

# Comparative View of the Problem with Human Trafficking In the Balkan Countries

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## **Abstract:**

*The liberalization of gender understanding and relations, liberation of sexuality from the constraints of primitivism and traditionalism has led to a increase in prostitution as socio-pathological phenomenon that inevitably stimulates the emergence of the crime of human trafficking. Particularly disturbing is the emergence of a new dimension of human trafficking – the trafficking of minors. We can freely say that trade with minors is developing industry.*

*Analyzing the legal structure of the matter in the Balkan countries, Macedonia has a leading position among its neighbors, primarily with stringent punishments for offenders, as well as separate engagement in combating the trafficking of minors. Permanent improvement of the legislation being enacted in the Balkans, involved in combating human trafficking is a necessity derived from the liveliness of the matter and the constant development of new forms of the crime, which the international scene is also up following. So in a way of understanding the problems that are occurring in the region, we must start with the basics – legislation. It is constantly being reformed, in a way of escalation of prescribed sentences and enrichment of the legal description, and can make a solid foundation for productive fight against crime.*

## **1. Introduction**

Human trafficking, often referred as white slavery, is a crime of a historical dimensions. It occurs in all stages of the society's development and it is modifying and adapting to the existing conditions.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children - Anti trafficking Protocol – established in 2000, for the first time achieved a common definition of this crime. According to this protocol, (also known as the Palermo Protocol) human trafficking is considered a modern form of slavery that includes activities such as the recruitment, transportation, purchase, harboring and receipt of persons, manipulation in a variety of forms including -

threats, use of force, abduction, fraud, deception, use of power or a position of weakness, for a number of purposes such as prostitution, sexual exploitation, forced labor or services, slavery, servitude, organ removal.

The Balkan countries, especially Albania, Serbia, Kosovo and Macedonia, internationally are known as a transit countries in human trafficking, because of the specificity of their position. However, many victims, end up in one of the territories of the Balkan countries, so it could be said that these countries are also a final destination for victims of human trafficking. Montenegro, Serbia, Albania are also mentioned as countries of origin for victims of trafficking, especially Serbia, when it comes to trafficking in minors and so called “baby-affair”. Bulgaria is seen as a country of origin as well as a transit county for victims from Moldova on their way to Greece.

Therefore, after a long discussions, representatives of the state authorities and civil society, came to realize the need for stronger mechanisms, capacity building and strengthening of human and technical potential. The region of Western Balkans, has started a project call "Civic associations as a control mechanism in the fight against human trafficking in the Western Balkans"<sup>1</sup>.

The international community that the Western Balkan establish a list of standards for identification of victims of human trafficking as well as the establishment of NGOs for helping the victims to be funded with direct government assistance. According to international trends, Macedonia is the only country in the region in which the Ministry of Labor and Social Affairs manages the national mechanism for handling victims, while in Albania, Kosovo and Serbia this is done by Ministry of Interior.

## **2.Serbia**

Article 388 of Serbian criminal code amended in order to combat human trafficking. In this law human trafficking is defined as any “force or threat, bringing or misleading, abuse of authority, trust or dependency, difficult conditions to another, keeping personal documents or giving or receiving money or other benefits, recruitment, transportation, transfer, delivery, selling, buying, selling mediation, hiding or holding another person, for the purpose of his labor exploitation, forced work, committing crimes, prostitution or other forms of sexual exploitation, begging, use pornographic purposes, the establishment of slavery, or similar terms,

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<sup>1</sup> From the project it has been concluded that significant for detecting victims are civil society organizations – nongovernmental organizations, which play a key role into combating this crime, but they do not have big or any financial assistance from countries in the region;

confiscation of organs or body parts or use in armed forces”<sup>2</sup>. According to the criminal legislation of Serbia, human trafficking is punishable with imprisonment of three to twelve years<sup>3</sup> for the perpetrators of the crime. In terms of victim protection paragraph eight, in the same article of the Criminal Code of Serbia, impose a sentence of imprisonment of six months to five years shall be given to person who knew or could have known that the person is victim of trafficking and will use the position of that person in respect of exploitation set forth in the above legal description of the offense of trafficking in persons. Influenced by international documents, especially the Palermo Protocol, paragraph nine was introduced, according to which the consent of the victim to exploitation and establishment of slavery or similar relationship is irrelevant to the existence of the crime<sup>4</sup>. Imprisonment of one to ten years is provided for establishing slavery, holding in slavery and transportation of persons in slavery.<sup>5</sup>

