since women are usually victims of more than just one type of crime. Moreover, the perpetrators usually resort to various forms of intimidation, such as physical and mental violence or threats.

3.1 The most common crime that the Foundation clients were subjected to was **trafficking in human beings** (55.7%). As for the form of this crime, most clients were trafficked into prostitution (30 cases), begging (8 cases), with one person trafficked into labour in slavery-like conditions.

3.2 The limitation of liberty affected 40% of all the clients and was associated by trafficking in women into prostitution in twelve cases, exploitation of prostitution in eight cases, and trafficking into begging in eight cases.

3.3 A significant number of Foundation clients are victims of **exploitation of prostitution** (37%). It was suspected that twelve of them could also have been subjected to human trafficking at a later stage.

3.4 The crime of forced prostitution affected 37.14% of the clients out of the entire study population and was associated with trafficking in women in 14 cases and exploitation of prostitution in twelve cases. The crime of rape was also associated with trafficking in human beings in 14 cases, exploitation of prostitution in eleven cases, and forced marriage in one case.

3.5 Three clients, who applied to the employer themselves, became victims of slavery-like labour.

3.6 As for the **nationality of the victims**, nine clients subjected to the trafficking into prostitution were Polish, whereas the remaining women were foreigners. The cases of trafficking in human beings for begging and forced labour affected only foreign Foundation clients.

3.7 Institution notifying the Foundation about the victim

Persons/institutions notifying the Foundation about the victim	N=70
Police	32
Non-governmental organisation	16
Embassy or Consulate of the Republic of Poland	6
The victim herself	5
Family	4
Border Guard	2
Other public authority	2
Other	2
Client	1

Table 8. The number of clients according to a person or institution that notified the Foundation.

The largest number of clients was reported to the Foundation by the Police (45.71%). Moreover, a large number of notifications came from non-governmental organisations (22.85%), often from outside Poland. Such organisation had often the same operation profile as “La Strada”. Embassies or consulates of the Republic of Poland were third in line as far as the number of notifications is concerned (six cases). As many as five clients reported to the Foundation, which means that one in every 14 women had made such a decision.

(4) Male beneficiaries of the Foundation's assistance

4.1 It is difficult to consider the male clients that report to “La Strada” as a group, since there are not more than a few of such cases a year. In 2004 when the organisation supported 163 new clients¹⁷, there were only two men among them, which makes up 1.23% of the whole population.

However, the situation of men who became victims of such crimes and enjoyed the assistance of “La Strada” is worth looking into. The analysis included seven clients of the Foundation, who began their cooperation with the organisation in the years 2004-2006. Only one of them was a foreigner, with the remaining clients being the nationals of Poland.

4.2 This group included two men who worked for an escort agency. It was suspected that one of them was to become a victim of trafficking in human beings in the future. He had always been under supervision while leaving the agency, could move around the city only at specific times and with a specified amount of money at his disposal. The second case, however, was connected with labour in slavery-like conditions and rape. The man who tried to help his wife and children who were forced to beg faced physical violence and limitation of liberty. Other four cases regarded men who became victims of labour in slavery-like conditions.

4.3 The average age of the men upon reporting to the Foundation was 31.5 years. The youngest was 23, the oldest 49, with four men before turning 30, two between 30 to 39 years, and one over 40.

As for their education, four men had vocational education, three secondary education and one man was a student.

4.4 Four of the cases were reported by the Police, and two by the clients, with one man having notified the Foundation about his situation himself.

PART II

Part II of the report includes a synthesis of the interviews with case managers, employers of “La Strada” that directly provided help to the victims. The interviews aimed at determining the motives for the victims to take a decision to leave the country to work abroad, as well as determining the mechanisms of victim recruitment, as well as the means of coercion used against them. The answers of case managers quoted in italics below do not refer to any particular person.

(1) The motives for female client's decision to work abroad

The main factor inclining women to take a decision to leave the country is their financial situation. *Although it is usually about the lack of money or unemployment, there are situations when the clients do not take any job offers in Poland, since they hope for a better salary abroad.* Therefore, improvement of the financial status is a crucial factor. Another significant reason is the necessity to take decisions connected with employment early in life. *Sometimes a 16-year-old person has to provide for themselves or even their family.* The

¹⁷ La Strada Foundation Annual Report 2004. Internal materials of the Foundation.

necessity to earn money in the face of a difficult financial situation may incline such a person to decide to undertake risky actions. It is also of importance that the female clients have hopes about their new job. *It is a kind of a run away from their problems or a way to solve them.* Such women often come from broken homes, where violence and alcohol dominate or where there are sexual abuse incidents. *Family relations are for many of them a source of bad experiences, in some cases, however, rather than personal relations it is an unpaid debt, or a willingness to change their lifestyle or environment that determines the decision.*

Some of the victims do realise that they are going to work as prostitutes. It is only later that they find out they have been trafficked or that the working conditions significantly differ from those they have been offered before. Women forced to prostitution are usually deceived about the nature of the work. Jobs they are usually offered initially are: a baby-sitter, carer for elderly people, waitress, barmaid, cleaning lady or shop assistant. *The motivation to earn more money and overcome their personal life crisis is so strong that the clients do not review the official job conditions and take a hasty decision to take the risk, at the same time pushing away any negative thoughts about it.*

(2) Recruitment mechanisms

The perpetrators use a variety of means to exploit the victim and make them dependant. *Initially, the information about the job reaches a female client through a friend or a recently met man.* The issue of using affection to lure women into being trafficked, which is widely referred to in many sources on trafficking in women, is still very common.

In the case of taking a job in an official course of action, the case managers experienced situations where the clients were involved in a crime by being presented contracts that had been totally incomprehensible for them or written in a language they could not possibly understand.

Another form of recruitment is driving the person into debt. The work whose rules are never specified is a way to repay the borrowed money. The debt is usually generated by the travel costs, fees for the issue of the necessary documents and an advance payment for accommodation and board. *The debt incurred never equals the alleged costs and is never specified precisely.* The employment relationship is designed in such a way that does not allow for a soon repayment. The case managers have also encountered situations when the perpetrators demanded taking large loans by their victims for the travel costs and accommodation at the new place and confiscated them afterwards anyway. Other cases involved a condition of opening a bank account with a large debit before leaving the country. The perpetrators, aware of the fact that the employees had means to pay for their living, would constantly postpone the payment date.

The most common means that the perpetrators use in the process of recruitment in the case of this type of crime are: giving false information on the working conditions or character of the job, threats and physical violence. As for prostitution, women are forced to it by means of deception. *They may be raped and threatened that a recording with the incident will be put on the Internet or sent to the victim's family.*

The victim's family plays often an important role in the process of recruitment. The case managers have often experiences situations where the perpetrators used an authority or an important person in the client's life in order to engage her in the business. In such situations, one of the parents or other people playing a significant part in the victim's life, induces her to leave, and in doing so cooperates with the perpetrators. *Such mechanism is usually applied when parents traffic their daughter into prostitution or begging.*

(3) Forms of coercion used against victims

Even when the victim undertakes work on the conditions imposed by the perpetrator, they still experience some sort of coercion in order to force them into becoming more and more submissive.

The debt bondage begins when the victim is recruited to work and maintains the position of a victim totally dependent on the perpetrator. During the process, new expenses need to be covered and the perpetrators impose some “financial penalties” on the victim for their “bad behaviour” that increase the debt. Most victims do not even see the money they allegedly earn and do not know the amount of debt they are to pay off. *Continuous hope to repay the debt prevents them from searching for any help or attempting an escape.*

In the process of the perpetrator trying to gain a total power over the victims, the victims suffer physical or sexual violence and threats, including death threats. Victims are usually under constant supervision and control, while the perpetrators withhold their documents.

It is important whether the perpetrator decides to allow the victim to contact her family. It is them who set the rules of their relations with the relatives. Perpetrators often misinform the victims by telling them that their family does not search for them anymore or rejects them after discovering they have been earning from prostitution.

Misinforming the victim may also be based on the victim’s poor legal knowledge. *An example is convincing the victim that a woman working as a prostitute or a person that has crossed the border with a false passport is liable to a prison sentence.*

The perpetrators control all the aspects of the victim's life, also those connected with satisfying the basic needs. *It is them who decide when and what the victim eats or even if the victim deserves to have a meal at all.* By giving drugs or alcohol to their victims, the criminals induce their addiction and, as a consequence, create a stronger dependency relationship between them.

Usually, the perpetrators also place the responsibility on the victim by forcing them to witness committing crimes against others. *Other forms of intimidation include forcing the victim to watch violence being used against other person or rape on other person.*

Another example of dependency relationship the case managers have come across is promising the victim to let them leave for some time or release them on the condition of recruiting another person.

The coercion measures used by the perpetrators against the clients make them believe that once they fulfil the requirements of the perpetrators, they will be released. Continuous hope for improvement of their situation impels the victims to be more and more submissive and, consequently, reduces their motivation for escape or searching for help. Another possible consequence of the perpetrators’ influence is the woman adopting the role imposed on her and starting a new life style, which sometimes happens in the case of women forced to prostitution.

SUMMARY

Although the victims of human trafficking reporting to the Foundation constitute only some part of the victims kin whole Poland, they reflect the situation of the persons affected by this illegal business. The information collected by the organisation reveals some social circumstances of this type of crime, as well as the operating mechanisms of the perpetrators. A quantity analysis of the documented cases allowed for drawing statistical conclusions, on

the basis of which it was possible to develop the social and demographical profile of the victims that have been supported by “La Strada”.

According to the results of the analysis, the victims that were put into the Foundation's care in the territory of Poland were usually Polish women, unmarried and childless, aged around 24 years, with secondary or elementary education. The victims were usually reported to the Foundation by the Police or, less frequently, by non-governmental organisations.

Although there are many different forms of human trafficking, the most common one is trafficking into prostitution. Trafficking women into sexual exploitation due to their physical weakness and greater social marginalisation in comparison with men is one of the fastest developing business of crime groups.

Victims usually come from dysfunctional families, and the necessity to find a job is connected with the need to become self-sufficient, improve or change their financial situation. Another important issue is the victim's depression as a result of the crime. Social unawareness of the victim's situation and the entire mechanism related to it create a gap between the victim and their environment which hinders their social reintegration.

On the basis of the conclusions drawn from the analysis it is possible to determine the risk groups in order to develop a prevention campaign, and at the same time improve the methods of providing support and help for the victims. It is also important to constantly update the information on persons affected by the business in the organisations and institutions that undertake various actions to support them and that influence the public opinion.

TRAFFICKING IN HUMAN BEINGS – STATISTICS

I. INTRODUCTION

Statistical evaluation of trafficking in human beings requires an analysis of the available data taking into account the characteristics of human trafficking. This type of crime is characterised by a low number of wrongful acts detected by the competent state authorities, as well as social conviction about the high rate of the actually committed crimes. Such view is most of all held by the experts. Foundation against Trafficking in Human Beings and Slavery “La Strada” believes that the magnitude of human trafficking may be compared to an ice mountain, since the statistics reflect only a small part of it.¹⁸ The knowledge on the full scale of the crime is limited to estimations, which are not reflected or justified either by the information collected by the law enforcement authorities or by the administration of justice or any non-governmental organisations.

