



FRA
Thematic Study on Child Trafficking
Bulgaria

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Executive Summary

General anti-child trafficking framework

- [1]. Bulgaria ratified the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000) on 13.11.2001, the United Nations Convention against Transnational Organised Crime / Palermo Protocol to prevent, suppress and punish trafficking in persons (2000) on 12.04 2001, the International Labour Organisation Convention 182 on the worst forms of child labour (1999) on 04.07.2000, the Council of Europe Convention on Action against Trafficking in Human Beings (2005) on 07.03.2007. The Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (2007) was signed on 25.10.2007, and in 2008 a review of compliance of national legislation with this convention, and of the need for any further amendments to it for ratification is in progress.
- [2]. In 2002, the Bulgarian Criminal Code was amended, specifically criminalising trafficking in human beings (including children) in line with the definition of trafficking and exploitation given by the CoE Convention on Action Against Trafficking in Human Beings (Warsaw 2005). In 2003 the *Закон за борба с трафика на хора* (ЗБТХ) (Combating Trafficking in Human Beings Act [СТНВА]) was adopted, and the *Правилник за организацията и дейността на Националната комисия за борба с трафика на хора* (ПОДНКБТХ) (Regulations for the Activities of the National Commission for Combating Trafficking in Human Beings [RANCСТНВ]) were adopted in March 2004. The chair of the Commission was appointed in November 2005, and he appointed the members in December 2005. The first National Action Plan against Sexual Exploitation of Children (Национален план за действие срещу сексуалната експлоатация на деца с търговска цел) for the period 2003-2005 was adopted in 2003, and was implemented by the *Държавна агенция за закрила на детето* (ДАЗД) (State Agency for Child Protection [SACP]) and the *Министерство на вътрешните работи* (МВР) (Ministry of Interior [MoI]). Since 2005, the Commission for Combating Trafficking in Human Beings has elaborated annual national programmes against trafficking in human beings. This research did not find any evidence that implementation of these policy documents was funded by the State and was monitored by an independent body. No evidence was found of publicly available reports of implementation of these policy documents. Various international, national and local NGOs implemented projects for raising awareness, and training and rehabilitation of victims of trafficking, but these initiatives lacked continuity,

consistency and coordination, as well as the involvement of state and municipal authorities necessary to ensure long-term and efficient actions against trafficking. Since the beginning of 2008, the National Commission for Combating Trafficking in Human Beings (NCCTHB) has been collecting data on victims of trafficking from all relevant authorities and NGOs.¹

Prevention of child trafficking

- [3]. Most of the reported activities related to prevention of trafficking were funded and organised by international donors and NGOs, took place away from the most vulnerable groups, and were focused on raising broad awareness. These efforts were not sufficient to engage all relevant actors (ministries, municipalities, schools, institutions for child care, minority groups, prosecution offices, child protection departments, NGOs, border police) and to make them work together in prevention of such crimes, protection of trafficked children, and prosecution of those committing the crimes.

Appointment of legal guardian

- [4]. The analysis of the legislation does not lead to a clear regulation about what kind of representation the child victim of trafficking has the right to. There is no specific training (either provided for in legislation or carried out in practice) for any lawyers representing children (including child victims of trafficking). Each parent is the legal guardian of his/her children up to the age of 14. Parents can represent their children in any circumstances, and can give consent to legal actions involving children aged 14 to 18 where such actions are to the benefit of the children. In cases of conflict of interest in regard to financial and property issues, decisions are taken by the district court.² In cases of unaccompanied Bulgarian children found abroad, the consular offices of the Ministry of Foreign Affairs inform the State Agency for Child Protection and Ministry of Interior, and the latter are obliged to search for the parents. In cases of unaccompanied children within Bulgaria, police stations are obliged to search for the parents or other legal representatives of the children, and to inform child protection departments located at the place of permanent address of the child. The above obligations are regulated by the *Координационен механизъм за реферирание и обгрижване на случаи на непридружени български деца и деца-жертви на трафик, завръщащи се от чужбина* [Coordination Mechanism for Unaccompanied Children], which is not a legislative act. The powers and

¹ Written reply from NCCTHB, p. 1, dated 02.07.2008.

² Bulgaria/*Семеен кодекс* [Family Code] (28.05.1985), Art. 73, para. 1.

obligations of each authority included in this mechanism are provided for individually by separate legislation, although not in relation to the others. Under the provisions of the Combating Trafficking in Human Beings Act,³ the national and local Commissions for Combating Trafficking in Human Beings (established to implement state policy on combating trafficking in human beings at central and local level), shelters for victims of trafficking (children and adults) and centres for support and rehabilitation are obliged to search immediately for the families of children who may be victims of trafficking. The specialised authorities provided under the *Закон за закрила на детето* [Child Protection Act⁴] should ensure representation of such children. The authorities responsible for ensuring protection and representation of children under the Child Protection Act in administrative proceedings are social workers in child protection departments, and directors of institutions for child care, where children are placed in the care of such institutions. According to the *Наказателно-процесуален кодекс* [Criminal Procedure Code],⁵ legal representation in court during criminal proceedings when a child is a victim or witness may be provided by parents and grandparents, and in cases where a conflict of interests exists between a victim who is a minor or adolescent and his/her parents or legal guardian, the appropriate body appoints a special representative – a lawyer.⁶

Coordination and cooperation

- [5]. Coordination and cooperation between state authorities was reached regarding repatriation of unaccompanied children abroad. In regard to children who are trafficked in Bulgaria, some measures (although not legislative) have been taken to collect data, to prosecute perpetrators, and to rehabilitate victims, track them and provide them with medical care and basic social skills. However, since there are no alternative residential and care services (outside the family) for such children, they are not sufficiently protected. This research did not find evidence of trafficking-related formalised agreements between state authorities and NGOs, nor between different state authorities themselves, nor between Bulgaria and other countries of origin that are or are not members of the European Union.

³ Bulgaria/*Закон за борба с трафика на хора* (Combating Trafficking in Human Beings Act [CTHBA]) (20.05.2003), Art. 24.

⁴ Bulgaria/*Закон за закрила на детето* [Child Protection Act] (13.05.2000).

⁵ Bulgaria/*Наказателно-процесуален кодекс* [Criminal Procedure Code] (29.04.2006), Art. 91, para. 2.

⁶ Bulgaria/*Наказателно-процесуален кодекс* (29.04.2006), Art. 101, para. 1.

Care and protection

- [6]. After identification of victims, the investigating authorities are obliged to inform them immediately about the opportunity to receive special protection if they consent to cooperate with investigation of the crime within 30 days.⁷ Where the victim is a child, and if proposed by the State Agency for Child Protection, this period may be extended to two months.⁸ Children are entitled to residence irrespective of their cooperation with police. Children are accommodated in special rooms in police departments for 24 hours (separated from adults), or in temporary care homes, where they can be placed for up to 15 days with the permission of the prosecutor but without a court order. These homes also host children who have committed crimes or were involved in other forms of anti-social behaviour when apprehended by the police. Police and child protection departments are obliged to search for the families of trafficked children and to assess their capacity to take best care of the child. Since January 2007, three functioning shelters for trafficked children have existed in Bulgaria, although the regulations governing them are not particularly clear. They were established and function as ‘crisis centres’ under the provisions of the *Правилник за прилагане на закона за социално подпомагане* [Regulations for implementation of Social Assistance Act]⁹ (where they are mentioned in just one definition provision), but not under the *Правилник за приютите за временно настаняване и центровете за закрила и помощ на жертвите на трафика на хора* [Regulations for shelters and centres for support for victims of trafficking]. The children stay there for up to six months and most of them receive medical care, some education, basic social skills or literacy instruction. However, there are no specific psychological or psychotherapeutic programmes, vocational training or legal assistance, and in cases where the victim’s family is involved in trafficking, there are no alternatives for placement after their release from the shelters.