Regarding minors, the offense will exist unless is using force, threat or any of the other ways of performing the work described under the Criminal Code of Serbia. Offenders can be punished with imprisonment of at least five years. A separate article deals with the trading with children for adoption, This happens in the Republic of Serbia where children, mostly babies are stolen from hospitals and illegally put up for adoption. One that will “take a person under 14 years for adoption contrary to applicable law or to adopt such a person or mediates in such adoption or for the purpose buy, sell or deliver other person that has not reached fourteen years old or transports, provides housing or covers shall be punished with imprisonment of one to five years, and one that deals with the performance of activities or if the offense is committed by a group, the penalty is at least three years, and if it is done by an organized group, however, a minimum of five years in prison”<sup>6</sup>. According to US State Department's report on efforts by states to combat human trafficking and successes in the field for 2009, Serbia was placed in Tier 2 group<sup>7</sup>, which means it does not comply with the minimum standards to combat this crime. However, the report stated that in November 2008 the Serbian government made serious efforts to finance projects for the protection of victims of trafficking them and the appointment of a new national coordinator for combating trafficking, but

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<sup>2</sup> Article 388 of the Criminal Code of the Republic of Serbia;

<sup>3</sup> Before the amendments from August 2009 sentence for the crime human trafficking in Serbia was imprisonment from two to ten years;

<sup>4</sup> Similar as is regulated in article 3 of the Protocol;

<sup>5</sup> Before the changes, three years imprisonment;

<sup>6</sup> Article 389 of the Criminal Code of the Republic of Serbia;

<sup>7</sup> Human Rights Report: Serbia, U.S Department of State, 2009, <http://www.state.gov/g/tip/rls/tiprpt/2009/123139.htm> (last accessed on 14.05.2013);

however the criticism falls on the prosecution and punishment of perpetrators of these acts. Same issues were evident in the next years, so in the reports of the US State Department, Serbia was in the Tier 2 group in 2010 and in 2011. The issues and the unsolved problems remain<sup>8</sup>.

Serbia has been known as a source, transit and destination of trafficking in women, men and children, mostly with young girls traded internationally and internally in the state for use of sex and forced labor. Foreign victims were transported to Serbia from Eastern Europe and Central Asia via Kosovo and Macedonia. Serbia serves as a transit country for victims who are transferred from Bosnia, Croatia and Slovenia, for Italy and other countries in Western Europe. Minors, mostly Roma, are traded for sex, forced marriages and begging. The majority of identified victims of trafficking in 2008 were Serbian women and girls for sexual exploitation, of whom more than half were children.

The territory of Serbia is particularly highlighted with regards to the problem of trafficking of babies. In this case Serbia is considered as a source country. The hospitals in Serbia take newborns to give to other families for adoption in Serbia and abroad. This problem goes back a long time. Media reports in recent of many parents who after ten or twenty years find their children, after having been told they had died in childbirth. Infants in perfect condition were removed from the hospital. For this problem, known as the largest Serbian affair after World War II, Ristovich released the book - "*Born to be Missed - Baby trafficking in Serbia.*"<sup>9</sup> The book summarized the testimonies of parents who suspect that their children were stolen from maternity hospitals and those suspicions are confirmed, about the mysterious invitations to military service and vaccination of infants reportedly died after birth.

NGO ASTRA and NGO ATINA combat trafficking in persons, especially in cases where women and children are victims. The activities of these NGOs are based on respect for fundamental human rights in line with international standards, tolerance and appreciation of diversity, pursue the highest standards in work and dedication and professionalism<sup>10</sup>. NGO ATINA<sup>11</sup> provides the victims with legal and medical help, gives them a shelter and the ability to work. In other words they are playing a key role the resocialization and social adaptation of victims. In Serbia, the enhanced role of

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<sup>8</sup>Human Rights Report: Srbija, U.S Department of State, 2011, <http://serbia.usembassy.gov/tip-2012-serbia.html> (last aces on 14.05.2013 );

<sup>9</sup> Ristović, Miša, *Born to be missed – Trafficking with babies in Serbia*, 2006;

<sup>10</sup> Official site of NGO Astra in Serbia, [http://www.astra.org.rs/?page\\_id=7](http://www.astra.org.rs/?page_id=7) (last aces on 27.04.2013);

<sup>11</sup> Official site of NGO Atina in Serbia, <http://www.atina.org.rs/> (last aces on 27.04.2013);

non-governmental sector at the expense of the government for this purpose can be clearly seen.