The estimated number of victims of trafficking in human beings with regard to Poland as a possible place of origin, destination or transit of trafficked persons exceeds **15,000 persons annually**¹⁹, whereas the data available at the Public Prosecutors Office show **1,708 victims**, not in a year but **during the period from 1995 to 2005**.

* Marcin Wiśniewski – working as an assistant for the projects carried out by the University of Warsaw (Institute for Crime Prevention and Rehabilitation): „*Handel ludźmi – zapobieganie i ściganie [Trafficking in human beings – prevention and prosecution]*” (August 2004-August 2006) and „*Zapobieganie przestępczości transgranicznej powiązanej z rynkiem usług seksualnych – Polska, Czechy i Niemcy [Prevention of the cross-border crime connected with the sex industry – Poland, Czech Republic, Germany]*” (August 2005-October 2006; author of several publications on the issue of trafficking in human beings.

¹⁸ La Strada Foundation Against Trafficking in Women: *Handel ludźmi. Informacje o zjawisku [Trafficking in human beings. Review] 2004*, Wydawnictwo Noktus, p. 10.

¹⁹ M. Lehti, *Trafficking in women and children in Europe*, Heuni Paper No. 18, The European Institute for Crime Prevention and Control affiliated with the United Nations, Helsinki 2003, pp. 10 and 21, <http://www.heuni.fi/uploads/to30c6cjxyah11.pdf>. United Nations Office on Drugs and Crime (UNODC), *The case of Poland*, http://www.unodc.org/unodc/trafficking_projects_poland.html.

A study carried out by the United Nations Office on Drugs and Crime (UNODC) in the years 1996–2003 showed that Poland plays an important role in human trafficking. The analysed information showed that Poland (as well as Albania, Bulgaria, Hungary, Italy and Thailand) was mentioned as a transit country, and frequently a country of origin or destination for the victims.²⁰

Due to a large discrepancy between the estimated data and official statistics, it is necessary to specify the reason for such a case:

(1) Discrepancy results from the specific character of the two types of data

On the one hand, no official criminal statistics show even an estimated rate of the crimes actually committed.²¹ On the other hand, estimated data are collected with taking into consideration a possible error margin for over- or underestimation. Such a significant disproportion between the two types of statistical data may strongly affect social awareness of the subject matter. This may also refer to trafficking in human beings.

(2) The wrongful act may be recognised as a crime other than trafficking in human beings

The crime of human trafficking may be wrongly qualified as exploitation of prostitution of others, rape or battery. The victim's testimony determines the legal qualification of the act, and, as a consequence, the range of penalty. Therefore, there are two possible reasons for the victim giving testimony that may prevent the right legal qualification of the wrongful act as trafficking in human beings, which need to be taken into consideration. One of them is poor legal knowledge of the victim, who may be unaware of becoming a victim of human trafficking, as they do not know that such a crime exists. Another one is an attempt to "protect" the perpetrator. The victim's testimony may for various reasons hinder imposing a penalty on the perpetrator or lead to imposing a penalty that is not severe enough.

(3) The victim may be wrongly qualified

The victims of human trafficking may be recognised as illegal migrants, refugees (in the cases when they apply for being granted such a status) or persons working in prostitution. In order to eliminate this factor that does not allow the statistics to show the actual number of victims of trafficking in human beings, it is necessary to undertake actions that will help the law enforcement officers, who are in direct contact with the victims (police officers, prosecutors, Border Guard officers, social workers), to successfully identify the victims.²²

²⁰ United Nations Office on Drugs and Crime (UNODC), *Trafficking in Persons: Global Patterns*, April 2006, pp. 18-20, http://www.unodc.org/pdf/traffickinginpersons_report_2006ver2.pdf.

²¹ P. Horoszowski, *Kryminologia [Criminology]*, Państwowe Wydawnictwo Naukowe, Warsaw 1965, p. 53.

²² The Ministry of Interior and Administration together with the University of Warsaw are planning to introduce by the end of November 2007 a pilot version of a questionnaire facilitating identification of the victims of human trafficking, developed by the experts from the General Headquarters of Police, National Prosecutor's Office, La Strada Foundation, Nobody's Children Foundation and the University of Warsaw.

(4) Problems connected with the evaluation of the foreign victims may result from communication difficulties

A cross-border nature of the trafficking in human beings is a characteristic feature of the crime resulting in a constant movement of the victims. Cultural and linguistic differences between the victim's country of origin and country of destination may be so extensive that they inhibit proper communication and consequently lead to misjudgement of the victim's situation by the law enforcement officers.

(5) The victim may not report the suspected crime

Although the crime may be reported by the perpetrator, the victim's client (in the case of sexual exploitation), some random person or family, there is no doubt about the fact that the suspected crimes should, first of all, be reported by the victims. In practice, it is not always the case that the victim notifies the police about the suspected crime but, in fact, it may be assumed that most of them do not.²³

There are at least a few reasons for them remaining silent. Apart from the above mentioned poor legal knowledge, there is another significant reason connected with it. The victims of trafficking are often anxious about the ineffectiveness of the actions undertaken by the law enforcement authorities and the corruption among the state officials. Since the victims do not trust state officials, they avoid any contact with state authorities or having contacted them they do not reveal all the circumstances of the incident.

The psychological status of the victim has a strong effect on the victim's decision to give testimony. Trafficking in human beings is a crime that extremely violently penetrates personal life of the victims, leading to some irreversible consequences. The victims have usually experienced abuse, being treated as objects, battery and deprivation of liberty. From their point of view it is better to consider such incidents as permanently over and do not return to them during the court proceedings. To testify means to recreate the events, and simultaneously be forced to relive bad experiences and feel ashamed as a victim of the crime because of the necessity to describe one's feelings. Moreover, the victims fear to be condemned or rejected by their family, neighbours and the society. They are ashamed of what happened to them, so they remain silent. Often, the victims blame themselves for what happened. They believe they have become the victims of their own ingenuousness and gullibility or their trust in another person.

The possibly most important reason why the victim decides to keep silent is the fear of the perpetrators' revenge. This fear is usually justified, taking into account violent threats made against the victim or their family. Sometimes the perpetrators threaten to reveal some compromising photos of the victims. The most dramatic cases, when the competent authorities are not notified about the crime, may result in life- or health-threatening circumstances for the victim. Also the victim's health may prevent them from testifying. Another group of victims includes those whose life has been taken.

As it has already been mentioned, there is a common tendency to reveal merely estimated data on the number of victims of human trafficking. However, based on objective and reliable information, this report presents confirmed statistical data gathered as a result of actions undertaken by the Police, Border Guard, and Public Prosecutor's Office.

²³ National Rapporteur on Trafficking in Human Beings in the Netherlands estimates that 5% of victims reported that they have been trafficked; *The Research and Training Center of Polaris Project, Very Low Number of Police Reporting Trafficking in Women*, 21 January 2003, <http://www.humantrafficking.com/humantrafficking/client/view.aspx?ResourceID=1892>.

Definition and methodology

According to the definition contained in Article 4 d) of the Council of Europe Convention on Action against Trafficking in Human Beings open for signature on 16 May 2005 in Warsaw²⁴, “victim” shall mean any natural person who is subject to trafficking in human beings as defined in this article.

With regard to the definition of trafficking in human beings specified in Article 4 and, first of all, Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime the United Nations General Assembly on 15 November 2000²⁵, it is assumed that:

A victim of trafficking in human beings is “any person who due to a threat, intimidation, fraud or other forms of coercion used against them has been exploited for the purpose of sexual services, pornography, forced labour, taking of organs or other forms of exploitation, irrespective of whether they consented to it or not”.²⁶

Such a definition of the victims of trafficking in human beings refers both to the notion of “victims” used by the state authorities who identify the legal qualification of the wrongful act performed against the victim, as well as that used by the non-governmental organisations, which do not always consider legal qualification to be a factor determining whether a person may be recognised as a victim of human trafficking.

II. STATISTICAL DATA ON TRAFFICKING IN HUMAN BEINGS: VICTIMS, CASES, VERDICTS

The sources of the statistical data on the trafficking in human beings in Poland include: the Police, Border Guard, National Prosecutor’s Office and the Ministry of Justice in the scope of court data. The statistics on trafficking in human beings should be analysed bearing in mind that each case, perpetrator or victim are connected with specific events. Specific events do not necessarily include one specific victim in connection with one specific perpetrator. This results from various periods of time when the perpetrators conducted their criminal activity, the more so with the verb form “conducts” used in Article 253 (1) of the Polish Penal Code, which assumes the continuity of action. Moreover, it needs to be noted that there is no relationship between the number of perpetrators and the number of victims. The crime of human trafficking committed by one perpetrator may involve only one victim or the perpetrator may be part of an organised crime group, the activity of which involves tens or hundreds of victims.

²⁴ The Convention has not been enforced yet. As of 5 of June 2008 it was signed by 38 states, 17 of which ratified it (Albania, Armenia, Austria, Bosnia and Hercegovina, Bulgaria, Croatia, Cyprus, Denmark, France, Georgia, Latvia, Malta, Moldavia, Norway, Portugal, Romania and Slovakia). According to: <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=197&CM=8&DF=6/5/2008&CL=ENG>.

²⁵ Dz. U. of 2005 No. 18, item 160; The protocol entered into force on 25 December 2003.

²⁶ *Handel ludźmi. Zapobieganie i ściganie [Trafficking in human beings. Prevention and prosecution]* Z. Lasocik (ed.), Human Rights Studies Centre, Chair of Criminology and Criminal Policy at the Institute of Crime Prevention and Rehabilitation, University of Warsaw, Warsaw 2006, p. 614.

(1) Police statistical data²⁷

Trafficking in human beings (qualification according to the provisions of the Polish Penal Code)						
Year	Article 204 (4) of the Polish Penal Code		Article 253 (1) of the Polish Penal Code		Article 253 (2) of the Polish Penal Code	
	Number of crimes	Number of suspects	Number of crimes	Number of suspects	Number of crimes	Number of suspects
1998*	6	n/a**	n/a	n/a	n/a	n/a
1999	3	4	5	3	3	3
2000	6	7	19	12	0	0
2001	10	3	24	23	1	0
2002	2	2	8	7	0	0
2003	3	1	21	12	0	0
2004	6	4	44	21	0	0
2005	3	1	19	9	1	1
2006	3	2	18	9	0	0
Total	39	22	140	87	5	4

Table 1. Trafficking in human beings (qualification according to the provisions of the Polish Penal Code).

* The data was collected in compliance with the provisions of the Polish Penal Code valid from 1 September 1998.

** n/a – not available

In the years 1998-2006, the Police detected 200 crimes under Article 204 (4) (enticement or abduction of another person with the aim of having him/her engage in prostitution abroad) and 253 (1) of the Polish Penal Code (trafficking in human beings) which impose penalties in various wrongful acts, but have been commonly recognised as referring to “trafficking in human beings”.

The number of crimes detected under the provisions of Article 204 (4) of the Polish Penal Code did not exceed six (except for the year 2001), with no more than 4 suspects (except for the year 2000). There was a significant increase in the number of crimes detected under Article 253 (1) of the Polish Penal Code, as well as the number of the persons suspected to have committed the crime in the two three-year periods (1999-2001 and 2002-2004). In 2005 and 2006, the number of committed crimes and the number of suspects were similar for both types of crimes.