Best interests determination and durable solutions, including social inclusion/return

- [7]. In each administrative or court procedure related to child protection, where children’s rights and interests are involved, it is obligatory that any child over

⁷ Bulgaria/*Закон за борба с трафика на хора* [Combating Trafficking in Human Beings Act] (20.05.2003), Art. 26, para. 1.

⁸ Bulgaria/*Закон за борба с трафика на хора* (20.05.2003), Art. 26, para. 2.

⁹ Bulgaria/*Правилник по прилагане на закона за социално подпомагане* [Regulations for implementation of Social Assistance Act] (1.11.1998), Art.1, par.1, item 25, Additional Provisions (1.05.2003).

the age of ten receives a hearing, unless this hearing is damaging to the interests of that child.¹⁰ Where a child has not yet reached the age of ten, he/she may be heard and his/her opinion taken into consideration, depending on the level of his/her development and understanding. The decision of the hearing of the child should be reasoned.¹¹ Before hearing the child, the administrative or court authority should ensure provision of the information necessary to help the child form his/her opinions, and should inform the child of the possible consequences of his/her wishes or, opinions, and of each decision of the administrative body or court.¹² In all cases, the hearing and consultation of the child should be carried out in an appropriate environment and in the presence of a social worker from the social assistance department at the permanent address of the child, and where necessary in the presence of another specialist.¹³ The court or the administrative body orders the hearing to be held in the presence of the parent, guardian or other person close to the child, unless this does not correspond to the interests of the child.¹⁴ In each case the administrative body or the court must notify the social assistance department (SAD) appropriate to the current address of the child. This notification must contain information about the subject of the proceedings, the parties, the task of the SAD and the deadline for its implementation. The notification must be issued at least 14 days prior to the hearing. The SAD appoints a representative, who presents a statement or report if he/she is not able to be present at the hearing.¹⁵ The SAD might represent the child in cases regulated in the legislation.¹⁶ The child has the right to legal aid and the right to appeal in all proceedings related to his/her interests and rights.¹⁷

- [8]. The Child Protection Act provides for protection of the child through ensuring the most effective procedures and conditions to protect the best interests of the child.¹⁸ When a case of a child at risk is being dealt with, the social workers in the appropriate social assistance department are informed, and they carry out risk assessment and propose suitable measures for the child's protection. Risk assessment is not regulated by legislation as a duty of the social workers, but the State Agency for Child Protection reports that social workers were trained in 2004 to assess risk in cases of children who suffered violence, and methodological materials on risk assessment have been sent to all child protection departments.¹⁹ The present research did not find evidence of the

¹⁰ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 1.

¹¹ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 2.

¹² Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 3.

¹³ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 4 (18.04.2003).

¹⁴ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 5 (9.05.2006).

¹⁵ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 6 (9.05.2006).

¹⁶ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 7 (18.04.2003).

¹⁷ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 8 (18.04.2003).

¹⁸ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 3, item 3.

¹⁹ Bulgaria/*Government second report for implementation of the UN Convention of the Rights of the Child to the UN Committee on the Rights of the Child*, (4.07.2007), p. 41, para. 177-178, available at: <http://www2.ohchr.org/english/bodies/crc/crcs48.htm>, accessed 4.08.2008.

existence of integration programmes for trafficked children. In addition, no evidence was found that the special needs of children are being met.

Prosecution

- [9]. The Criminal Procedure Code does not specifically provide for child-sensitive procedures other than interrogation. Minor witnesses are interrogated in the presence of a teacher or psychologist, and where necessary their parents or guardians are also present.²⁰ Adolescent witnesses are also interrogated in the presence of such persons if the relevant authority (police/investigators/court) finds it to be necessary.²¹ Parents, guardians, psychologists and teachers may ask questions if this is permitted by the interrogating body (police, investigation authorities or court).²² The regulations regarding interrogation of children do not comply with para. 15 of *Recommendation Rec (2003) 20 of the CoE Committee of Ministers to the member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice*, since the interrogating body may decide whether or not to involve child specialists and parents/guardians in cases where the child is 14 to 18 years old.
- [10]. The Criminal Procedure Code also gives the opportunity for the identity of a witness who is interrogated to be kept secret.²³ It also provides for use of audio and video tapes for interrogation.²⁴ Under the terms of the *Закон за защита на лица, застрашени във връзка с наказателно производство* [Protection of Persons Threatened during Criminal Proceedings Act], children may be provided with a bodyguard, protection of property, temporary placement in a secure place of residence, change of school/workplace, and change of personal identity.²⁵
- [11]. Since 2005 the prosecution offices in Bulgaria have paid particular attention to trafficking in children. In 2005, the investigative authorities opened criminal proceedings on 111 cases of trafficking in children (the victims in these cases were 100 girls and 11 boys) and in 2004 there were 71 such proceedings (the victims being 60 girls and 11 boys). These figures derive from a broad interpretation of trafficking, including smuggling under Art. 279 and Art. 280 of the Criminal Code, and persuasion to engage in prostitution under Art. 155 of

²⁰ Bulgaria/*Наказателно-процесуален кодекс* [Criminal Procedure Code] (29.04.2006), Art. 140, para. 1.

²¹ Bulgaria/*Наказателно-процесуален кодекс* (29.04.2006), Art. 140, para. 2.

²² Bulgaria/*Наказателно-процесуален кодекс* (29.04.2006), Art. 140, para. 3.

²³ Bulgaria/*Наказателно-процесуален кодекс* (29.04.2006), Art. 141.

²⁴ Bulgaria/*Наказателно-процесуален кодекс* (29.04.2006), Art. 238 and Art. 240.

²⁵ Bulgaria/*Закон за защита на лица, застрашени във връзка с наказателно производство* [Protection of Persons, Threatened in Connection to Criminal Proceedings Act], (25.05.2005), Art. 6.

the Criminal Code.²⁶ In 2006, 218 criminal proceedings on trafficking in human beings were opened. Seventy-two indictments were submitted to the court and 74 persons were convicted of trafficking crimes. Sentences were passed and enforced on 61 persons.²⁷ In 2007, 212 cases of trafficking in human beings under Art. 159a-c of the Criminal Code were monitored by prosecutors in Bulgaria. Sixty-seven indictments were submitted to the court against 110 accused persons. Eighty-five persons were convicted of trafficking in human beings, and 73 were given sentences that were enforced in 2007.²⁸

- [12]. Starting from 2006, official data on the number of criminals convicted and sentenced of trafficking in human beings have been kept by the National Statistical Institute. The data are not differentiated according to the age/gender/other characteristics of the victims. According to data for 2006, 58 trafficking crimes were investigated and court proceedings instituted, as a result of which 45 persons were convicted, the majority of whom were sentenced to imprisonment for one to three years.
- [13]. On 01.01.2007, the Assistance and Financial Compensation of the Victims of Crimes Act entered into force.²⁹ It provides for the right to urgent medical care, psychological consultation, free legal assistance and practical assistance³⁰ to the victims of trafficking³¹ crimes perpetrated after 30.06.2005.³² Financial compensation is provided after a conviction has been made, or after the issue of an act by a prosecutor or court for suspension or closure of the criminal case.³³ The amount awarded could range between BGN 250 and 5000 (appr. EUR 125 to 2500),³⁴ and is supposed to compensate for expenses related to medical treatment, funeral, court and administrative fees, missed income.³⁵ The victim

²⁶ Bulgaria/Главна прокуратура [Supreme Prosecution Office] (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], pp. 7, 8, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

²⁷ Bulgaria/Главна прокуратура [Supreme Prosecution Office], *Доклад на прокуратурата на Република България за 2006 година* [Report for the Prosecution Offices in Republic of Bulgaria Activities 2006], p.8, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

²⁸ Bulgaria/Главна прокуратура (2007), *Доклад на прокуратурата на Република България за 2007 година*, p.14, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

²⁹ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления [Assistance and Financial Compensation of the Victims of Crimes Act] (01.01.2007).