### 3. Montenegro

The Republic of Montenegro is a country of origin, transit and destination for victims of trafficking, exploited mainly for prostitution and forced work. The legislation of the Republic of Montenegro in terms of combating trafficking resembles that of the Republic of Serbia, especially in view of the legal definition of what encompasses work<sup>12</sup>. The basic penalty is from one to ten years imprisonment depending on whether the victim suffered serious bodily harm or was killed during the crime. When it comes to the trading of minor, as well as is the Serbian legislature, in the same article, under paragraphs 2 and 3 of the law regulates the situation in which the victim is a minor. The offender shall be punished even if the crime was done without using force, threat or some other means of enforcement. For committing the crime trafficking with minors. Montenegro's legislation provides sentence of at least three years imprisonment. A separate article regulates trade of children for adoption, applying to children who have not reached the age of fourteen. The offender shall be punished with imprisonment of one to five years<sup>13</sup> if the work is performed in an organized manner or by a person in a profession, the person shall be punished with imprisonment of at least three years.

The Republic of Montenegro, according to the US State Department, is also a Tier 2 country that does not comply with the minimum standards for the elimination of human trafficking. Montenegro is commended though for investing considerable effort and for the first time publicly acknowledging that the problem of human trafficking exists in its territory. In order to combat this crime the government has improved the referral mechanism for victims of trafficking among those who provide assistance, has begun to address the problem of complicity in carrying out this work and has implemented programs to prevent trafficking among some of the more vulnerable populations in Montenegro. However, the problem of lack of state mechanisms for identifying the victims still exist. The reports from the US State Department from 2009-2012<sup>14</sup>, Montenegro recommended that Montenegro take aggressive measures to conduct vigorous investigations to prevent crimes of human trafficking, especially for sexual exploitation and forced service operations, and to

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<sup>12</sup> Article 444 paragraph 1 of the Criminal Code of the Republic of Montenegro

<sup>13</sup> Article 445 paragraph 1 of the Criminal Code of the Republic of Montenegro;

<sup>14</sup> Last report: Human Rights Report: Srbija, U.S Department of State, 2012: [http://podgorica.usembassy.gov/trafficking\\_in\\_persons\\_report2012.html](http://podgorica.usembassy.gov/trafficking_in_persons_report2012.html) (last accessed on 27.04.2013);

work on identifying victims and providing assistance for their protection, and particularly highlighted the need to improve special protection to child victims of trafficking.

Women from Ukraine, Moldova, Serbia, Kosovo, Albania are often victims of migrant smugglers. The women are told they will have jobs and then are forced into prostitution in Montenegro. Roma children, in turn, are forced into organized begging in the streets in Montenegro. Montenegro also has a particular problem of forced labor of men and young boys, mostly foreigners, in the nation's booming construction industry. In the aforementioned reports, the government of Montenegro has also been criticized for not registering any victim of forced labor in the construction sector in 2009. It is believed that criminal networks operate as well in the field of tourism and in trade in young women and girls for sexual exploitation.

In 2004, the government of Montenegro, in cooperation with the International Organization for Migration and the Organization for European Security and Cooperation (OSCE) opened a shelter for victims of trafficking. In September 2006, the government signed a Code of Conduct to protect children from sexual exploitation in the travel and tourism industry. In the period from 2004 to 2008, with the support of many international organizations the government of Montenegro conducted a series of activities to raise general awareness of the fight against human trafficking. In December 2009, Montenegro adopted the Action Plan for Implementation of the National Strategy to Combat Human Trafficking for the period 2010-2011. This document set goals and objectives regarding the prosecution of offenders, targets regarding the protection of victims and prevention of this crime. Montenegro brought "National Strategy on the Fight against Trafficking in Human Beings" for the period 2012-2018 and the Action Plan for its implementation, presented by OSCE Mission and the National Co-ordinator's Office to relevant institutions and journalists on 13 December 2012 in Podgorica<sup>15</sup>. All this point on the efforts that are made by Montenegro for combating human trafficking within its territory, and which are reflecting beyond its national borders.

#### **4. Bosnia and Herzegovina**

According to the US State Department report, Bosnia and Herzegovina was one country that, until recently, was completely fulfilling completely the minimum standards for combating trafficking (Tier 1), and which in recent years has managed to make clear progress in its efforts to implement legislation on trafficking. But In

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<sup>15</sup> Official web site of OSCE in Montenegro, <http://www.osce.org/montenegro/98185> , (last accessed on 02.05.2013);

2012 Bosnia and Herzegovina has dropped into Tier 2.<sup>16</sup> Bosnia and Herzegovina, in order to combat human trafficking, succeeded in reducing the number of delays in execution of court judgments, in recognizing of the victims of this crime and properly referring them to the centers for assistance and protection victims. These centers are mostly non-governmental organizations that are financed by the state finances. It also imposed severe penalties on perpetrators of the crime of human trafficking.