The Police data include also the crime of illegal adoption (Article 253 (2) of the Polish Penal Code), with a surprisingly low number of the crimes committed between 1998 and 2006.

²⁷ Table 1 was drawn up on the basis of the data available on the website of the General Headquarters of Police. – <http://www.policja.pl/portal/pol/4/314/>, <http://www.policja.pl/portal/pol/23/508/> and <http://www.policja.pl/portal/pol/31/560/>

(2) Statistical data from the National Public Prosecutor's Office²⁸

Outcomes of preparatory proceedings on trafficking in human beings in the years 1995-2006						
Year	Number of concluded proceedings	Number of cases concluded with filing of a charge sheet	Number of cases concluded with discontinuance due to		Number of persons	
			not detecting of an offender	non-existence of an offence	accused	aggrieved
1995	20	18	0	2	43	205
1996	33	26	1	6	59	232
1997	37	31	1	5	58	163
1998	41	25	2	14	64	109
1999	17	14	0	3	24	109
2000	43	38	1	4	119	172
2001	49	35	6	8	71	93
2002	19	11	4	4	40	167
2003	45	30	4	11	134	261
2004	25	18	2	5	39	98
2005	31	19	2	10	42	99
2006	26	17	0	9	36	126
Total	386	282	23	81	729	1834

Table 2. Outcomes of preparatory proceedings on trafficking in human being in the years 1995-2006.

In the years 1995-2006 Polish public prosecutor's offices concluded 386 preparatory proceedings on trafficking in human beings. The deciding criterion for recognising a given case as concerning trafficking in human beings was the description of the offence rather than the legal qualification of the act. **A sheet charge was filed into a court in 282 cases, that is in 73.06% of all cases.**

The remaining part consisted of cases concluded with discontinuance due to not detecting of an offender or non-existence of an offence. On average, 23.5 cases per year were concluded with filing of a charge sheet. The fewest in 2002 – 11, the most in 2000 – 38. In the examined period, there was no distinct increasing or decreasing tendency in the number of proceedings concluded with filing of a charge sheet.

Among the cases concluded with discontinuance, 77.88% were cases concluded with discontinuance due to non-existence of an offence. The share of discontinued proceedings in the overall number of concluded cases varies by year. In 1998, 2002 and 2005 it amounted to nearly 50% (16 out of 41 cases, 8 out of 19 cases and 12 out 31 cases) whereas in other years it never went below 10%.

There were 729 accused in all cases. The number of accused varies greatly by year, from 24 (in 1999) to 134 (in 2003). What is surprising is that in 1999 only 24 persons were accused, as compared to 64 in the previous year and 119 in the following year. However, it should be mentioned here that in 1999 only 14 proceedings (the least number in the examined

²⁸ Tables 2-6 were provided by the Office for Combating Organised Crime at the National Public Prosecutor's Office.

period) were concluded with filing of a charge sheet, whereas in 1998 there were 25 such cases, and in 2002 – 38. A similar decrease in the number of charge sheets, followed by a multifold increase in the subsequent year, could be noticed in the years 2001-2003.

The number of charge sheets does not directly translate into the number of the accused. In 2001, 71 persons were accused in 35 cases, whereas two years later, the number of the accused rose nearly twofold (to 134), and the number of cases dropped (to 30). **The changes in the number of aggrieved persons are similar.**

There is also no connection between the number of the accused and the number of aggrieved persons. In 1995, 43 persons were accused while there were 205 aggrieved persons. In 2003, the number of the accused persons was three times larger as compared to 1995 (134) yet in the very year there were only slightly more aggrieved persons (261). This comparison proves the view that each case concerning trafficking in human beings is different.

In the years 2004-2006, nearly all variables reached a similar value, and this fact implies that the human trafficking crime, at least when it comes to the statistics from the public prosecutor’s office, has stabilised. A likewise tendency can be observed while looking at police statistics.

The fundamental gaps in the presented statistics include: no specification as to the number of suspected persons, bodies initiating preparatory proceedings and public prosecutor’s offices conducting those proceedings, as well as no information as to estimated gains achieved by offenders.

Number of foreign victims in the years 1995-2006	
Nationality	Number of victims
Belarus	230
Ukraine	174
Bulgaria	28
Romania	18
Moldova	17
Russia	12
Latvia	8
Vietnam	7
Lithuania	5
Sri Lanka	4
Mongolia	3
Costa Rica	2
Total	508

Table 3. Number of foreign victims in the years 1995-2006.

In the discussed period there were 1,834 victims registered, with 28% (**508 persons**) of them being citizens of 12 states. Only 16 victims came from outside of Europe (Vietnam, Sri Lanka, Mongolia, Costa Rica).

Victims from the West of Europe as well as from countries of the Visegrad Group (Czech Republic, Hungary and Slovakia), which, like Poland, play the role of a significant European transit country, have not been counted. As regards victims coming from the Baltic states those coming from Estonia have not been counted.

To supplement the data included in Table 3, it should be noted that in 2005 there were 37 victims revealed (34 Ukrainian and Belarusian women), and in 2006 this number increased to 47 (25 Ukrainians, 18 Belarusian, 2 Romanians, one Moldovian and one Russian, all of them being women).

Among 751 victims registered in the years 2002-2006, only 60 (7.99%) were below 15 years of age. Since 2003, the number of such victims has been significantly reducing. In 2005, there were no victims of such features registered, yet in 2006 there were 19 victims, and this number is similar to those recorded in 2002 and 2003.

Number of victims			
Year	Below 15 years of age	Protected by the Police	Supported by "La Strada" Foundation²⁹
2002	18	11	11
2003	21	3	3
2004	2	2	6
2005	0	0	6
2006	19	0	10
Total	60	16	36

Table 4. Number of victims.

Note: In 2005, 10 victims aged 16-17 were revealed.

In the discussed period, the Police provided protection to 16 victims (2.13%) while "La Strada" Foundation supported 36 victims (4.79%)³⁰, and it implies that majority of victims did not make use of available help and protection given by the state. In addition, since 2002 the number of persons protected by the Police has dropped. In the two last years (2005, 2006) no victim did decide to seek such protection.

²⁹ According to the data of the "La Strada", the Foundation provided protection to 224 victims (including 147 Polish women) in 2005, 230 victims (including 198 Polish women) in 2006 and to 276 victims (including 200 Polish women) in 2007.

³⁰ Victims can enjoy protection of the police and take support from "La Strada" simultaneously, and that is why they are counted twice in the statistics.

Number of cases where Article 316 (3) of the Code of Penal Procedure was applied	
Year	Number of cases
2001	8
2002	13
2003	16
2004	10
2005	10
2006	0
Total	57

Table 5. Number of cases where Article 316 (3) of the Code of Penal Procedure was applied.

In 2001-2005 the provision of Article 316 (3) of the Code of Penal Procedure³¹ was applied in 57 cases; most often it was applied in 2003 (16 times) while in 2006 it was not applied at all. In the years 2004-2005, the discussed provision was applied in the same number of cases.

Number of accused foreigners (according to citizenship)										
Year	Bulgaria	Ukraine	Turkey	Albania	Spain	Germany	Vietnam	Russia	Romania	Total
2001	16	-	3	1	1	-	-	-	-	21
2002	7	3	-	-	-	-	-	-	-	10
2003	7	21	-	-	-	1	1	1	-	31
2004	5	-	1	-	-	-	3	-	1	10
2005	2	-	-	-	-	2	-	-	-	4
2006	4	2	-	-	-	-	-	-	-	6
Total in the years 2001–2006	41	26	4	1	1	3	4	1	1	82

Table 6. Number of accused foreigners (according to citizenship).

Note: In addition, a person with two citizenships – Polish and Belgian – was accused in 2005.

Statistics-wise this person was counted as a Polish citizen.

In the years 2001-2006, Polish public prosecutor's offices accused **362** persons, of which **82** were **foreigners** (citizens of **9** states), having a share of 22.65% in the total number of the accused. It means that **in Poland, crimes of trafficking in human beings are committed mainly by Poles. As regards the accused foreigners, the vast majority consists of citizens of Bulgaria (50%) and Ukraine (31.71%).** Citizens of the West European states are rarely accused (4.88%).

³¹ This provision allows judges to examine a witness during preparatory proceedings if there is a chance that it won't be possible to hear him/her during a trial. A motion for examination under this procedure may be lodged by a party, a public prosecutor or other body conducting the proceedings.

In the discussed period, foreigners were most often accused in 2003 (31) and since then the share of foreigners in the total number of the accused has been systematically dropping. In 2005, the number of accused foreigners was tenfold less than in 2003 (4).

Comparison of data concerning foreigners (both the victims and the accused) shows that the largest group of victims consists of citizens of Belarus while there were no such persons accused in the examined period. Apart from that, citizens of Bulgaria and Ukraine are among three largest ethnic groups as regards both the victims (the largest one consists of citizens of Belarus) and the accused (the third place is shared between citizens of Turkey and Vietnam).

(3) Statistical data from courts of general jurisdiction³²

Adults validly convicted according to the offence and the sentencing – the main offence of Article 204 (4) of the Penal Code				
Year	Number of convictions	Penalty of imprisonment	Penalty of imprisonment without conditional suspension of its execution	Penalty of imprisonment with conditional suspension of its execution
1998	6	6	2	4
1999	8	8	3	5
2000	4	4	2	2
2001	3	3	0	3
2002	3	3	1	2
2003	1	1	0	1
Total	25	25	8	17

Table 7. Adults validly convicted according to the crime and the sentencing – the main offence of Article 204 (4) of the Penal Code.

Adults validly convicted according to the offence and the sentencing – the main offence of Article 253 (1) of the Penal Code				
Year	Number of convictions	Penalty of imprisonment	Penalty of imprisonment without conditional suspension of its execution	Penalty of imprisonment with conditional suspension of its execution
1998	2	2	1	1
1999	2	2	2	0
2000	3	3	3	0
2001	7	6	6	1
2002	20	20	15	5
2003	5	5	4	1
Total	39	38	31	7

Table 8. Adults validly convicted according to the crime and the sentencing – the main offence of Article 253 (1) of the Penal Code.

³² Tables 7-8 were based on data from the Statistics Department at the Ministry of Justice.

Persons convicted for trafficking in human beings, regardless of the legal qualification of the act, constitute a small group among all the convicted. **In the years 1998-2003, Polish courts validly convicted 64 persons to imprisonment** while granting conditional suspension of execution of the penalty to 24 persons.

Three out of four convictions adjudicated under Article 204 (4) of the Penal Code were accompanied by conditional suspension of execution of the penalty. On the other hand, when sentencing under Article 253 (1) of the Penal Code courts were more restrictive and tended to inflict the punishment of imprisonment without conditional suspension of its execution.

The number of persons validly convicted under Articles 204 (4) and 253 (1) of the Penal Code should be treated as an important information on the effectiveness of prosecution and punishment of the people responsible for trafficking in human beings. There can be no doubt that trafficking in human beings is a criminal practice that is common in Poland, yet the number of persons who have been convicted does not seem to prove it.