³⁰ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 8.

³¹ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 3, para. 3.

³² Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), additional para. 4.

³³ Bulgaria/ Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 12.

³⁴ Bulgaria/ Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 13.

³⁵ Bulgaria/ Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 14.

should apply for financial compensation either to the regional governor appropriate to his/her current address or to *Национален съвет за подпомагане и финансова компенсация на пострадалите от престъпления* [the National Council for Assistance and Financial Compensation of the Victims of Crimes] at the Ministry of Justice³⁶ within two months after conviction or the enforcement of the act of the court or prosecutor regarding the criminal case.³⁷ An expert commission³⁸ at the Ministry of Justice Council decides on the application within three months. These decisions are not subject to appeal. The commission decides on whether the victim has a right to compensation and if so, what the amount of the compensation should be. The victim is not entitled to compensation if he/she did not inform authorities about the crime (unless significant reasons hindered him/her doing so), and if the victim has already been compensated in another way.³⁹

Miscellaneous

- [14]. The research found description of several investigations cases on trafficking in children in a document issued by the prosecution office.

³⁶ Bulgaria/ *Закон за подпомагане и финансова компенсация на пострадалите от престъпления* (01.01.2007), Art. 7. According to this law, this council should be established at the Ministry of Justice. Its address is: 1 Slavyanska Street, Sofia, 1040, tel. +3592/9805067.

³⁷ Bulgaria/*Закон за подпомагане и финансова компенсация на пострадалите от престъпления* [Assistance and Financial Compensation of the Victims of Crimes Act] (01.01.2007), Art. 18.

³⁸ Bulgaria/*Закон за подпомагане и финансова компенсация на пострадалите от престъпления* (01.01.2007), Art. 22, para. 2.

³⁹ Bulgaria/*Закон за подпомагане и финансова компенсация на пострадалите от престъпления* (01.01.2007), Art. 14.

Good practice

- [15]. The research did not find any examples of good practice regarding legislation, policy or practice related to prevention, protection or prosecution of trafficking in children.

A. General anti-child trafficking framework

- [16]. Bulgaria ratified the Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000) on 13.11.2001,⁴⁰ the UN Convention against Transnational Organised Crime / Palermo Protocol to prevent, suppress and punish trafficking in persons (2000) on 12.04.2001,⁴¹ the International Labour Organisation Convention 182 on the worst forms of child labour (1999) on 04.07.2000,⁴² the Council of Europe Convention on Action against Trafficking in Human Beings (2005) on 07.03.2007.⁴³ The Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (2007) was signed on 25.10.2007, and in 2008 a review of compliance of national legislation with this convention, and of the need for any further amendments to it for ratification is in progress.⁴⁴

A.1. Bulgarian legislation regarding trafficking in human beings

- [17]. A new chapter was added in the Bulgarian Criminal Code in 2002 to criminalise trafficking in human beings. Recruiting, transporting, hiding or admitting individual persons or groups of persons with the purpose of using them for

⁴⁰ Bulgaria/*Consolidated second and third periodic report on the measures undertaken and progress made by Bulgaria in the implementation of the provisions of the Convention on the rights of the Child* (2007), p. 3, para. 2, available at: <http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.BGR.3.pdf>

⁴¹ Bulgaria/*Consolidated second and third periodic report on the measures undertaken and progress made by Bulgaria in the implementation of the provisions of the Convention on the rights of the Child* (2007), p. 39, para. 169.

⁴² Bulgaria/*Consolidated second and third periodic report on the measures undertaken and progress made by Bulgaria in the implementation of the provisions of the Convention on the rights of the Child* (2007), p. 3, para. 2.

⁴³ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 22.

⁴⁴ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 22. and a telephone interview with a Ministry of Justice official on 27.06.2008 confirmed the process is still going on.

sexual activities, forced labour, removal of organs or holding them in compulsory submission regardless of their consent, were penalised, the penalty being imprisonment from one to eight years and a fine of up to BGN 8,000 (appr. EUR 4,000).⁴⁵ In cases where the crime is committed against a person under the age of 18 (or by use of force or deception, by abduction or illegal deprivation of liberty, by benefiting from position of vulnerability or dependency, by abuse of power, by promising, giving or receiving benefits), the punishment is imprisonment from two to ten years and a pecuniary penalty of up to BGN 10,000 (appr. EUR 5,000).⁴⁶ Where the crime is committed against a pregnant woman with the purpose of sale of the unborn child, the penalty is imprisonment from three to ten years and a fine of BGN 5,000-15,000 (appr. EUR 2,500-7,500).⁴⁷ Recruiting, transporting, hiding and admitting individual persons or groups of persons and transferring them across the borders of the country with the purpose of using them for sexual activities, forced labour, removal of organs or holding them in compulsory submission regardless of their consent is punished with imprisonment from three to eight years and a fine up to BGN 10,000 (appr. EUR 5,000).⁴⁸ If the crime is committed against a person under the age of 18, the penalty is imprisonment from five to ten years and a fine of up to BGN 15,000 (appr. EUR 7,500).⁴⁹ When the crime is committed under the conditions of recidivism, or is committed while implementing an order or a decision by an organised criminal group, the penalty is imprisonment from five to 15 years and a fine of up to BGN 20,000 (appr. EUR 10,000), and the court may confiscate the whole or a part of property of the perpetrator.⁵⁰

- [18]. Abduction of a person with the purpose of debauchery is punishable, where that person is under the age of 18 and/or was abducted for debauchery abroad, by imprisonment from five to 12 years and a penalty of BGN 1,000 (appr. EUR 500).⁵¹ If the perpetrator committed the abduction, the offer of the victim for debauchery or the abduction for the purpose of transferring the victim abroad for debauchery while implementing an order or decision of an organised criminal group, the punishment is imprisonment from 5 to 15 years and a fine of BGN 5,000-20,000 (appr. EUR 2,500-10,000).⁵² Art. 182a, introduced in the Criminal Code in 2004, criminalises trafficking in newly born babies. Persuading to prostitute or assisting other person to be involved in other sexual activities is penalised, the penalty being imprisonment up to three years and fine of BGN 1,000 to 3,000 (appr. 500 to 1,500 Euro).⁵³ If the perpetrator aimed to receive benefits from that the penalty is imprisonment from one to six years and

⁴⁵ Bulgaria/*Наказателен кодекс* [Criminal Code], Art. 159a (SG 92, 2002).