The amendments to the Criminal Code of Bosnia and Herzegovina enacted in early 2010 completely changed the article that covers the offense of trafficking of persons<sup>17</sup>. The amended article, Article 186, prescribes stricter penalties and is more explicit. For instance it no longer uses the term "minor" but "a person who is under 18 years."

The legal definition of this crime of trafficking of Bosnia and Herzegovina involves "the use of force or threat of force or other forms of abduction, kidnaping, fraud, abuse of authority or power, position of helpless, or giving or receiving money or other benefits as a way of committing the crime. If someone uses these tools to gain control over another person and then recruits that person, transports him/her, delivers, receives or hides, shelters the person in order to use him/her for prostitution or other forms of sexual exploitation, forced labor or services, slavery or it's similar forms, servitude, removal of parts of the body or other utilities", under the law shall be punished with imprisonment of at least 3 years. Which means, according to criminal justice legislation of Bosnia and Herzegovina, it is the ways of committing the crime of human trafficking and activating the legal procedure. In next paragraph of the same article is regulated the trade of minors. It says that if someone recruits, says, transports, transfers, receives or conceals a person who is under 18 years old in order to perform the above mentioned operations, shall be punished with imprisonment of at least 5 years (penalty more severe than that of the general act of trafficking in persons, which is understandable and internationally recommended, having in mind the specific position and characteristics of the victim). If the crime (human trafficking and trafficking in person is under 18 years) it is committed by an official in the performance of his or her duty, the offender shall be punished with imprisonment of at least 5 years, or if any organized or otherwise managed group performs these acts, the person shall be punished with imprisonment of at least 10 years or long term imprisonment provided into the legislation of Bosnia and Herzegovina. The imprisonment of at least 5 years or long term imprisonment, shall be punished the perpetrator of these acts, if someone suffers severe health damage afterword, serious bodily injury or death. In a way of protection of victims is the article which says that anyone who uses the services of victims of trafficking shall be punished with imprisonment from six months to 5 years. Here, under the influence of

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<sup>16</sup> Official web site of U.S Department of State <http://www.state.gov/j/tip/rls/tiprpt/2012/192363.htm> , last aces on (02.05.2013);

<sup>17</sup> "Official Gazette of Bosnia and Herzegovina" 8/10;

international acts, is introduce the paragraph which talks about the irrelevance of the consent of the victim for committing this crime.

Other articles related to the offense of trafficking in persons are articles which regulate the establishment slavery and transportation of persons in slavery<sup>18</sup>, international recruitment for prostitution<sup>19</sup>, migrant smuggling<sup>20</sup> and organizing group or association to perform a criminal act of human trafficking and smuggling<sup>21</sup>.

According to general characteristics stated for the Balkans, Bosnia and Herzegovina is also considered as a country of origin, transit and destination for victims of trafficking, especially women and young girls recruited for forced prostitution in Bosnia and Herzegovina, as well as other countries in Western Europe also. In 2009, most of the victims in Bosnia and Herzegovina came from Serbia and Montenegro. It was also reported that people from Bosnia and Herzegovina were forced into labor in Azerbaijan.

Minors form the Roma population, seem to be especially vulnerable. Young girls are forced to get married and then they fall into domestic servitude, and smaller children are usually forced to beg for "needs" of an organized group of persons.

Although Bosnia and Herzegovina has made drastic changes in terms of improving the fight to combat human trafficking moving up from the US State Department's category of Tier 3 states in 2001, there are still some sensitive areas that should be worked on. Improvement can be made into the cooperation between the public sector and non-governmental organizations as well as the identification of victims and indicating their help and protection.

## 5. Albania

In the period from 1991 to 1999, the Albanian government estimates that nearly 100,000 Albanian women and girls were taken to Western Europe and other Balkan countries for sexual exploitation. In Tirana, the capital of Albania, criminal organizations are trafficking with women, by carrying them across the Adriatic Sea by boats to Italy. Northern regions of Albania were more protected from this crime, thanks to the traditional way of education which provides for vendetta against anyone who will reach for female family member in any way. However, the lack of economic opportunities in the 1990s encouraged human trafficking in this region, where

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<sup>18</sup> Article 185 form Criminal Code of Bosnia and Herzegovina;

<sup>19</sup> Article 187 form Criminal Code of Bosnia and Herzegovina;

<sup>20</sup> Article 189 form Criminal Code of Bosnia and Herzegovina;

<sup>21</sup> Article 189 -a form Criminal Code of Bosnia and Herzegovina;



thousands of Albanian boys and men leave home for work inside the country and abroad.