(4) Map of the crime locations³³

Districts of the National Criminal Register in which validly convicted adults committed prohibited acts according to the offence and the sentencing – the main offence (Articles 204 (4) and 253 (1) of the Penal Code)			
Year	Legal qualification	Number of convictions	Area – voivodeships
1998	Article 204 (4) of the Penal Code	6	3 – Katowickie, 1 – Gorzowskie, 1 – Wrocławskie, 1 – Zielonogórskie
	Article 253 (1) of the Penal Code	2	1 – Bielskie, 1 – abroad
1999	Article 204 (4) of the Penal Code	8	3 – Lubuskie, 2 – Podlaskie, 1 – Dolnośląskie, 1 – Opolskie, 1 – Zachodniopomorskie
	Article 253 (1) of the Penal Code	2	2 – Małopolskie
2000	Article 204 (4) of the Penal Code	4	2 – Lubuskie, 1 – Dolnośląskie, 1 – Świętokrzyskie
	Article 253 (1) of the Penal Code	3	1 – Dolnośląskie, 1 – Lubelskie, 1 – Lubuskie
2001	Article 204 (4) of the Penal Code	3	2 – Wielkopolskie, 1 – Lubuskie
	Article 253 (1) of the Penal Code	7	3 – Lubuskie, 3 – Mazowieckie, 1 – Zachodniopomorskie

Table 9. Districts of the National Criminal Register in which validly convicted adults committed prohibited acts according to the offence and the sentencing – the main offence (Articles 204 (4) and 253 (1) of the Penal Code).

Analysis of the data concerning locations in which crimes of trafficking in human beings were committed demonstrates that **in the years 1998-2001 nearly one third of convictions were sentenced in Lubuskie voivodeship**. Out of all 35 convictions precisely 10

³³ Table 9 was based on data from the Statistics Department at the Ministry of Justice.

were sentenced by courts seated in this voivodeship. Courts seated in the voivodeships of: Mazowieckie, Dolnośląskie and (former) Katowickie convicted perpetrators of human trafficking three times. The relatively high number of convictions sentenced in Lubuskie voivodeship demonstrates that this is the area in which crimes of trafficking in human beings are committed most often.

(5) Practices associated with trafficking in human beings³⁴

The crime of trafficking in human beings is closely related to other crimes (e.g. to illegal crossings of the border) as well as to other practices that are not recognised as crimes (e.g. to prostitution). The presented statistics cannot be directly related to trafficking in human beings as there is no rule that each detected case of forced prostitution or exploitation of prostitution of others is related to trafficking in human beings. It can only be speculated that some of those crimes are related to those cases of trafficking in human beings that have not been officially revealed.

Offences related to trafficking in human beings				
Year	Number of confirmed crimes			
	Sexual exploitation of dependent persons (Article 199 of the Penal Code)	Forcing others into prostitution (Article 203)	Exploitation of prostitution of other (Article 204 (1) and (2) of the Penal Code)	Exploitation of prostitution of minors (Article 204 (3) of the Penal Code)
1998	n/a	7	44	3
1999	52	24	156	20
2000	89	26	168	30
2001	107	48	436	43
2002	139	63	317	45
2003	64	47	250	34
2004	225	46	376	43
2005	54	35	422	59
2006	70	42	205	29
Total	800	338	2374	306

Table 10. Offences related to trafficking in human beings.

The number of all detected crimes related to (at least in theory) trafficking in human beings is each year evidently higher than the number of detected human trafficking crimes. It is possible that among the crimes that have been classified as referred to in Articles 199, 203 and 204 (1) and (2), as well as 204 (3) of the Penal Code there are crimes that should have been classified as referred to in Article 253 of the Penal Code.

³⁴ Tables 10-11 were based on the data available on the webpage of the Central Police Headquarters. <http://www.policja.pl/portal/pol/23/503/>, <http://www.policja.pl/portal/pol/23/507/>, <http://www.policja.pl/portal/pol/23/508/> i <http://www.policja.pl/portal/pol/31/571/>.

Illegal crossing of the border	
Year	Number of offences (Article 264 of the Penal Code)
1998	n/a
1999	229
2000	346
2001	290
2002	225
2003	311
2004	254
2005	176
2006	111
Total	1942

Table 11. Illegal crossing of the border.

There can be no doubt that illegal crossing of the border is linked to trafficking in human beings, particularly when it comes to human trafficking in the trans-border aspect. It is the very reason for the supposition that among persons who cross the border illegally there are undetected victims of human trafficking.

For the purpose of supplementing the data included in Table 11, it should be added that there were 6 detected crimes of enabling or facilitating others to stay in the territory of the Republic of Poland (Article 264a)³⁵ in 2005.

The data concerning the period 1998-2005 are related to the previous regulation, which considered every crossing of the border that constituted a breach of the provisions of the Act on the Protection of the State Border as an offence. **Since 24 August 2005, it is an offence to cross the border in defiance of the provisions of the Act with use of violence, threat, deceit or while cooperating with other persons** (Article 264 (2) of the Penal Code), **as well as to facilitate others to cross the border of the Republic of Poland in defiance of the law** (Article 264 (3) of the Penal Code)³⁶.

It seems that the **limitation of the offence of illegal crossing of the border** to the previously qualified types **will make this crime even more connected with human trafficking**. At present, it is not an offence to cross the border accidentally or unwillingly. On the other hand, it is illegal to cross the border where there are more than one person involved, or with the use of violence, threat or deceit, that is with the measures accompanying human trafficking.

³⁵ <http://www.policja.pl/portal/pol/31/572/>.

³⁶ The Act of 22 April 2005 on Amending the Act on the Border Guard and Other Acts (Dz. U. 2005 No. 90, item 757) repealed Article 264 (1) of the Penal Code while moving the basic type of the crime involving illegal crossing of the state border to the Code of Petty Offences (current Article 49a).

Illegal work by foreigners	
Year	Number of cases
2002	2,080
2003	2,711
2004	1,795
2005	1,680
2006	1,718
Total	9,984

Table 12. Illegal work by foreigners.

One of the forms of trafficking in human beings, albeit in Poland lacking detailed statistical description, is forced labour. The Prosecutor's Office and the Border Guard list only one case in which forced labour was involved. It seems that victims of that practice should be looked for among foreigners who work illegally. However, there is no indication about how many of illegal labourers have been forced to work.

In the years 2003-2006, the services tasked with control of employment legality detected 9,984 cases of illegal work by foreigners.³⁷ Almost 48% of those were detected in the years 2002-2003, while in the years 2004-2006 the number of the mentioned cases reached the similar value.

Illegal work by foreigners was detected mainly in the following three voivodeships: Lubelskie, Podlaskie and Mazowieckie. A vast majority of foreigners working illegally are citizens of Ukraine. Ethnic groups of Belarusians, Bulgarians and Armenians are also numerous.

(6) Conclusions

(a) Conclusions with regard to the scale of trafficking in human beings in Poland

The statistical data presented by governmental authorities vary significantly from the estimates provided by international and non-governmental organisations. There is no sense in debating over which source of data is more accurate as to the real scale of the crime in question.

The official data imply that during the last three years, the scale of trafficking in human beings has stabilised. The numbers of detected crimes, conducted proceedings, filed charged sheets and victims are variables that in the discussed period reach values similar to or lower than those recorded in the previous year.

There were nearly 100 victims and 40 perpetrators detected in 2004 and 2005. The victims were of Polish, Belarusian, Bulgarian and Ukrainian origin whereas perpetrators – of Polish, Bulgarian and Ukrainian origin. During those two years, only two person under 15 years of age were hurt by that crime.

³⁷ Table 12 was based on: *Zbiornicze wyniki działalności służb kontroli legalności zatrudnienia w 2004 roku* [Collective results of the activities of services dealing with employment legality, 2004], the Ministry of Economy and Labour, the Department of Labour Market, Warsaw, March 2005, p. 26, (<http://www.praca.gov.pl/files/20050428104503.doc>); *Kontrola Legalności Zatrudnienia 2006 r.* [Control of employment legality, 2006], the Ministry of Labour and Social Policy, the Department of Labour Market, Warsaw, March 2007, p. 28, (http://rop.sejm.gov.pl/1_Old/opracowania/pdf/raportklz.pdf).

Polish victims of trafficking in human beings were identified in Belgium, Greece, the Netherlands, Germany and Switzerland. In each of these countries, except for Germany, Polish citizens were a marginal group among all the victims detected domestically.

(b) Conclusions in regard to the available statistics

Significant flaws of the available statistics concerning human trafficking include:

- Lack of data as to the number of victims of human trafficking in court statistics,
- No isolation of an additional statistical variable of a victim's gender,
- No isolation of a victim's nationality in court and police statistics,
- Lack of information concerning trafficking in human beings in Poland,
- Lack of information concerning assessed material gains achieved by perpetrators of trafficking in human beings,
- No possibility to compare data recorded in different periods,
- Collective nature of some information (there are no values for particular years in multiyear periods),
- No public access to some data (incomplete data in publications and on web pages make this access harder),
- Significant delay in presentation of data by law enforcement and judicial bodies (data concerning a given year are seldom presented in the first quarter of the next year),
- Lack of thorough analysis of statistical data and comprehensive studies of files concerning cases connected to human trafficking.

The listed comments regarding the statistics prepared by state authorities clearly indicate that the government of the Republic of Poland faces numerous tasks belonging to the discussed scope, and that those tasks need to be performed in order to make the statistics complete and accurate while aiming at the highest possible rate of comparability.

III. STATISTICAL DATA CONCERNING POLISH VICTIMS OF TRAFFICKING IN HUMAN BEINGS IN THE YEARS 2003-2005 IN SELECTED STATES OF EUROPE

(1) Introduction

Poland is a country of destination, of transit and of origin as regards victims of trafficking in human beings. This is the country's position in the global system of that crime. The role of a country of origin means that Polish citizens fall victim to trafficking in human beings (in its different forms). As there is a tendency that **victims of human trafficking move from less developed countries to higher developed ones, Polish citizens fall victim to human trafficking in the Western European countries whereas in Poland the same is true in regard to citizens of the Central Eastern Europe states.** As regards Polish citizens who fall victim to trafficking in human beings, an approximate border dividing a country of origin from a country of destination can be drawn along the Oder and the Lusatian Neisse.

As a majority of the states do not keep records on victims of crimes (not only of the human trafficking crime), not to mention statistics concerning the nationality of the victims, the most valuable data are those acquired during preparatory proceedings conducted by the police or the prosecutor's offices operating in particular states. In order to supplement this report, data provided by non-governmental organisations have been included.

According to the statistics from NGOs, the number of victims is in every country higher than the adequate record provided by state authorities. The reasons for this are multifold. Non-governmental organisations reach the victims more often and more effectively than state agencies. They keep in contact with the victims, who as far as the state is concerned are not the aggrieved, and this is because state bodies have no knowledge of victimisation of such persons. Victims have no confidence in law enforcement and judicial bodies, and that is why they provide them with little information. Non-governmental organisations are regarded by victims of trafficking as trustworthy and discreet. Victims are aware that information provided by them will not be used without their knowledge.