⁴⁶ Bulgaria/*Наказателен кодекс*, Art. 159a, para. 2, item 1-6.(27.09.2002).

⁴⁷ Bulgaria/*Наказателен кодекс*, Art. 159a, para. 3 (13.10.2006).

⁴⁸ Bulgaria/*Наказателен кодекс*, Art. 159b (159б), para. 1 (27.09.2002).

⁴⁹ Bulgaria/*Наказателен кодекс*, Art. 159b (159б), para. 2 (13.10.2006).

⁵⁰ Bulgaria/*Наказателен кодекс*, Art. 159c (159в) (27.09.2002).

⁵¹ Bulgaria/*Наказателен кодекс*, Art. 156, para. 2, item 1-3 (13.10.2006).

⁵² Bulgaria/*Наказателен кодекс*, Art. 156, para. 3 (13.10.2006).

⁵³ Bulgaria/*Наказателен кодекс*, Art. 155, para. 1 (13.10.2006).

the fine is BGN 5,000 to 15,000 (appr. 2,500 to 7,500 Euro).⁵⁴ Persuading or forcing other person to use drugs or their analogues with the purpose to prostitute or participate in other sexual activities with a person of the same sex is penalised with imprisonment from five to 15 years and a fine BGN 10,000 to 15,000 (appr. 5,000 to 7,500 Euro).⁵⁵ When the victim of the last two crimes is a child, the penalties are respectively imprisonment of two to eight years and a fine from BGN 5,000 up to 15,000 (appr. 2,500 to 7,500 Euro) in the case of persuading to prostitute and imprisonment for ten to 20 years and a fine of BGN 100,000 to 300,000 (appr. 50,000 to 150,000 Euro) in the case of forced homosexual activities under the influence of drugs.⁵⁶ Provision of information on the Internet or by other means (as well as using this information for the same purpose but with children up to 14 years old) about a person under the age of 18 with the purpose of establishment of contact with the child of third persons for sexual activities or prostitution with the child is penalised with imprisonment up to five years and a fine of BGN 5,000 to 10,000 (appr. 2,500 to 5,000 Euro).⁵⁷ A parent or other relative who receives ransom to allow the marriage of his/her daughter or female relative commits a crime, penalised with imprisonment up to one year and a fine BGN 100 to 300 as well as public execration.⁵⁸ The same penalty is imposed to the person who gives or mediates in giving or taking the ransom.⁵⁹ A person who with the purpose of receiving benefits persuades a parent through donation, promise, threat or abuse of official position to abandon his/her child or to give consent for adoption commits a crime penalised with imprisonment up to one year and a fine up to BGN 2,000 (appr. 1,000 Euro).⁶⁰ The same penalty is imposed to a person who persuades a child at the age 14-18 to give consent to his/her adoption when the law requires it.⁶¹ A person who mediates with the purpose of illegal property benefit between a person or a family willing to adopt a child and a parent willing to abandon his/her child or a woman accepting to bear and deliver a child for adoption commits a crime that is penalised with imprisonment up to two years and a fine up to BGN 3,000 (appr. 1,500 Euro).⁶² When a female gives consent for selling her child in Bulgaria or abroad she commits a crime penalised with imprisonment one to six years and a fine from BGN 5,000 to 15,000 (appr. 2,500 to 7,500 Euro).⁶³ The same penalty is imposed to a pregnant woman who gives consent for selling of her child before she delivers the baby.⁶⁴ Hiding and holding a child under 14 without immediate notification of the parents, guardians or authorities

⁵⁴ Bulgaria/*Наказателен кодекс*, Art. 155, para. 3 (13.10.2006).

⁵⁵ Bulgaria/*Наказателен кодекс*, Art. 155, para. 4 (13.10.2006).

⁵⁶ Bulgaria/*Наказателен кодекс*, Art. 155, para. 5 (13.10.2006).

⁵⁷ Bulgaria/*Наказателен кодекс*, Art. 155a, para. 1 (SG 38, 2007).

⁵⁸ Bulgaria/*Наказателен кодекс*, Art. 178, para. 1 (last amended SG 92, 2002).

⁵⁹ Bulgaria/*Наказателен кодекс*, Art. 178, para. 2 (last amended SG 92, 2002).

⁶⁰ Bulgaria/*Наказателен кодекс*, Art. 182a, para. 1 (new SG 26, 2004).

⁶¹ Bulgaria/*Наказателен кодекс*, Art. 182a, para. 2 (new SG 26, 2004).

⁶² Bulgaria/*Наказателен кодекс*, Art. 182a, para. 3 (new SG 26, 2004).

⁶³ Bulgaria/*Наказателен кодекс*, Art. 182b, para. 1 (13.10.2006).

⁶⁴ Bulgaria/*Наказателен кодекс*, Art. 182b, para. 2 (13.10.2006).

and by the use of force, threat, fraud or with the purpose of using the child for receiving benefits or involving the child in antimoral activities is a crime penalised with imprisonment up to three years and a fine of BGN 100 to 300 (appr.50 to 150 Euro).⁶⁵ Forcing a child to commit a crime or to prostitute is penalised with imprisonment up to five years and public execration.⁶⁶ Systematic use of a child for begging by a person who is responsible for the immediate care of the child is penalised with imprisonment up to one year and a fine BGN 100 to 300⁶⁷ and when the perpetrator is the parent or the guardian of the child the penalty is imprisonment up to two years or probation as well as public execration.⁶⁸ Parents who abuse their power and force their children under the age of 16 to live in marriage like relationship perpetrate a crime penalised with imprisonment up to three years or probation as well as public execration.⁶⁹ An adult who without marriage lives in marriage like relationship with a female child under 16 commits a crime penalised with imprisonment up to two years or probation as well as public execration unless by the time the sentence enters into force the couple did not marry.⁷⁰ Pursuation or facilitation of living in marriage like relationship without marriage between a male child at the age 14 to18 and a female child under the age of 16 is a crime penalised with imprisonment up to two years or probation.⁷¹ A parent or other relative who receives a ransom to allow his daughter or other female relative under the age of 16 to live in marriage like relationship commits a crime penalised with imprisonment up to two years or a fine BGN 100 to 300 (appr. 50 to 150 Euro) as well as public execration.⁷² The same penalty is imposed to the person who receives or mediates in receiving the ransom.⁷³

- [19]. Bulgaria ratified the UN Convention on the Rights of the Child on 13.07.1991 and by virtue of Art. 5, para. 4 of the Constitution of the Republic of Bulgaria it has direct applicability. The provisions of the Convention take priority over the provisions of those laws that contradict it. Thus the best interests of the child are established as a primary consideration in all actions affecting children. This direct effect is also ensured for all international treaties that have been ratified by Bulgaria. Since case-law in Bulgaria is neither available in electronic databases nor published in other ways and taking into consideration the big number of courts and the lack of time to send and receive written letters to each of them the researcher could not find examples of direct applicability of international standards on child trafficking.

⁶⁵ Bulgaria/*Наказателен кодекс*, Art. 185, para. 2 (SG 92, 2002).

⁶⁶ Bulgaria/*Наказателен кодекс*, Art. 188, para. 1.

⁶⁷ Bulgaria/*Наказателен кодекс*, Art. 189, para. 1 (SG 92, 2002).

⁶⁸ Bulgaria/*Наказателен кодекс*, Art. 189, para. 2 (1.01.2005).