This is also the case today. Because of poverty, low education levels and greater susceptibility to fraud by perpetrators victims usually come from rural areas, which were once protected by tradition<sup>22</sup>. Albania today is not only a source country, but also a major center for transporting the women to final destinations. Albanian women and girls are lured by false proposals for marriage, or by offers of employment, or even kidnapped and then forced into prostitution. Victims from Albania are among the youngest victims of human trafficking in the world, between the ages of 14 years to 35 years. According to the report "Save the Child"<sup>23</sup>, about 80% of victims from Albania are aged under 18 years, girls taken in Italy, Belgium, Greece, the Netherlands, or the United Kingdom for forced prostitution, where, according to the report, their pimps expect them earning U.S. \$ 200-550 per night. Minor victims from Albania are often transferred to other countries for forced labor, begging, washing cars, and drug dealing. Most of them are from the Roma population. Very often children in these cases are sold by their parents in exchange for some small monthly stipend. Although for many years this problem in Albania was denied and neglected, in recent years, Albania has publicly acknowledged the existence of the problem of human trafficking within its territory, as it was the first significant undertaking in the way of combating this crime.

The criminal legislation of Albania regulates this material through three core articles: human trafficking<sup>24</sup>, trafficking in women<sup>25</sup> and trafficking in minors<sup>26</sup>. The article on human trafficking covers the legal definition of the crime. Human trafficking means the "recruitment, transportation, transfer, concealment or seduction of persons by threat or use of force or other forms of coercion, abduction, fraud, abuse of power or benefit from the social, physical or mental condition, or giving or taking of payments or benefits to gain the consent of the person controlling another person, in order to use it in a way of prostitution of others or other forms of sexual exploitation, forced work or services, slavery or other forms of enslavement similar by putting in use or transplantation of organs, and other forms of exploitation". The sentence for offenders is imprisonment of five to fifteen years and a fine of two to

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<sup>22</sup><http://www.pbs.org/wnet/wideangle/episodes/dying-to-leave/human-trafficking-worldwide/albania/1447/>, (last aces on 03.05.2013);

<sup>23</sup> Official site for Save the Children for Albania, <http://www.scalbania.org/>, (last aces 10.06.2013);

<sup>24</sup> Article 110 from the Criminal Code of Albania;

<sup>25</sup> Article 114 from the Criminal Code of Albania;

<sup>26</sup> Article 128 from the Criminal Code of Albania;

five Albanian leka. Cumulative penalties, fine and imprisonment are provided for organizing, managing, financing and trafficking with humans and for qualified types of the crime such as severe health consequences or death of the victim. Trafficking in women, as a specially outlined crime in the criminal law of Albania is punished rigorously. The legal description of the offence is the same as the basic form of the act of human trafficking. The lower limit for the perpetrator of this act is increased to seven years and a fine of- from three to six million Albanian leka is imposed. Striking for the Albanian criminal legislation is a specifically regulated crime trafficking in minors. Albanian legislation uses the term minors, and not children as it is often the case in international regulations. The envisaged punishment for trafficking in minors is imprisonment from seven to fifteen years, with a fine of four to six million Albanian leka. The punishment provided for the basic form of human trafficking and trafficking in women, the punishment for organizing, managing and financing of trade in minors is even stricter - from 10 to 20 years in prison and a fine of six to eight million Albanian leka. Higher penalties are provided for the qualified crime, for instance severe health consequences or even death of the victim and if this is not the first offense. In all three articles prescribes that if the crime is committed by a person who is taking advantage of a public function, imprisonment and fine shall be increased by a quarter.

According to the latest Us State Department report on the measures taken to combat human trafficking in the countries in the region in 2012 Albania belonged in Tier 2<sup>27</sup>), the group of countries that do not fulfil the minimum standards but are making significant efforts to strengthen this fight to combat this crime.

## 6. Macedonia

Macedonia today is one of the leading countries in the Balkans in terms of the legal structure and the measures taken to combat human trafficking in general. Significant improvements have been made to the criminal legislation, covering this crime. These raised the battle for combating the crime to a higher level and contributed to the country begin qualified as a country that fulfills the minimum standards to combat trafficking, which is a step ahead of other countries in the region. According to the cited US State Department report on the achievements of countries in this area in 2011, Macedonia is classified in Tier 1 group. However, Macedonia remains a source, transit and destination country for children and women victims of sexual exploitation. Most of the victims here come from Roma population.