The state records the number of victims of human trafficking that is based on calculations performed by its agencies, whereas non-governmental organisations keep track of the number of victims by directly contacting them and listening to their relations about other victims. **The state's statistics clearly underestimate the real scale of the crime whereas non-governmental organisations' statistics, if they are based on estimations, might overvalue that extent.**³⁸

The following part includes comparisons of statistical data concerning victims of trafficking in human beings of Polish nationality in selected Western European countries – Belgium, Greece, the Netherlands, Germany and Switzerland.

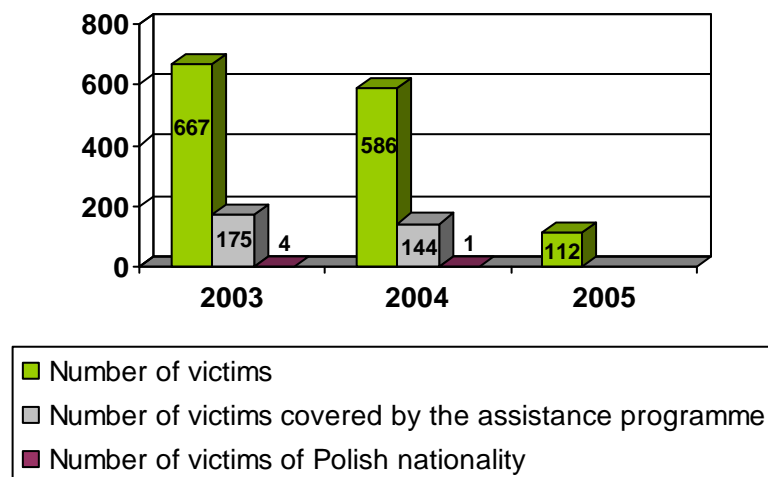
³⁸ M. Wiśniewski, *Statystyki dotyczące handlu ludźmi – próba oceny [Statistical data on trafficking in human beings. An attempt at assessment]*, <http://www.handelludzmi.uw.edu.pl>.

BELGIUM

Belgium is an important destination country for victims of trafficking in human beings, mainly because of its geographical location and proximity of both the Netherlands and Germany. Citizens of Poland who have fallen victim of human trafficking come to big cities, such as Brussels or Antwerp. Information provided by Belgian non-governmental organisations (**Pagasa** in Brussels, **Payoke** in Antwerp and **Surya** in Liege) imply that the number of Polish victims is marginal, however this is true only when concerning persons who have been assisted by the above mentioned organisations.³⁹

Citizens of Nigeria, China, Romania, Bulgaria and Albania are the most numerous ethnic groups benefiting from assistance provided to victims of trafficking in human beings.

Victims of trafficking in human beings in Belgium



³⁹ According to the order issued jointly by the Ministry of Justice, the Ministry of Interior, the Ministry of Employment and Labour, the Ministry of Social Affairs and Public Employment to the Immigration Office, the Police and the Social Inspectorate, only those three organisations were recognised as providing specialised assistance to victims of trafficking in human beings. See: B. Moens, *Polityka zwalczania handlu ludźmi w Belgii – podejście kompleksowe [Politics of fighting human trafficking in Belgium]*, (in:) *Handel ludźmi. Zapobieganie i ściganie [Trafficking in human beings. Prevention and prosecution]*, Z. Lasocik (ed.), the Human Rights Studies Centre, the Department of Criminology and Criminal Policy, the Institute of Crime Prevention and Rehabilitation, University of Warsaw, Warsaw 2006, p. 422.

Victims of trafficking in human beings in Belgium (data from non-governmental organisations)				
Year	Number of victims assisted by non-governmental organisations*	Number of victims covered by the assistance programme		Percentage share of Polish victims
		Total	Polish citizens	
1999	235	96	2	2.08
2000	364	152	1	0.66
2001	468	140	3	2.14
2002	393	147	2	1.36
2003	667	175	4	2.28
2004	586	144	1	0.69
2005**	112	-	-	-
Total	2.825	854	13	0,15

Table 13. Victims of trafficking in human beings in Belgium (data from non-organisational organisations).⁴⁰

* Assistance provided by authorised organisations: Pagasa, Payoke and Surya.

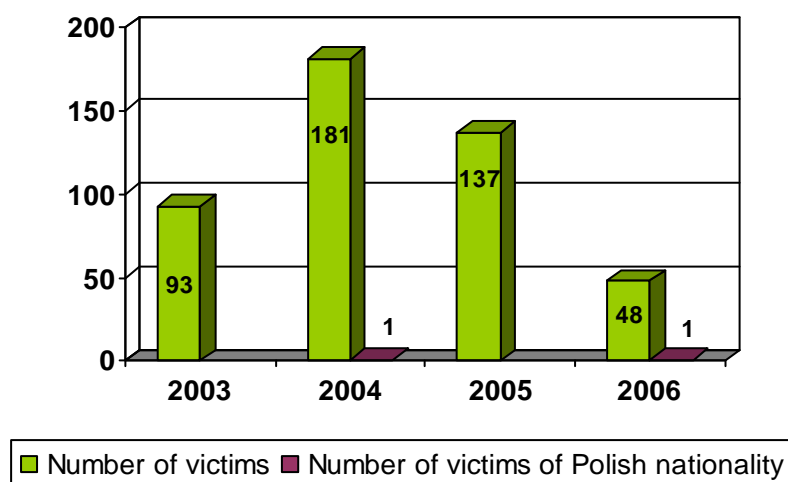
** Data covering the period until July 2005.

GREECE

From 2003 to the end of June 2006, the Greek Police identified 459 victims in cases involving human trafficking (Articles 323a and 351 of the Greek Penal Code). Only two victims held Polish citizenship, and they did not take any institutional assistance provided by the Police or non-governmental organisations.

Russian and Romanian citizens are the most numerous group of victims of trafficking in human beings in Greece.

Victims of trafficking in human beings in Greece



⁴⁰ Centre for Equal Opportunities and Opposition to Racism (CEDOR), *Annual Report: Belgian Policy on Trafficking in and Smuggling of Human Beings: Shadows and Lights*, Brussels, November 2005, p. 46-47, http://www.diversiteit.be/NR/rdonlyres/4DCB2177-A42D-439D-A81B-B45FE7BAE244/0/05_reporttrafficking.pdf.

Victims of trafficking in human beings in Greece (data from the Greek Police)			
Year	Number of victims	Number of victims holding Polish citizenship	Percentage share of Polish victims
2003	93	-	-
2004	181	1	0.55
2005	137	-	-
2006*	48	1	2.08
Total	459	2	0.44

Table 14. Victims of trafficking in human beings in Greece (data from the Greek Police).⁴¹

* Data covering the period before 30 June 2006.

THE NETHERLANDS

As prostitution is legal in the Netherlands, this country is a perfect place for perpetrators of human trafficking to bring in young women who are victims of this crime. It is the very reason why the country has become the most important destination for victims of this crime.

In the beginning of the 1990s, the Polish Feminist Association (*Polskie Stowarzyszenie Feministyczne – PSF*) started to receive early information on trafficking in Polish women from the Dutch Foundation Against Trafficking of Women (*Stichting Tegen Vrouwenhandel – STV*).⁴²

Data covering the period 2000-2003, gathered by the National Rapporteur on Trafficking in Human Beings, indicate that the number of Polish victims was relatively low. The data from STV and IKP-S (*Informatie Knooppunt Politie Systeem – the information system of the Police*)⁴³ concern persons being probable victims of human trafficking, and that is why they list a greater number of victims of Polish nationality than the statistics from the Public Prosecutor's Office.

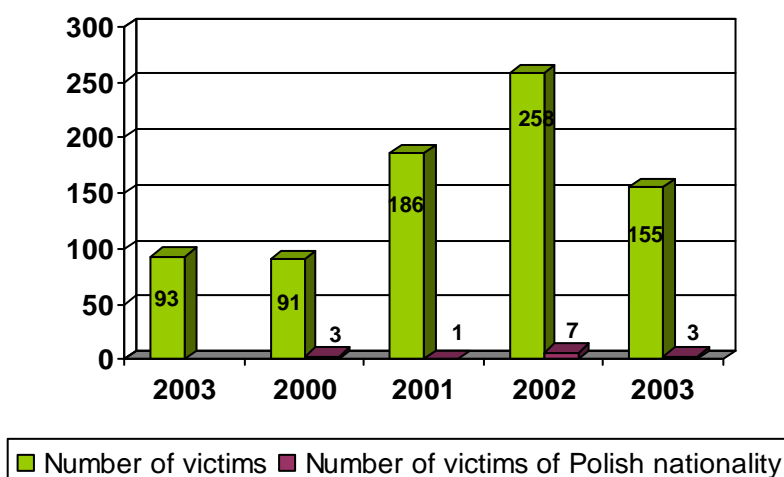
Among victims of trafficking in human beings in the Netherlands there are mainly citizens of that country, and as regards foreigners, the most numerous ethnic groups are citizens of Bulgaria, Romania and Nigeria.

⁴¹ <http://www.ydt.gr/main/Section.jsp?SectionID=13438&LanguageID=1>.

⁴² T. Oleszczuk, S. Buchowska, *Syndrom pretty women [Pretty women syndrome]*, (in:) *Pierwszy rok La Strady [La Strada's first year]. Rezultaty pierwszego w Europie Wschodniej i Centralnej Programu Prewencji Handlu Kobietami [Results of the first in Central-Eastern Europe Programme of Prevention of Trafficking in Women]*, Warsaw September 1996, p. 24 (photocopy).

⁴³ Identification is done by a police officer with the use of a questionnaire designed to assist in the process. Every positive answer to a question from the questionnaire is assigned to a certain score. If the total score amounts to at least 10, a given person is registered with the system as a potential victim of human trafficking.

Victims of trafficking in human beings in the Netherlands



Victims of trafficking in human beings in the Netherlands (data from STV)			
Year	Number of victims	Number of victims holding Polish citizenship	Percentage share of Polish victims
2000	341	12	3.52
2001	284	4	1.41
2002	343	9	2.62
2003	257	3	1.17
Total	1,225	28	2.29

Table 15 Victims of trafficking in human beings in the Netherlands (data from STV).⁴⁴

Victims of trafficking in human beings in the Netherlands (data from IKP-S)			
Year	Number of victims	Number of victims holding Polish citizenship	Percentage share of Polish victims
2002	371	22	5.93
2003	153	4	2.61
Total	524	26	4.96

Table 16 Victims of trafficking in human beings in the Netherlands (data from IKP-S).⁴⁵

⁴⁴ Dutch National Rapporteur on THB, *Trafficking in Human Beings – Supplementary figures. Fourth report of the Dutch National Rapporteur*, The Hague: Bureau NRM, October 2005, p. 4.

<http://rechten.uvt.nl/victimology/national/NL-NRMEngels4.pdf>.

⁴⁵ Ibid, p. 6.