⁶⁹ Bulgaria/*Наказателен кодекс*, Art. 190, para. 1 (1.01.2005).

⁷⁰ Bulgaria/*Наказателен кодекс*, Art. 191, para. 1 (1.01.2005).

⁷¹ Bulgaria/*Наказателен кодекс*, Art. 191, para. 2 (1.01.2005).

⁷² Bulgaria/*Наказателен кодекс*, Art. 192, para. 1 (SG 92, 2002).

⁷³ Bulgaria/*Наказателен кодекс*, Art. 192, para. 2 (1.07.1982).

A.1.1. Bulgarian anti-trafficking policy

- [20]. The government of Bulgaria adopted its first National Action Plan Against Commercial Sexual Exploitation of Children for the period 2003-2005,⁷⁴ and appointed the Ministry of Interior and the State Agency for Child Protection as national coordinators for its implementation. Its aim was to undertake effective measures to counteract sexual exploitation in all its forms, such as child pornography, prostitution, sexual slavery, sexual tourism, trafficking and trade in children. There were several types of measures envisaged in the plan – prevention, protection and reintegration, legislative amendments to the Criminal Code aiming at harsher punishment of sexual crimes against children, development of a mechanism for coordination of national and international authorities responsible for combating trafficking in children. Prevention was intended to be ensured by raising awareness – in schools by introducing information about child trafficking in curricula and textbooks, in the public arena by working with media and NGOs, within the ministries by training social workers, teachers, policemen, investigative authorities, prosecutors, judges. It was planned that protection of victims would be ensured by the provision of free and mandatory legal aid, a single interrogation only of a child during criminal proceedings, temporary placement in shelters, and ensuring education and reintegration in the family. In May 2003, the *Закон за борба с трафика на хора* [Combating Trafficking in Human Beings Act] was adopted. In September 2004, a specialised website on sexual exploitation was launched by the State Agency for Child Protection.⁷⁵
- [21]. In 2005 the first National Program for Prevention and Counteraction of Trafficking in Human Beings and Protection of Victims was developed.⁷⁶ It envisaged prevention activities based on raising awareness among children in schools, kindergartens and residential institutions, children who do not attend school, parents, policemen, investigators, prosecutors, judges, teachers, social workers, physicians, psychologists, journalists, and consular officers. The programme contained measures for the structural and administrative formation of the National Commission for Combating Trafficking in Human Beings and six local commissions, elaboration of regulations for their activities, establishment of shelters and centres for support and rehabilitation of victims, cooperation with NGOs working in the field, development of mechanisms for cooperation between all responsible ministries and agencies for research, tracking and protection of children who are victims of trafficking, development of bilateral and multinational cooperation for ensuring protection of child and adult victims of trafficking.

⁷⁴ Bulgaria/*Решение 614 от 05.09.2003 на Министерски съвет* [Decision 614 of the Council of Ministers, adopted on 05.09.2003], available in English at:

http://www.stopech.sacp.government.bg/?sid=professional_eng (accessed 04.08.2008).

⁷⁵ http://www.stopech.sacp.government.bg/?sid=professional_eng (accessed 04.08.2008).

⁷⁶ http://www.stopech.sacp.government.bg/?sid=professional_eng (accessed 04.08.2008).

- [22]. The National Commission for Combating Trafficking in Human Beings (NCCTHB) was established by virtue of the Combating the Trafficking in Human Beings Act. The Regulation of the Organisation and Activity of the National Commission for Combating Trafficking in Human Beings was approved by the government on 01.03.2004.⁷⁷ Mr Daniel Vulchev, Deputy Prime Minister and Minister of Education and Science, was nominated to act as chairman of the Commission on 04.11.2005.⁷⁸ The operative membership of the commission was appointed on 20.12.2005 by the chairman. Mrs Antoaneta Vassileva has acted as secretary of the National Commission for Combating Trafficking in Human Beings since 04.06.2007. At its meeting on 18.07.2007, the National Commission adopted the National Programme for Prevention and Counteraction of Trafficking in Human Beings and Protection of the Victims of Trafficking for 2007. This programme was approved by the Council of Ministers on 26.09.2007. It contains the same measures and tasks as the programmes for 2005 and 2006, and the National Action Plan for 2003-2005, but does not contain specially allocated funding, and only the deadlines have been extended.
- [23]. An publicly available overall assessment of the implementation of all planned activities under the national programmes for 2005, 2006 and 2007 was not found on the websites of any of the relevant ministries and agencies. Written requests were sent for the purposes of the present research to the State Agency for Child Protection, the Ministry of Interior and the National Commission for Combating Trafficking in Human Beings (NCCTHB), asking for information about funding for all activities related to prevention, protection and rehabilitation of victims, data collection, reports on the implementation of the national programmes for 2005, 2006 and 2007. The reply of the NCCTHB does not contain any assessment of the implementation of the programmes and plans, nor does it contain information about funding.⁷⁹

A.1.1.1. Reported activities focused on prevention and combating trafficking in children

- [24]. However, the State Agency for Child Protection (SACP) presented a report on the implementation of the National Plan Against Sexual Exploitation of Children 2003-2005 to the researcher. Legislative measures reported in it were: adoption of the Combating Trafficking in Human Beings Act and its Regulations; Regulations for Shelters and Centres for Support of Victims; provisions in the Bulgarian Identity Documents Act (prohibition for two years

⁷⁷ Bulgaria/*Постановление 40 на Министерски съвет от 1.03.2004 г.* [Decree No. 40 of the Council of Ministers of 1.03.2004] (SG 19, 9.03.2004).

⁷⁸ Bulgaria/*Решение 860 на Министерски съвет* [Decision No. 860 of the Council of Ministers] (4.11.2005).

⁷⁹ Written reply TX-02.219, dated 02.07.2008, Antoaneta Vassileva, secretary of the NCCTHB.

on issuing international passports, and taking away the ID documents of children about whom there is evidence of past involvement into trafficking); criminalising trafficking in newly born babies in 2004 – Art. 182a of the Criminal Code; criminalising neglect by parents – Art. 176 of the Criminal Code; and possibility of reduction or removal of parental rights under the Family Code – Art. 74.⁸⁰ In February 2004 a book on sexual exploitation of children was published and distributed by SACP in district police departments, social assistance departments, child protection departments, inspectorates on education, central and local commissions on combating anti-social behaviour of children, and children’s institutions.⁸¹ An intergovernmental group was established at the National Council for Child Protection to coordinate the activities of the action plan. Members of the group were all relevant ministries and NGOs – *Анимус* [Animus], *Център Надя* [Nadya Centre], *фондация Партньори–България* [Partners Bulgaria Foundation], *фондация Гаврош* [Gavrosh Foundation], *фондация за джендър изследвания* [Bulgarian Gender Research Foundation], *Кеър Интернешънъл* [CARE International], *Сдружение Пренебрегнати деца* [Neglected Children Foundation], *Българска асоциация за семейно планиране и репродуктивно здраве* [Bulgarian Association for Family Planning and Reproductive Health].⁸²

- [25]. The SACP and the Ministry of Interior report also that 120 schools have developed civic education curricula (including information about sexual exploitation and trafficking) and 1,000 teachers were trained to teach these (p.7 of the report). Three hundred and sixteen policemen at the district police departments were trained to work on sexual exploitation and trafficking issues with 900 schools and kindergartens. In the municipalities of Sofia, Pazardzhik, Stara Zagora, Ruse, Montana, and Goce Delchev, child pedagogical rooms and local commissions for combating antisocial behaviour of children work with minors and adolescents to raise awareness of the risks and dangers of trafficking and sexual exploitation. Seven hundred teachers and directors of kindergartens were trained to use two tools on the integrity and privacy of the body, developed by the State Agency for Child Protection. These tools were also distributed in schools. Two hundred Roma children who dropped out of school and do not know the Bulgarian language were involved in a programme implemented by Gavrosh Foundation in Varna, and 50 children were brought

⁸⁰ Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005* [Report on the Implementation of the National Action Plan Against Sexual Exploitation of Children 2003-2005], 2005, p.5.