Macedonia is one of the few countries in the region, which was able to put into practice improved legislation. Amendments to the Criminal Code of 2002<sup>28</sup>, from

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<sup>27</sup> <http://www.state.gov/j/tip/rls/tiprpt/2012/192363.htm>, (last accessed on 02.05.2013);

<sup>28</sup> Official Gazette of Republic of Republic of Macedonia, 04/02 from 25.01.2002;

2004<sup>29</sup>, from 2008<sup>30</sup>, as well as 2009<sup>31</sup> in Macedonia have helped to combat trafficking in minors and human beings. The articles stiffened penalties. What was once a weak tool for combating this crime, is now transformed into a detailed, comprehensive base which can be used to seriously combat human trafficking.

The first Macedonian codification of criminal law in the country in 1996, cleared away the relics of the former socialist system and the introduction of legislation which would correspond to the new democratic. However, this code did not exist as a separate article that will work against trafficking as a separate crime in all its manifestations and features. Consequently, there was not even a legal definition for human trafficking.

Following the trend of major changes in the international arena and multitude of international treaties and laws that protect human rights and freedoms, resulted in changes and amendments to the Criminal Code in 2002, an enormously important tool in for the fight against human trafficking. Article 418a introduced the first legal definition of human trafficking in Macedonia for this crime. The change from 2002, in particular the article 418a looks very much like the regulation of this matter in the neighboring countries, Serbia and Montenegro. The regulation of the crime trafficking with minors is incorporated and covered into the same article, but in a separate paragraph.

In 2004 came the key additions and amendments to the Criminal Code in respect of legal coverage for this crime, but then came to decline in international evaluation of Macedonia<sup>32</sup>. Besides changes in the article 418-a, two new articles were added to regulate migrant smuggling. The legal definition of a basic form of the crime human trafficking was enriched, first making it a crime to mislead another into exploitation, and also to utilize the state of pregnancy, physical or mental inability, or other weakness to exploit a person. Pornography, forced marriages, forced fertilization, illegal adoption and other similar relationships were also added to the definition of human trafficking. Paragraphs are added that relate to the legal entities as an offender, meaning that legal entities can be offenders and if they commit the crime, they will be punished with a fine. As a result of recommendations from the international community legal penalties for offenders have been raised.

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<sup>29</sup> Official Gazette of Republic of Republic of Macedonia, 19/04 from 30.03.2004;

<sup>30</sup> Official Gazette of Republic of Republic of Macedonia, 7/08 from 15.01.2008;

<sup>31</sup> Official Gazette of Republic of Republic of Macedonia, 114/09 from 14.09.2009;

<sup>32</sup> The country went in a group of countries Tier 2 and until then it was in Tier 1 group, and remained there until 2008 when subsequent reforms to the Criminal Code were occurred;

Amendments to the Criminal Code in early 2008 were entirely in the spirit of international requirements for setting a solid foundation for combating human trafficking in all its manifestations. The legislation made the necessary distinction between human trafficking and trafficking in minors, which was given proper place in the Criminal Code by allocating in a separate incrimination<sup>33</sup>. A paragraph was added which stated that consent of the victim is irrelevant for the existence of the crime. Also, the duty to seize objects and vehicles used during committing the crime is spread over the property which is used during the process. However, an important novelty was certainly the introduction of article 418-g, - trafficking in minors. Minors, should certainly receive more intensive and more carefully treatment than adult victims of trafficking. Minors deserve to be treated separately, primarily in the legislation. So if a person is found to be “recruiting, transporting, transferring, buying, selling, harboring or receipt minor for exploitation through prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced fertilization, illegal adoption or similar terms or illegal transplantation of human organs, and, if the offense is committed by force, misleading with a serious threat, abduction, fraud, abuse of position, condition of pregnancy, weakness, physical or mental disability to another, giving or receiving money for obtaining the consent of a person having control over another person”<sup>34</sup>, the offender shall be punished rigorously. In the first case, the offender shall be punished with imprisonment of at least eight years, and in the second at least ten. The severity of the sentence reflects the seriousness of the crime of trade in minors which is a very tragic experience for the youth. It leaves deep scars in a life of yet unformed and can move the person’s development into a completely incorrect direction. Additions and amendments to the Criminal Code implemented September 2009 contributed little to the field. In 2011 a new article was introduced into the Criminal Code in order to stop abuse of the non-visa regime, which has been implemented in the country recently, with the country members of EU and Schengen agreement. However the amendment indicates the need for permanent monitoring of the situation in the country in this field and adapting legislation to the real needs and to effectively combat with trafficking in persons.