Victims of trafficking in human beings in the Netherlands (data from the Public Prosecutor's Office)			
Year	Number of victims	Number of victims holding Polish citizenship	Percentage share of Polish victims
2000	91	3	3.30
2001	186	1	0.54
2002	258	7	2.71
2003	155	3	1.94
Total	690	14	2.03

Table 17. Victims of trafficking in human beings in the Netherlands (data from the Public Prosecutor's Office).⁴⁶

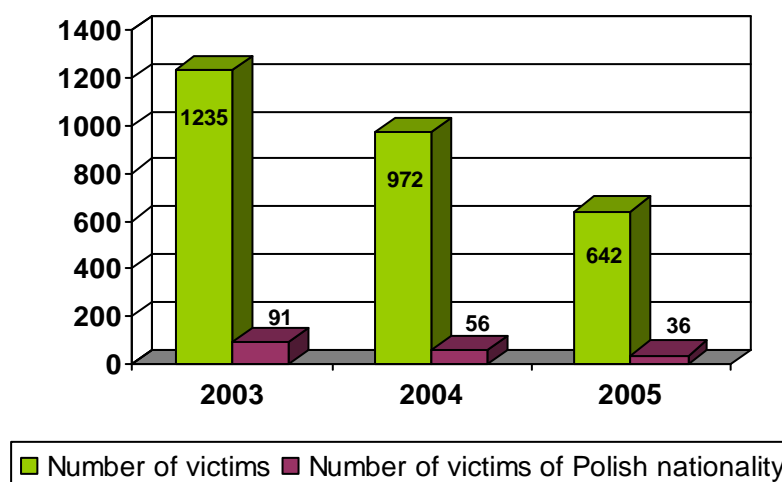
GERMANY

Germany is one of the primary European countries of destination for victims of human trafficking and, at the same time, the main destination place for Polish victims of human trafficking who find themselves in brothels in cities such as Berlin, Hamburg or Dusseldorf.

Among victims of human trafficking in Germany there are mainly citizens of Russia, and others include citizens of Ukraine, Belarus, Lithuania, Latvia, Bulgaria, Romania.

Since 1999, the Federal Criminal Office (*Bundeskriminalamt – BKA*) has been publishing reports on human trafficking in Germany. These reports allow for monitoring of the number and the nationality of victims. Since 2000, the number of victims of trafficking in human beings holding Polish citizenship has amounted to 100 each year. In addition, since 2003 a distinct decrease tendency has been noticed. As the total number of victims of trafficking is decreasing, so is the number of victims of Polish nationality, and a decrease in percentage share of Polish victims among all victims of human trafficking in Germany follows. It is worthy of mention that in the years 2004-2005, the two latter variables reached the lowest values in the entire discussed period.

Victims of trafficking in human beings in Germany



⁴⁶ Ibid, p. 21.

Victims of trafficking in human beings in Germany (data from <i>Bundeskriminalamt</i>)			
Year	Number of victims	Number of victims holding Polish citizenship	Percentage share of Polish victims
1999	801	115	14.4
2000	926	74	8.0
2001	987	84	8.5
2002	811	82	10.1
2003	1.235	91	7.4
2004	972	56	5.8
2005	642	36	5.6
Total	5.139	538	9.55

Table 18. Victims of trafficking in human beings in Germany (data from *Bundeskriminalamt*).⁴⁷

SWITZERLAND

The Swiss Police does not provide in its yearly reports any detailed information concerning the number of victims of human trafficking, instead relying on estimates from IOM, which indicate that 200 thousand persons fall victim to human trafficking in Europe each year.⁴⁸ In the years 1997-2000, 122 victims were identified in cases involving the human trafficking crime (Article 196 of the StGB⁴⁹).

Victims of trafficking in human beings in Switzerland



⁴⁷ Bundeskriminalamt, Lagebild Menschenhandel 2000, p. 5, <http://www.bka.de/lageberichte/mh/2000/mh2000.pdf>; Bundeskriminalamt, Lagebild Menschenhandel 2001, p. 8, <http://www.bka.de/lageberichte/mh/2001/mh2001.pdf>; Bundeskriminalamt, Lagebild Menschenhandel 2002, p. 5, <http://www.bka.de/lageberichte/mh/2002/mh2002.pdf>; Bundeskriminalamt, Lagebild Menschenhandel 2003, p. 5, <http://www.bka.de/lageberichte/mh/2003/mh2003.pdf>; Bundeskriminalamt, Lagebild Menschenhandel 2004, p. 9, <http://www.bka.de/lageberichte/mh/2004/mh2004.pdf>; Bundeskriminalamt, Lagebild Menschenhandel 2005 – Pressefreie Kurzfassung, p. 5, <http://www.bka.de/lageberichte/mh/2005/mh2005.pdf>;

⁴⁸ Bundesamt für Polizei, *Bericht Innere Sicherheit der Schweiz 2005*, May 2006, p. 61,

http://www.fedpol.admin.ch/etc/medialib/data/sicherheit/bericht_innere_sicherheit.Par.0038.File.tmp/BISS_2005_d.pdf.

⁴⁹ In March 2006 this provision was repealed, and as for now trafficking in human being is penalised under Article 182 of StGB.

Victims of trafficking in human beings in Switzerland (data from <i>Bundesamt für Polizei</i>)	
Year	Number of victims
1997	20
1998	36
1999	29
2000	37
Total	122

Table 19. Victims of trafficking in human beings Switzerland (data from *Bundesamt für Polizei*).⁵⁰

Data concerning the nationality of victims of trafficking in women in 2005 are provided by FIZ (*Fraueninformationzentrum*) – the most important Swiss non-governmental organisation involved in supporting female victims of this crime, however in this case the data concern only victims who were contacted by FIZ. In the years 2003-2004 FIZ listed only particular continents from which the victims came rather than their countries of origin.

Victims of trafficking in human beings in Switzerland (assisted by FIZ)				
Year	Number of victims	Number of victims from the Eastern Europe*		Percentage share of Polish victims
		Total	Polish citizens	
2003	81	30	n/a**	-
2004	85	23	n/a	-
2005	116	32	3	9.37
Total	282	85	3	-

Table 20. Victims of trafficking in human beings in Switzerland (assisted by FIZ).⁵¹

* This category (the Eastern Europe) includes, as far as FIZ is concerned, the following countries: Bosnia and Herzegovina, Bulgaria, the Czech Republic, Lithuania, Moldova, **Poland**, Russia, Romania, Serbia, Slovakia, Ukraine, Hungary as well as Kosovo.

** Data from the period until 2005.

⁵⁰ Bundesamtes Für Polizei, *Bericht Innere Sicherheit der Schweiz* 2002, July 2003, p. 72, http://www.fedpol.admin.ch/etc/medialib/data/sicherheit/bericht_innere_sicherheit.Par.0004.File.tmp/BISS2002_leicht_d.pdf. Bundesamt für Justiz, *Menschenhandel in der Schweiz. Bericht der interdepartementalen Arbeitsgruppe Menschenhandel an das Eidgenössische Justiz – und Polizeidepartement*, Bern, September 2001, p. 18, <http://www.fedpol.admin.ch/etc/medialib/data/kriminalitaet/gesetzgebung/menschenhandel.Par.0007.File.tmp/ber-menschenhandel-d.pdf>.

⁵¹ FIZ, *Jahresbericht 2003*, Zurich, p. 6 and 7, <http://www.fiz-info.ch/dt/publikationen/FIZ%20Jahresbericht%2003.pdf>; FIZ, *Jahresbericht 2004*, Zurich, p. 8 and 10, <http://www.fiz-info.ch/dt/publikationen/FIZ%20Jahresbericht%2004.pdf>; FIZ, *Jahresbericht 2005*, Zurich, p. 6 and 7, <http://www.fiz-info.ch/dt/publikationen/FIZ%20Jahresbericht%2005.pdf>.

SUMMARY

The presented information concerning victims of trafficking in human beings taking place in selected countries of the Western and Southern Europe has been compiled from various sources (i.e., data from the Police, the public prosecutor's office and non-governmental organisations), and therefore it does not represent the scale of the crime in a complex manner. Thus, it is impossible to compare particular statistics. Moreover, this study includes only the data that refer to persons recognised as victims of trafficking in human beings. As it was demonstrated before, due to the relation between trafficking in human beings and such crimes as illegal crossing of the border as well as prostitution, the presented picture may vary significantly from the real situation. In addition, it should be assumed that, especially in this case, the number of undetected crimes involving human trafficking is high. The percentage share of victims of Polish nationality among all victims of human trafficking varies from one European country to another. Most of aggrieved persons of Polish nationality (nearly 10%) took assistance from the largest non-governmental organisation in Switzerland. Nevertheless, behind every per cent there is a human tragedy.

OPERATION “TERRA PROMESSA”*

In Italy, from longer period of time exists the phenomenon relying on exploitation of the labour force in agricultural branch, which – in fact – is a form of modern slavery. It is confirmed that Polish citizens become the victims of that criminal activity very often.



* Prepared in the Central Team for Combating and Preventing Trafficking in Human Beings (Criminal Bureau of the General Headquarters of Police).

The main reason of that situation is the lack of labour force in Italy itself (especially in the southern region of the country – Apulia) and the growing wave of earning immigration caused by the collapse of “iron curtain” and EU enlargement. Immigrants for the purpose of improve their economic situation decide often to work for small amount of money even in terrible, humiliating conditions what is frequently used by organised crime groups, operating at the territory of Poland and Italy.

The victims living in tough conditions in the countries of origin are allured to Italy (by promises of well-paid job in good terms presented in advertisements), where by threats and violence they are forced to work in extremely poor conditions, without minimal standards guaranteed by Italian law.

From the half of 2005, the Polish citizens have started to call for help and support in return way to homeland to the Polish honorary consul in Bari. According to their words, they have come to work in Italy, in the region of Apulia where, instead of promised good labour conditions and salary, they were forced to work beyond their powers for no money or symbolic payment. What is more, they lived in conditions which were below minimal, social standards. Due to the number of people/Polish citizens applying in Bari, the consul informed Polish and Italian authorities about growing problem and probability of Trafficking in Human Beings for the purpose of labour exploitation.

Meanwhile the Police units across whole Poland have started to received information from people harmed by above-mentioned criminal activity. Based on their testimonies, Police has processed investigations of fraud (art. 286 of Polish penal code) and of Trafficking in Human Beings (art. 253 of Polish penal code and art. 3 of “Palermo protocol”). Later on, all these investigations (over 300) have been

cumulated by Central Police Headquarters into one big case held and coordinated by Voivodship Police Headquarters in Cracow.

At the same time, thanks to information obtained from the Polish honorary consul in Bari and notices from Polish victims, the Italian side decided to connect investigations held separately by different Italian Police units into one. The joint investigation has been held and supervised by special unit ROS Carabinieri from Rome and Central Unit to fight against Trafficking in Human Beings from Central Police Headquarters in Warsaw.*

As a result of the combined activities the transnational, organised group, which dealt with trafficking of Polish citizens in order to exploit their labours in Apulia region, has been identified. The existence of such organisation has been verified by the result of the analysis of victim reports to the Police in Poland as well as to the Polish Consulate in Bari and embassy in Rome, which ROS Carabinieri and Polish Central Unit to fight against THB has established a useful collaboration with. It has been also confirmed that in Poland existed criminal structure responsible for recruiting victims to so-called “labour camps” in Italy and the connections’ net of the group that consisted of individuals from Poland, Ukraine, Algeria and Italy.