⁸¹ Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето, *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005* [Report on the Implementation of the National Action Plan Against Sexual Exploitation of Children 2003-2005], 2005, p.6.

⁸² Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005*, [Report on the Implementation of the National Action Plan Against Sexual Exploitation of Children 2003-2005], 2005, p.6.

back in to school as a result of this. The International Organisation for Migration (IOM) and its six regional offices implemented continuing preventative work in schools and children's institutions through lectures, presentation of documentaries, discussions, theatre presentation, and tools provided for teachers. CARE International carried out preventive work in six day-care centres for children with disabilities. The Animus Association trained young boys and girls in children's residential institutions for empowerment and preventive work against trafficking in human beings, and the *Сдружение Шанс и закрила* [Chance and Protection Association] in Haskovo raised awareness among children and parents, the municipality and educational inspectorate on the issues of trafficking. The *Сдружение Пренебрегнати деца* [Neglected Children Association] produced posters, brochures, stickers, T-shirts, cards and hats, trained children, parents, teachers, journalists and policemen on how to raise awareness, and trains professionals on how to approach the problem of sexual exploitation. The Animus Association published 15,000 brochures on sexual abuse, domestic violence and trafficking in women, and distributed them among specialists. CARE International and *Национален съвет по етнически и демографски въпроси* [National Council on Ethnic and Demographic Issues] organised events and leisure activities for children who drop out of school, and raised interest in attending school among the most vulnerable Roma children.⁸³ On 11.05.2005, the Code of Ethics for Prevention of Trafficking and Sexual Exploitation of Children in Tourism was signed between the SACP, Animus Association and several large associations for tourism services, hotels, restaurants, and agencies.

- [26]. In regard to the training of professionals who work with children, the SACP and MoI report also mentions a Code of Ethics for Professional Groups that Work with Children, adopted by the National Council for Child Protection.⁸⁴ This Code is part of the job description of each specialist who works with children in the state administration, schools and NGOs. Training seminars which focused on recognising victims of violence, risk assessment, and the powers and duties of each professional to protect the victim, were organised for 230 nurses in the medical rooms in schools in Sofia municipality, 139 pedagogical counsellors in Sofia schools, SOS mothers and staff in SOS houses, and volunteers with the Red Cross. The Social Assistance Agency trained trainers in social work with victims of violence. In 2005, 250 social workers from 53 child protection departments were trained in how to respond to reports for violence against children and how carry out risk assessment in the family. In 2004, police officers were also trained in how to implement legislation regarding child

⁸³ Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005*, [Report on the implementation of the national plan against sexual exploitation of children 2003-2005], 2005, p.11.

⁸⁴ Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005*, [Report on the implementation of the national plan against sexual exploitation of children 2003-2005], 2005, p.14.

protection and protection of child victims of trafficking and sexual exploitation. In 2004, magistrates and police officers in the regions of Plovdiv, Nesebar, Bansko, Ruse, Vidin, Vraca and Montana were trained about trafficking in human beings.⁸⁵ General practitioners, nurses and other medical staff in schools, hospitals and emergency rooms received guidelines on the identification of traces of violence and sexual abuse, issued by the Ministry of Healthcare.

[27]. Since the beginning of 2008, the National Commission for Combating Trafficking in Human Beings (NCCTHB) has been collecting data on victims of trafficking from all relevant authorities and NGOs.⁸⁶ The Commission did not specify in its written reply what kind of data is being collected.

[28]. According to the 2007 annual report of the NCCTHB, local commissions for combating trafficking in human beings were set up in Bourgas, Sliven, Varna and Pazardzhik to pursue activities for prevention of trafficking and protection of victims, and to support the development of local policies for combating trafficking.⁸⁷ By the end of 2008, three more local commissions are to be set up.⁸⁸ The locations were selected in view of information reporting the highest level of risk of involvement in human trafficking. The NCCTHB gathered information from 21 NGOs working in the field of prevention, protection, provision of shelter services and legislative and lobbying activities related to victims of trafficking, including children.⁸⁹ The website of the NCCTHB was designed at the end of 2007. In February 2007 a permanent working group was affiliated to the National Commission, consisting of experts representing the institutions within the membership of the National Commission, the International Organisation for Migration (IOM) and NGOs. Its work is funded by the International Organisation for Migration and USAID. The government is represented by the Ministry of Interior, the Supreme Cassation Prosecution Office, the Ministry of Education and Science, the Agency for Social Assistance, the National Investigation Service, the Ministry of Health, the Ministry of Labour and Social Policy, the Supreme Court of Cassation, and the Ministry of Justice.⁹⁰ In the period 21-24.06.2007, this group elaborated the

⁸⁵ Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005*, [Report on the implementation of the national plan against sexual exploitation of children 2003-2005], 2005, p.16.

⁸⁶ Written reply from NCCTHB, dated 02.07.2008, p. 1.

⁸⁷ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 2.

⁸⁸ Written reply from NCCTHB, dated 02.07.2008, p.2.

⁸⁹ The register of the NGOs would be uploaded here: <http://antitraffic.government.bg> (accessed 04.08.2008).

⁹⁰ At present, members of the Permanent Working Group are: Mr Dobri Dochev (Trafficking in Human Beings Sector at the General Directorate for Combating Organised Crime, Ministry of Interior), Mr Evgeni Dikov (Prosecutor in Department 1 – Organised Crime and Corruption, Supreme Cassation Prosecution Office), Mrs Mariana Bancheva (Ministry of Education and

- National Programme for 2007. In July 2007, 17 NGOs working in the field of trafficking presented their projects funded by the International Organisation of Migration and USAID to the group. In 2005, a coordination group consisting of donor organisations, international and national NGOs and diplomatic missions of states whose governments support the counteraction of trafficking in human beings was set up, and meets every three months. The group was hosted by the US Embassy in Bulgaria. On 23.10.2007, the office of the NCCTHB was opened.⁹¹
- [29]. No evidence was found of specifically planned and/or allocated state funding for activities related to combating child trafficking, either in the national programmes for 2005, 2006 and 2007, or in the reports of the State Agency for Child Protection, or in the 2007 annual report of the NCCTHB or in the written replies received from NCCTHB and SACP for this research. Most activities were and are funded by IOM, USAID, and Bulgarian NGOs.
- [30]. The only state authority that has reported publicly since 2003 on trafficking in children is the State Agency for Child Protection, which is also an important actor in the process of protection and reintegration of trafficked children. No evidence of a functioning independent National Rapporteur was found in the course of the present research.
- [31]. On 9.11.2005 the *Координационен механизъм за рефериране и обгрижване на случаи на непридружени български деца и деца-жертви на трафик, завръщащи се от чужбина* [Coordination Mechanism for Referral, Care and Protection of Repatriated Bulgarian Unaccompanied Children and Children – Victims of Trafficking Returning from Abroad] was signed.⁹² Its aim was to coordinate relevant authorities to implement their legal powers and obligations while working together on each case of unaccompanied children. The Mechanism was signed by the Chairperson of State Agency for Child Protection (SACP), the Deputy Minister of Interior, the Deputy Minister of Labour and Social Policy and the Deputy Executive Director of the Agency for Social Assistance. The system for inter-institutional referral of unaccompanied children abroad at national level includes the Ministry of Interior (MoI), the State Agency for Child Protection (SACP), the Agency for Social Assistance (ASA), the Ministry of Education and Science (MES), the Ministry of Foreign Affairs (MFA), the National Commission for Combating Trafficking in Human Beings (NCCTHB), the International Organisation for Migration (IOM), the International Labour Organisation (ILO), et al. At local level, multidisciplinary