In the territory, biggest problem is trafficking of girls, especially minors, for sexual abuse. Macedonia is, like its neighbors, mostly a transit country, because of the specific geographic location. But is also country of origin and destination. So, young girls are transported through or to the country for abuse. The problem of massive labor exploitation and child begging, like in other countries of the Balkans, especially from Roma population is also present.

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<sup>33</sup> Something for which Macedonia led in this area among the countries in the region and had a huge stake in that Macedonia to return to the group's Tier 1 countries;

<sup>34</sup> Article 418 a Criminal Code, Republic of Macedonia, Official Gazette 37/96, 04/02, 19/04, 7/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12;

In analyzing the laws in the Balkans against human trafficking one can see that Macedonia because of the strict punishments for offenders, and the separate article in combating trafficking with minors has enacted better laws than the other Balkan countries. However, all countries in the region have made changes in the overall attitude in the fight against trafficking in persons, in order to comply with international regulations, especially the Palermo Protocol of 2000.

## Conclusion

What terminology constituted as "human trafficking" in international treaties and conventions in the early years of the twentieth century, today is further more developed in a separate international legal regime. When this crime is defined, it is necessary to start with the international acts which, according to the new findings about it, determine its basic elements. This crime is often defined using the concept of slavery, though that term by its content is wider it does incorporate human trafficking. "Human trafficking is, primarily, a serious violation of fundamental human rights and freedoms, especially the right not to be in slavery or servitude slavery, the right for liberty and security for the person, prohibition of cruel and inhuman treatment and freedom of movement."<sup>35</sup>

Trafficking in minors is a developing industry. The exploitation of children especially in sex tourism, pornography and the dissemination of pornographic images via the Internet is increasing. Each year includes about one million children are exploited, kidnapped and sold through deception into these activities.<sup>36</sup> Selling children is an especially worrying phenomenon in poor countries and within multi-child families. Some countries are still developing, and have held to tradition which produced poverty among the population. The Balkan countries are among those with this problem. This region has a problem with "brought brides", "baby mafia" and "begging phenomenon". And normally, all of the forms of human trafficking are reflected for the minors as victims also. But there is also problem with forced work, exploitation of labor through low payment of workers and basically very poor conditions for work. Then, recently, several cases of trafficking with persons for removal of organs and illegal transplantation in non-sterilized conditions have become evident. Several countries in the region have seen this particular crime and it seems to be carried out by organized crime. And there is also the basic problem with human trafficking – sexual exploitation, mostly of young women.

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<sup>35</sup> Danailov, Vladimir, Trafficking with humans –business crime with face of a slavery, International organization for migration in Skopje, Skopje:2001, pg. 1;

<sup>36</sup> According to: Child violence – study of General Secretary of UN, United Nation, Belgrade: 2007. pg.10,20;

This crime has been taken seriously by the relevant institutions that have taken serious and drastic measures for its suppression. Changes that were made in the legislation of the countries, and their approximation to the relevant international acts, is only a start point for combating human trafficking. Using a solid foundation, strong and successful combat can be performed against this crime. But there are other elements that needs to be worked on, such as improving the work of the institutions that are punishing perpetrators of the crime, giving out more than just the legal minimum of the prescribed sentence, and prosecuting the criminals in first place. In addition, the centers for social work, and their effort to help victims need to be strengthened. In the first place, they need to be recognized and then their recognition at first place, and their resocialization and social adaptation programs need to be encourages. Non-government sector has to get more support from the government and develop more trust from the people so that they will come and ask for help. Synchronized international engagement and placement of the instruments for combating the human trafficking is an elementary condition for starting and leading the process. On its element of organization has to be responded with even bigger organization and compactness of all the stake holders in the combat. Only in that way we could raise above the criminal minds.