The on-going investigation has allowed to establish in which way the offenders/traffickers have carried on their criminal business (*modus operandi* of the case).

* Central Team for Combating Trafficking in Human Beings, Human Organs, Child Pornography and Pedophilia was established in 2006.

RECRUITMENT PHASE



- WORK PROMISES
- MEETING POINT
- MONEY COLLECTION

The cells of the group involved were as follows:

(1) the cell responsible for victims' recruitment through a deception and an attractive work offer. It was confirmed that there was a close connection between the recruitment cell in Poland and the one that was organising work in Apulia. The recruiters offered the attractive and well-paid job by newspaper and Internet advertisement (national and local newspapers, e.g. "Gazeta Wyborcza", "Dziennik Polski", "Dziennik Kujawski", "Tygodnik Ostrołęka", www.anonse.pl, etc.) and by direct links with the future victims.

(2) the cell responsible for victims' transfer and collection of the payment for the intermediation and journey. The victims have been transferred from Poland to Italy by buses by route via Czech Republic and Austria or route via Slovakia, Hungary and Slovenia.

(3) the cell that dealt with logistic accommodation and taking workers into slavery and exploitation of their labour: in Foggia province there has been an international criminal ring which role was to organise and exploit the labour of persons that came from Poland. They also took care of sorting of the victims in labour camps. It is also been confirmed that illicit intermediation with the Italian land owners took place – this thread of the case is still clarified by Italian Police.

(4) the cell responsible for armed guarding of the labour camps in order to avoid escapes of the victims – the results of investigation have confirmed that camps' guards (calling themselves "proudly" *capo*) to avoid above mentioned escapes and to break any resistance used threats and physical violence against workers. The victims have been beaten (sometimes until they passed out), hounded with dogs, punished by deprivation of water or food even for few days etc. There are also justified suspicions of committing murders against those of victims that stood against their oppressors and did not allow on total destruction of human dignity.



The victims have been transferred from Poland to Italy by buses by route via Czech Republic and Austria or route via Slovakia, Hungary and Slovenia.

After the coordination Polish – Italian meeting the decision of establishment both in Poland and Italy so-called “*mirror investigations*” in the area of Trafficking in Human Beings has been taken.



**OPERATIONAL POSSIBILITIES
PROVIDED BY ITALIAN LAW
IN COOPERATION WITH
FOREIGN LAW ENFORCEMENT AGENCY**

CONTROLLED DELIVERY

WIRE TAPPING (PHONE TAPPING AND ROOM-BUGGING)

**UNDERCOVER ACTIVITIES WITH DELAY OF FORMAL ACTS
AND SIMULATED PURCHASE OF WEAPONS, DRUG, ASSET, ETC.**

**POSSIBILITY TO EMPLOY A THIRD PARTY DURING
SPECIAL OPERATIONS
(INFORMANT, FOREIGN UNDERCOVER AGENT)**

Moreover, it has been decided to use of the European prosecutor's institution: EUROJUST. Against of all known offenders – both from Italian and Polish side – the European Warrants of Arrest issued by Prosecutor's Office in Bari have been applied. The investigators have used the THB definition included in the so-called *Palermo protocol* comprehensively. The common operation has been called "Terra Promessa" (*Promised Land*).

Above mentioned "mirror investigations" in the operational coordination of EUROPOL and legal cooperation of EUROJUST led by Polish Police and special unit ROS Carabinieri from Rome against international crime organisation have been directed on obtaining of following goals:

- full operational surveillance in both countries,
- analysis of the *modus operandi* and the management of the organisation,

- tactical surveillance of the labour camps placed in Italy,
- analysis of the operational information,
- preparation of the complex plan for the purpose of the simultaneous operations in both countries (Italy and Poland),
- liberation of the labour camps' victims and full neutralization of the international criminal organisation.

In result of operation "Terra Promessa" – started on 18.07.2006 at 2:00 a.m. both in Poland and Italy – as requested by Prosecutor's Office in Bari, more than 27 arrest warrants have been issued for the members of the organisation that was responsible of Trafficking in Human Beings and enslavement. Some of the arrest warrants have been notified in Poland through "European Arrest Warrant". The Police forces of both countries liberated 113 victims of THB kept as "slaves" at the labour camps in the region of Apulia: these people were forced

to work on the agriculture farms in the area of Orta Nova, Foggia and Ceriniola.

At the moment, judicial and police cooperation is aimed at analysing the remaining reports:

- in Poland there are 600 more victims' reports to be examined; among these, one for rape,⁵²
- drug trafficking and tobacco smuggling: there are justified suspicions that the offenders are involved in these kinds of criminal activity,
- victims' sexual exploitation,
- suspicious cases of death of polish citizens, initially considered as cases of suicide or accidental deaths.

⁵² According to the statistical data from the National Public Prosecutor's Office, in this case two sheets charge were filed into a court in 2007 (24 persons were accused and 880 people were identified as victims of trafficking in human beings).

NATIONAL PROGRAMME FOR COMBATING AND PREVENTING TRAFFICKING IN HUMAN BEINGS FOR 2007-2008

National Programme for Combating and Preventing Trafficking in Human Beings for 2007-2008 is a continuation of the *National Programme for Combating and Preventing the Trafficking in Human Beings* approved by the Council of Ministers on September 16, 2003 and *National Programme Combating and Preventing Trafficking in Human Beings for 2005-2006* approved by the Council of Ministers on April 20, 2005. The programme was elaborated by the Committee for Combating and Preventing Trafficking in Human Beings established by the regulation no 23 by the President of the Council of Ministers of Poland on 5 March 2004.

The need for such a programme arises from the fact that trafficking in human beings is a dynamic phenomenon that undergoes constant changes. The response to these changes are new tasks described in the Programme. Moreover, part of the tasks described in the former Programme needs continuation and part of the tasks was not realized before the fixed deadline.

The **aim** of the Programme is to create conditions needed for effective combating and prevention of trafficking in human beings in Poland.

Programme Implementation needs participation and cooperation of many governmental administrative subjects and non-governmental organizations. The responsibility for performing the tasks described in the Programme is put on indicated subjects. Supervising of the implementation of the Programme is given to the Committee on Combating and Preventing Trafficking in Human Beings. The deadline for the tasks described in the Programme is fixed for the end of 2008.

Programme Financing

The tasks ascribed to certain subjects shall be financed within the scope of the budgets they dispose of. Ministry of Interior and Administration (MSWiA) for the implementation of the tasks scheduled by *National Programme for Combating and Preventing Trafficking in Human Beings for 2007-2008* has secured in the 2007 national budget, on the basis of the financial expenditures plan, financial means in the amount of 200 000 PLN - § 4300 (included in the financial plan of MSWiA – part 42 Internal affairs, section 754, Public safety and fire protection chapter 75495, Remaining activities) and financial means in the amount of 150 000 PLN - § 2810 Designated subsidy from the budget for financing or subsidizing tasks commissioned to be implemented by foundations (included in the financial plan of Budget Department of MSWiA) – on 28.12.2006 an agreement with the “La Strada” Foundation against the Trafficking in Women for implementation of the *Programme of Assistance and Protection for Trafficked Persons* was signed.

Moreover, the Ministry of Labour and Social Policy (MPiPS) has secured in the 2007 budget financial means in the amount of 80 000 PLN for implementation of the social aid

personnel trainings within the scope of how to treat the victim/witness of trafficking in human beings (part 44 – Social security, section 750 Public Administration)

In the same time, it is not possible to define the amount of money needed for the implementation of the Programme in 2008, but, due to the existence of the defined tasks, funds to cover the costs resulting from the Programme will be taken into account in the Polish national budget project for 2008, in part 42 Internal matters within the framework of granted initial amount for expenditures. Certain parts of the programme, especially those concerning problem study, information exchange, best practices and trainings, may be financed from the European Union programmes.

Part I **Preventive Actions, Phenomenon Studies**

1.

Organization of the national conference on trafficking in human beings.

First National Conference on Combating and Preventing Trafficking in Human Beings took place in March 2006. The Conference gathered many experts in this domain from public administration institutions, non-governmental organizations and scientific circles from all over the country. It resulted in recommendations applied in works concerning implementation of the National Programme. Moreover, the Conference is the only forum of this kind allowing for broad debate and exchange of experiences within the scope of the domain of trafficking in human beings.

Responsibility for the implementation: Ministry of Interior and Administration.

Implementation deadline: II quarter 2007, II quarter 2008.

2.

Information campaign on trafficking in human beings for forced labour:

a/ addressed to those seeking work in the EU Member States.

Revealing in 2006 numerous cases of Polish citizens – victims of trafficking in human beings for forced labour confirms the suppositions that keeping labour market restrictions concerning access to their labour market by some EU Member States results in side effects such as growth in illegal employment, including trafficking in human beings for forced labour. There is a need for information campaign addressed to those seeking work in the EU Member States aiming at raising awareness of the risk of becoming a victim. In order to implement this task, the organizational capabilities of MSWiA, MPiPS and MSZ (Ministry of Foreign Affairs of the Republic of Poland) should be made use of, as well as programs concerning Polish citizens abroad being realized by these institutions should be benefited from.

Establishing cooperation with mass media is necessary.

b/ addressed to those coming to Poland in order to commence work.

Due to the progress of the process of opening Polish labour market to citizens from third countries and incidents concerning cases of trafficking in human beings for forced labour in Poland it is necessary to organize in Poland an information campaign addressed to those coming to Poland in order to commence work (mainly Ukrainian citizens) aiming at raising awareness concerning the risk of becoming victims of trafficking in human beings. In order to

implement this task, the organizational capabilities of MSWiA, MPiPS and MSZ should be made use of.

Responsibility for the implementation: Ministry of Interior and Administration, Ministry of Labour and Social Policy, Ministry of Foreign Affairs of the Republic of Poland.

Implementation deadline: II half 2007, II half 2008.

3.

Elaboration of the II edition of the report on trafficking in human beings in Poland.

In the second quarter of 2007, the Report on Trafficking in Human Beings concerning mainly the period of 2003 – 2006 will be published. Due to trafficking in human beings phenomenon's dynamic nature and the need of constant updating its description, it is necessary to prepare regular publications of this type on trafficking in human beings in Poland, intended for those interested in the problem – representatives of public administration, non-governmental organizations, scientific institutions.

Responsibility for the implementation: Ministry of Interior and Administration, Ministry of Justice of the Republic of Poland, Polish General Police Headquarters (KGP), Polish Border Guard General Headquarters, (KGSG) Ministry of Labour and Social Policy, the State Labour Inspection, Voivodship Offices, Voivodship Labour Offices in cooperation with non-governmental organizations and scientific centers.

Implementation deadline: II half of 2008.

Task implementation requires continuation of the work started in the framework of the former National Programme, that is:

1. Elaboration of the methodology and scope of the permanent gathering of information on the phenomenon.

Responsibility for the implementation: Polish General Police Headquarters, Polish Border Guard General Headquarters, Ministry of Justice of the Republic of Poland, State Prosecutor's Office, in cooperation with non-governmental organizations and scientific centers.

2. Gathering of information and statistical data enabling complex study of the problem and better coordination of the research conducted by various centers and institutions.