Science); Mrs Silvia Tsanova (Deputy Executive Director, Agency for Social Assistance), Mr Rumen Georgiev (Deputy Director, National Investigation Service), Mrs Elena Perchinska (Ministry of Health), Mrs Veronika Imova (Supreme Court of Cassation), Mrs Ani Evgenieva (Ministry of Labour and Social Policy), Mrs Nadezhda Todorova (Ministry of Justice), Mrs Iliana Derilova (Head of IOM Mission in Bulgaria).

⁹¹ The address is 52A G.M. Dimitrov Blvd., Sofia, Bulgaria.

⁹² http://www.stopech.sacp.government.bg/?sid=professional_eng&pid=0000000046 (accessed 04.08.2008)

teams, which are supposed to work with trafficked children at local level on the provision of care, education and protection, are established within child protection departments. These teams include representatives from regional police departments, regional inspectorates for education, regional healthcare centres, employment agencies, NGOs, providers of social services and others, appointed by social assistance departments/child protection departments.⁹³ In cases where a child victim of trafficking is a foreign citizen on the territory of Republic of Bulgaria, the same mechanism is implemented, with the additional inclusion of a representative from the State Agency for Refugees. The operational stages of the referral of the case of a child victim are as follows:

- identifying the child and investigating the reasons for him/her going abroad, and for the involvement in exploitation (police);
- researching the family and social environment of the child in order to take measures in the best interests of the child, such as reintegration, placement with family and relatives, etc., as envisaged in the Child Protection Act (child protection department at the permanent address of the child), rehabilitation of the child by enrolling him/her in the educational system (local school), alternative education, professional consultation and training and/or provision of social services (providers of social services)⁹⁴;
- following up the case for a certain period in order to prevent the child being taken abroad again, submitting a trimester report by the team, working on the case at local level (child protection department);
- obligation of the working team to inform the partners of every change in circumstances (all members of the team);
- the returning institution provides, if possible, maximum information about the health and emotional status of the child, including his/her attitude to the fact that he/she is returning to his/her country, as well as the position of the professionals who have been involved and have worked with the child during his/her stay in the country of destination.

[32]. The coordination mechanism obliges the Ministry of Interior and its Border Police and Personal Registration Departments after they are informed of an unaccompanied child to find out the identity and permanent address of the child, and to accompany the child to the local police station, social assistance department (SAD) or a home for temporary residential placement. The MoI is

⁹³ This mechanism will be integrated in the Child Labour Monitoring System, which will be piloted in four country regions, in accordance with the ILO Programme against child labour and the Memorandum of agreement between the ILO and the Republic of Bulgaria, signed on 22.03.2005.

⁹⁴ NGOs working in the interdisciplinary team have to be licensed for the provision of social services for children by the President of SACP.

obliged to inform SACP/SAD and SAA of the personal data of the child. The MoI also gathers information on the possible perpetrators of trafficking of the child while researching his/her identity. SAD and CPD are obliged to prepare a social assessment report for the child, a plan of action containing all measures for protection, healthcare, psychological support, education, reintegration or placement in a residential institution, and to report on each three-month period on the implementation of the measures. They are monitored and consulted by the SAA and SACP, who are informed about every step of the support and reintegration process of the victim. They are supported by regional inspectorates for education, regional healthcare centres and police departments.

- [33]. The national mechanism for directing/referring of victims of trafficking is being prepared (to a deadline of the end of 2008) by the Animus Foundation, with financial support from the MATRA programme⁹⁵ of the Netherlands Ministry of Foreign Affairs. It is envisaged to take into consideration all the needs of current victims of trafficking, and to further develop legal aid, social assistance, psychotherapy, and prevention of future trafficking of people who are already victims.⁹⁶
- [34]. Although much and varied training for raising awareness of the nature, existing mechanisms and possible victims of trafficking, and the prevention and protection obligations of social workers, teachers, magistrates, journalists, doctors and policemen was planned for the period 2003-2007 in national programmes and plans of action, there is no evidence that there is a clear training strategy or that any state funding was allocated for this purpose. In May 2007, representatives of the Ministry of Justice and the SACP participated in a working visit to Rome, Italy and Kiev, Ukraine for the purpose of building the capacity of the National Commission for Combating Trafficking in Human Beings. They became familiar with good working practices and models in other EU member-states.⁹⁷ The training programme developed by the Ministry of Foreign Affairs for consulate employees preparing to work abroad included gaining knowledge of the relevant Bulgarian legislation and ensuing tasks to be performed in foreign countries with regard to providing support and assistance to Bulgarian citizens who have become victims of trafficking.⁹⁸ The National

⁹⁵ The name of the Matra Programme derives from the Dutch for social transformation, 'maatschappelijke transformatie', <http://www.minbuza.nl/en/europeancooperation/subsidies/The-Matra-Programme.html> .

⁹⁶ Written reply TX-02.219 from the National Commission for Combating Trafficking in Human Beings, dated 02.07.2008, p. 4.

⁹⁷ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 9.

⁹⁸ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 14.

Investigation Service⁹⁹ compiled and published the methodology for investigation of trafficking-related crimes (not available on the Internet). The practical training of investigative staff was delivered in two formats: in lecture form for a class of students at the Academy of the Ministry of Interior, and participation by four lecturers in a ‘training for trainers’ seminar, held in the context of a project of the International Organisation for Migration. In addition the investigative staff, these training sessions were also attended by operational staff of the Border Police Directorate, the Operational Search Sector at Criminal Police, and others.

- [35]. In 2007 the National Institute of Justice¹⁰⁰ conducted a training session for 30 judges from courts in border towns on the topic of trans-border crimes, focusing mainly on preventing trafficking in human beings. The National Institute of Justice¹⁰¹ conducted five regional seminars on the same topic across the appellate court regions (Sofia, Plovdiv, Veliko Turnovo, Varna and Bourgas), addressed to 50 judges and prosecutors. In 2007, a total of seven training sessions were held in different courts in Bulgaria on issues of counteracting human trafficking. Each training session involved 20 magistrates who were representatives of the corresponding court, the total number of trained magistrates being 140. Judges from the three penal departments of the Supreme Court of Cassation of the Republic of Bulgaria lecture in material and procedural criminal law at the National Institute of Justice, and in 2007 they also delivered lectures on crimes related to human trafficking.¹⁰²
- [36]. The Academy of the Ministry of Interior¹⁰³ annually provides specialised training in combating trafficking in human beings in courses for initial training

⁹⁹ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 16.