### **Bibliography**

- Biljali, Aslan, International and national aspects of trafficking with women and correlations with the problem of prostitution, University of Sought east Europe, Tetovo:2007;
- Child violence – study of General Secretary of UN, United Nation, Belgrade: 2007;
- Convention against Transnational Organized Crime, United Nations,2000;
- Convention on Action against Trafficking in Human Beings, Council of Europe, Warsaw, 16.V.2005, Council of Europe treaties Series no. 197
- Criminal Code of Albania, number 7895, since 1995/01/27
- Criminal Code of Bosnia and Herzegovina, Official Gazette of Republic of Bosnia and Herzegovina 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 32/07, 8/10
- Criminal Code of Montenegro, Official Gazette of Republic of Montenegro 70/03
- Criminal Code of Republic of Macedonia, Official Gazette 37/96, 04/02, 19/04, 7/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12;
- Criminal Code of Serbia, Official Gazette of Republic of Serbia 26/77-1341, 28/77-1566, 43/77-2213, 20/79-1059, 24/84-1233, 39/86-2739, 51/87-2421, 6/89-406, 42/89-1401, 21/90-888 and 16/90-468, 49/92-1664, 23/93-817, 67/93-3110, 47/94-1465 i 17/95-529, 44/98 od 08.12, 10/02 od 01.03

- Danailov, Vladimir, Trafficking with humans –business crime with face of a slavery, International organization for migration in Skopje, Skopje:2001;
- Human Rights Report: Srbija, U.S Department of State, 2009
- Human Rights Report: Srbija, U.S Department of State, 2011
- Human Rights Report: Srbija, U.S Department of State, 2012
- International Convention for the Suppression of the "White Slave Traffic", League of Nations Treaty Series, vol. VIII, p. 278,Paris, 1910;
- International Convention for the Suppression of the Traffic in Women and Children, League of Nations,1921;
- International Convention for the Suppression of the Traffic in Women of Full Age, League of Nations,1933;
- Nikola, Tupancheski, Human trafficking in comparative criminal law and in Criminal law of Republic of Macedonia, Macedonian review of criminal law and criminology, year.7, 1-2, Skopje:2000;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, United Nations, Palermo, 2000;
- Publication, "Criminal legislation and analysis of cases of human trafficking cases and smuggling of migrants from Macedonia, Serbia, Albania, Montenegro and Bosnia and Herzegovina", Skopje 2007
- Recommendation No. R (91) 11 concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young, European Council, 1991;
- Recommendation 1065 on the traffic in children and other forms of child exploitation, Council of Europe, 1987;
- Ristović, Miša, Born to be missed – Trafficking with babies in Serbia,2006
- Slavery Convention, United Nations, Treaty Series, vol. 212, No. 2861,1926;
- Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology- seventh regular consultation on subject:10 years of application of the Criminal Code of the Republic of Macedonia, Ohrid, 2006;
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, United Nations, Treaty Series, vol. 266, No. 3822,1956;
- <http://babypartstrafficking.org/html/Overview.html> (last aces in 2011);
- [http://podgorica.usembassy.gov/trafficking\\_in\\_persons\\_report2012.html](http://podgorica.usembassy.gov/trafficking_in_persons_report2012.html) (last aces on 27.04.2013);
- <http://www.forum.com.mk/28282;jsessionid=ADB8BE7A3D5651B2F7CF93571690D719> (last aces in 2011);
- <http://www.interpol.int/public/thb/women/default.asp> (last aces on 27.04.2013)
- [http://www.justice.gov.mk/documents/INFO\\_TRG%20so%20luge\\_02.pdf](http://www.justice.gov.mk/documents/INFO_TRG%20so%20luge_02.pdf) (last aces on 28.04.2013);

<http://www.pbs.org/wnet/wideangle/episodes/dying-to-leave/human-trafficking-worldwide/albania/1447/>(last aces on 21.04.2013 );  
<http://www.state.gov/g/tip/rls/tiprpt/2009/123139.htm> (last aces on 14.05.2013 );  
<http://www.state.gov/j/tip/rls/tiprpt/2012/192363.htm> (last aces on 02.05.2013);  
<http://www.unicef.org/ceecis/Trafficking.Report.2005.pd> (last aces in 2011)  
[http://www.unicef.org/tfymacedonia/NAP\\_Children\\_April\\_2009\\_-\\_MKD.pdf](http://www.unicef.org/tfymacedonia/NAP_Children_April_2009_-_MKD.pdf) (last aces in 2011);  
<http://www.wittproject.net/spip.php?article204> (last aces in 2011);  
<http://edition.cnn.com/2010/WORLD/americas/01/28/haiti.us.children/index.html>  
(last aces on 20.04.2013);  
<http://www.astra.org.rs> (last aces on 27.04.2013);  
<http://www.atina.org.rs> (last aces on 27.04.2013);  
<http://www.osce.org/montenegro/98185> (last aces on 02.05.2013);  
<http://www.scalbania.org/>, (last aces 10.06.2013)