Responsibility for the implementation: Polish General Police Headquarters, Polish Border Guard General Headquarters, Ministry of Justice of the Republic of Poland, State Prosecutor's Office, in cooperation with non-governmental organizations.

4.

Content-related, organizational and financial support (depending on owned budgetary means) of the trafficking in human beings research. Making use of European Union programmes means designated to these ends.

Proper definition of the trafficking in human beings phenomenon in its various aspects requires scientific study. The issues requiring urgent study are among others:

- the trafficking in human beings for forced work victim's profile;
- the situation of the foreigners' stray children, possible victims of trafficking in human beings – legal conditions, factual circumstances;
- analysis of Polish courts' judicial decisions concerning trafficking in human beings in terms of securing victim's rights;
- best practices in the scope of international cooperation of police concerning law enforcement in the domain of trafficking in human beings;

Responsibility for the implementation: Institutions represented in the Committee.
Implementation deadline: constant task

5.

Organization of the celebrations of the human trafficking victims' day – June 11, 2007.

In the European Union Action Plan concerning human trafficking adopted by the JHA Council in December 2005 and modified in December 2006 the celebrations of Human Trafficking Victims' Day¹ on June 11, 2007, was provided for. That is why this day celebration's scenario in Poland shall be prepared and implemented in cooperation with mass media.

Responsibility for the implementation: Working Group of the Committee – preparation of the celebrations' scenario, institutions constituting the Committee – the celebrations' organization.

Implementation deadline: June 2007

Part II

Changes in the Legislation

1.

Preparation and introducing into the penal code of new regulations concerning trafficking in human beings.

In the framework of the implementation of the 2005 – 2006 National Programme the National Institute of Justice² has performed an analysis of the Polish courts' judicial decisions on cases concerning human trafficking in terms of their conformity with definition of trafficking in human beings included in the Protocol on prevention, suppression and punishment of trafficking in persons, especially women and children. From this analysis it results that Polish courts' judicial decisions are not always in conformity with the letter and spirit of law and definition of the human trafficking included in the Protocol. Elaboration and introducing of such a definition into the article 115 of the penal code aims at standardization of the interpretation of the article 253 §1 of the penal code.

Introducing into Polish law human trafficking in connection with the projected punishability of preparation for the offence of trafficking in human beings will constitute a factor of improvement of efficiency in combating this type of crimes.

Responsibility for the implementation: Ministry of Justice of the Republic of Poland.

Implementation deadline: I quarter of 2008

2.

Polish law analysis in terms of efficacy of law enforcement in the trafficking in human beings for forced work.

The indications concerning cases of trafficking in human beings for forced labour are more and more frequent. Only one such indication was subject to penal procedure. An analysis of the state of law in order to identify regulations concerning human trafficking and disclosing potential loopholes that obstruct penal procedure is requested. Due to escalation of the human trafficking for enforced labour incidence in Europe, experts call our attention to inadequacy of the regulations of international and national law concerning forced labour. It is highly probable that such a situation is also true for Poland.

Responsibility for the implementation: Ministry of Interior and Administration, Ministry of Justice of the Republic of Poland, Ministry of Labour and Social Policy.

Implementation deadline: III quarter of 2007

Part III

Activities Efficacy Improvement

Coordination

1.

Improvement of the of coordination mechanism of activities of the police and border guard concerning combating human trafficking.

In September 2006 the Central Committee for Combating Trafficking in Human Beings was created in Polish General Police Headquarters. Coordinators for human trafficking were designated in provincial police headquarters; in some of the headquarters permanent teams were established. Promptly, establishing of the teams resulted in the increase of detected cases of human trafficking. It is necessary to create permanent teams for trafficking in human beings in all provincial police headquarters, and non-permanent coordinators in Border Guard departments.

Responsibility for the implementation: Polish General Police Headquarters, Border Guard General Headquarters.

Implementation deadline: II quarter of 2007

2.

Specialized training for coordinators and team members in provincial police headquarters and coordinators in border guard departments.

In September 2006, in provincial Police headquarters coordinators for combating trafficking in human beings were appointed. It is necessary to prepare them for fulfilling their duties properly via training covering the domain of law, psychology, rules governing cooperation among institutions and international cooperation.

Responsibility for the implementation: Working Group – preparation of the training programme, Committee for Trafficking in Human Beings DPM MSWiA, KGP, KGSG, MPiPS – organization of the training.

Implementation deadline: II quarter of 2007

International Cooperation

3.

Appointing of Joint Investigation Team for Trafficking in Human Beings.

Joint Investigation Teams are a subtle form of international cooperation for investigating organized crime in the European Union, this form is provided for in the Polish law. It is advisable to verify its practical application for investigating crime in trafficking in human beings. Gained experience might be of practical use for further improvement of international cooperation methods.

Responsibility for the implementation: Polish General Police Headquarters.

Implementation deadline: task implementation depends on the foreign partner's approval.

4.

Organization of the yearly meeting of experts from the countries of origin, transit and target countries – from the Polish point of view – in order to exchange information concerning changes taking place in the domain of trafficking in human beings.

Experience gained so far from organized meetings proves the existence of necessity of continuation of this form of international cooperation. They are an optimal formula of regular information exchange among experts, they facilitate elaboration of the most efficient forms of direct operational cooperation.

Responsibility for the implementation: Ministry of Interior and Administration, Polish General Police Headquarters, Polish Border Guard General Headquarters, Ministry of Justice of the Republic of Poland in cooperation with non-governmental organizations.

Implementation deadline: II half of 2007, II half of 2008

5.

Managing of the National Contact Point for Unaccompanied and Trafficked Children in Poland

On the Council of the Baltic Sea States initiative a network of National Contact Points for Unaccompanied and Trafficked Children – Victims of Trafficking in Human Beings was established. The task of the contact point is to gather information concerning the issue and exchange of such information with the contact points in the 11 countries of the region.

Formerly the task was being carried out by Nobody's Children Foundation on the MEN's commission.

Responsibility for the implementation: Ministry of National Education, in cooperation with one non-governmental organization.

Implementation deadline: constant task

Developing Qualifications

6.

Training for judges and prosecutors within the scope of trafficking in human beings and particularly in children.

Analysis of the Polish courts' judicial decisions concerning cases of trafficking in human beings points to the necessity of constant qualifications development of judges and prosecutors who deal with this kind of crime and its victims. The issue of the scope of meaning of the term trafficking in human beings as well as victim's rights and role in the criminal procedure are of particular concern. With regard to the aspects of trafficking in children, a specialized training should be provided for judges from domestic and juvenile departments.

Responsibility for the implementation: Ministry of Justice of the Republic of Poland, The National Training Centre for the Officials of the Common Courts of Law and the Public Prosecutor's Office.

Implementation deadline: constant task

7.

Training for police services training staff (military academies and training institutions) within the scope of the aspects of combating trafficking in human beings.

The dynamic nature of the trafficking in human beings phenomenon triggers the need of constant updating of the police academies permanent lecturers' knowledge that is passed over to the audience.

Responsibility for the implementation: Polish General Police Headquarters, Polish Border Guard General Headquarters in cooperation with non-governmental organizations.

Implementation deadline: constant task

8.

Social security employees training concerning the issues of trafficking in human beings victims identification, crisis intervention and the principles of cooperation with other countries.

The planned amendment to the Law on social security gives the possibility of providing aid to human trafficking victims by the social security institutions. It is required to provide the social security employees with the knowledge indispensable for victim's identification, providing aid and cooperation with other competent institutions.

Responsibility for the implementation: Working Group – training programme preparation, Ministry of Labour and Social Policy – training implementation.

Implementation deadline: in stages, up to the end of 2008

9.

Training of the Office for Repatriation and Foreigners' employees who interview those seeking refugee status and for employees working in Refugee Centers within the scope of identification of victims of trafficking in human beings.

It is necessary to provide Office for Repatriation and Foreigners' employees and those working in Refugee Centers with knowledge indispensable for victim's identification, providing aid and cooperation with other competent institutions.

Responsibility for the implementation: Working Group – training programme preparation, Office for Repatriation and Foreigners.

Implementation deadline: in stages, up to the end of 2008

IV.

Victims Support and Protection

1.

Elaborating of the support/protection model of Polish citizen – a victim of trafficking in human beings.

The growing number of Polish citizens – victims of trafficking in human beings, who became subject to trafficking either in Poland or beyond its territory, requires foundation of support and protection mechanism, different from the one presently operating, applied to foreigners. We're concerned with the fact that the help foreigners are presently provided with by La trada Foundation may prove to be insufficient in the presence of the growing number of cases. It is necessary to elaborate a model of action comprising among others:

- *protection of the Polish citizens who have become victims of the trafficking in human beings beyond the borders of Poland, in the first time period after identification,*

- organization of their comeback to country,
- protecting the victim within the Polish territory in the scope enabling their coming back to normal functioning in society (applied both to victims identified beyond Poland and on its territory, victims of internal trafficking).

Responsibility for the implementation: Working Group of the Committee.

Implementation deadline: III quarter of 2007

2.

Elaborating of the support/protection model for children – victims of trafficking in human beings.

Information about children – human trafficking victims received by non-governmental organizations or mass media is not confirmed in data gathered by police service and public prosecutor's office. One of the causes of this state of affairs may be lack of elaborated model of treating the victims, that would favor their disclosure and starting of the criminal procedure against the culprits. That is why it is necessary to elaborate a model of support and protection for children – human trafficking victims, based on the experiences in dealing with adult victims, taking into consideration all differences coming from the fact of different status and psychological reality.

Responsibility for the implementation: Ministry of Interior and Administration, Polish Main Police Headquarters, Polish Border Guard Main Headquarters, Ministry of Justice of the Republic of Poland in cooperation with non-governmental organizations.

Implementation deadline: IV quarter of 2007

3.

Elaboration of model of reintegration of trafficking in human beings victims surveyed and supported by professional social service and non-governmental organizations.

Experience gained during Partnership for Development Project “IRIS – social and vocational inclusion of women – victims of trafficking in persons” should allow for starting work on elaborating present model of inclusion of the victims of trafficking in persons.

Responsibility for the implementation: Working Group of the Committee in cooperation with non-governmental organizations.

Implementation deadline: IV quarter of 2008

4.

Establishing of standards to live up to for non-governmental organizations and other institutions capable and authorized to provide aid to victims/witnesses of trafficking in human beings.

Amendments to the act on social security shall enable the social security institutions effective aid for the victims of human trafficking. These institutions personnel's training (task III. 9) will enable establishing the international network of institutions providing aid to human trafficking victims.

La Strada Foundation is in possession of a hostel for human trafficking victims. The Archdiocese of Warsaw has the possibility to offer refugee to human trafficking victims. It is necessary to elaborate a uniform standard of providing aid and spreading information about institutions authorized to providing such aid. Already gained experience within the framework of implementing of the Partnership for Development Project “IRIS – social and vocational inclusion of women – victims of trafficking in persons” should come of use.

Responsibility for the implementation: Working Group in cooperation with non-governmental organizations, Ministry of Labour and Social Policy, Ministry of Interior and Administration, Ministry of Justice of the Republic of Poland, Ministry of Health.
Implementation deadline: I half of 2008