¹⁰⁰ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 19. The National Institute of Justice is a legal entity funded by the state budget allocated for the judicial system and donations, programmes, projects. Four members of its executive board are appointed by the Supreme Judicial Council and three members are appointed by the Ministry of Justice, in accordance with Art. 250-252 of the Judicial Power Act.

¹⁰¹ These seminars were organised in cooperation with the Nadya Centre Foundation and within the framework of the project ‘Present issues in trafficking in human beings as a form of organised crime’, funded by the Academy of the Ministry of Interior ‘Initiative for Strengthening the Judicial System’.

¹⁰² Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 24.

¹⁰³ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 28-29.

of police officers, for professional specialisation and for upgrading the qualifications of employees of the criminal police structures and of the Ministry of Interior Directorates General for Combating Organised Crime and the for the Border Police. In 2007, 162 police officers from various services were trained in the Academy of the Ministry of Interior. Employees of the General Directorate for Combating Organised Crime and the General Directorate for Border Police participate in a CEPOL (European Police College) programme for exchange of senior police officers and trainers for upgrading qualification in the area of counteraction to trafficking in human beings. Employees of the Directorate General Combating Organised Crime and of the units for combating organised crime at the district police directorates take part in training organised by police services in the USA, the Netherlands, Austria and France. In 2007, the Academy of the Ministry of Interior held four five-day seminars for police investigators (a total of 80 employees).¹⁰⁴ These also included subject matter on investigating crimes related to trafficking in human beings.

[37]. In May 2007 the Supreme Cassation Prosecution Office and District Prosecution Office in Pazardzhik, together with the Nadya Centre Foundation, organised five two-day seminars in the appellate regions for prosecutors, investigators and judges from the respective regional courts. A memorandum of understanding between the Prosecution Service of the Republic of Bulgaria, the National Institute of Justice and the US Federal Department of Justice (Service for international development, support and training of prosecutors) was signed on 20.12.2007¹⁰⁵. It envisages implementation of sustainable training programmes for prosecutors on several topics, including counteraction to trafficking in human beings.

[38]. In 2007, the Ministry of Education issued a tool for children from fifth to eighth grade called *Сексуално насилие, насилие и експлоатация* ['Sexual abuse, violence and exploitation']. It also produced the *Помагало за директора и учителя за учебната 2005/2006 г.* ['Handbook for the Headmaster and Teacher for the academic year 2005/2006'], in which guidelines for the activities of the school commissions for prevention and work with all children who fall into the 'children at risk' category are published. The school commissions survey and propose solutions for problems faced by students living in disadvantaged environments, for instance in families with parent/s serving a term of imprisonment; families with parents with criminal records; families with parents who abuse alcohol or drugs; families with mentally ill parents; families exercising various types of violence; families in which children are not raised by their parents; reasons for regular absence from school

¹⁰⁴ These seminars were organised within the framework of a PHARE Project – BG 2004/IB/JH/09 'Modernisation of the Bulgarian Police and Enhancing Efficiency of Operation through Improving the Specialised Structures of Police Investigation within the MoI'.

¹⁰⁵ Available in English at: http://www.prb.bg/html/e_memorendum.htm (accessed 04.08.2008)

and dropping-out, reasons for running away from home/institution. All these are considered to be circumstances which constitute a higher risk of exploitation.

- [39]. According to Ministry of Interior statistics, among the victims of forced or compelled prostitution registered by the Ministry for the years 2005 and 2006 there were 31 and 24 girls respectively.¹⁰⁶ During the same period, 521 children in 2005, 358 children in 2006, and 521 children in 2007 passed through the child pedagogical rooms¹⁰⁷ (within the municipalities and local police departments) for reasons ‘in connection with prostitution’.¹⁰⁸ The MoI declared that in 2005 and 2006 only 12 children were victims of trafficking. The Ministry of Education reported that 10 girls in 2005 and 14 girls in 2006 were placed as victims of trafficking in residential correctional schools. It is not clear whether these figures relate to the same victims. Placement in such schools is ordered by the court as a correctional measure under the Combating Anti-social Behaviour of Minors and Adolescents Act, and has a clear punitive character. According to NGOs the schools themselves are places for deprivation of liberty, and serious reform of the legislation and practice in this regard is needed to comply with international standards for juvenile justice.¹⁰⁹ Police and municipal commissions for combating antisocial behaviour of minors and adolescents consider children involved in prostitution to have committed antisocial acts,¹¹⁰ and not as victims of crimes such as trafficking. Comparison of statistical data

¹⁰⁶ Bulgaria/Government reply to questions of the UN Committee on the Rights of the Child for the review of the second report for implementation of the UN Convention of the Rights of the Child, p. 25, available at: <http://www2.ohchr.org/english/bodies/crc/crcs48.htm> (accessed 04.08.2008)

¹⁰⁷ Bulgaria/Правилник за детските педагогически стаи [Regulations for Child Pedagogical Rooms] (07.08.1998). These are based in each municipality to search for and register children who commit crimes and antisocial acts, to prevent crimes by and against children, and to protect child victims of crimes. They are staffed by members of the police force with pedagogical qualifications, and are subordinate to the Ministry of Interior. Their activities are supervised by the prosecution offices and the local commissions for combating antisocial behaviour of children (the latter are subordinate to the Central Commission which is established at the Council of Ministers).

¹⁰⁸ Bulgaria/Government reply to questions of the UN Committee on the Rights of the Child for the review of the second report for implementation of the UN Convention of the Rights of the Child (2008), p. 29, para. 68-70, available at: <http://www2.ohchr.org/english/bodies/crc/crcs48.htm> (accessed 04.08.2008)

¹⁰⁹ See the reports of the Bulgarian Helsinki Committee (human rights NGO) on these schools: <http://www.bghelsinki.org/index.php?module=resources&lg=en&id=650> <http://www.bghelsinki.org/index.php?module=resources&lg=en&id=369> (accessed 04.08.2008)

¹¹⁰ Bulgaria/Национален статистически институт [National Statistical Institute] (2007), *Противообществени прояви на малолетни и непълнолетни лица през 2006 г.* [Antisocial Acts Perpetrated by Minors and Adolescents in 2006], available in Bulgarian at: <http://www.nsi.bg/ZActual/Crime20061.htm> (accessed 04.08.2008). According to Table 3, in 2006, 400 children were questioned by the Child Pedagogical Rooms as perpetrators of prostitution and homosexual acts. According to Table 6, in 2006, 5 minor girls and 19 adolescent girls were registered as victims of persuasion to engage in prostitution, 1 minor and 9 adolescent children had been abducted for the purpose of prostitution, and 25 minors and 24 adolescents were victims of persuasion to engage in begging.

shows that there is no policy in practice of non-criminalisation of children who are current or potential victims of trafficking.

B. Prevention of child trafficking

- [40]. According to the NCCTHB's 2007 report, awareness-raising measures of the Bulgarian government and NGOs are directed mainly towards politicians and society in general. The government organised a campaign called 'Sixteen days of activism to eliminate violence against women' (25.11.2007-10.12.2007) to raise public awareness of the problems and risks of trafficking in human beings, among other problems, as part of an international initiative that the non-governmental sector in Bulgaria has already been participating in for several years. Central partners in this campaign were the Ministry of Labour and Social Policy, the Nadya Centre Foundation, the Animus Association Foundation, and the Gender Studies Foundation.¹¹¹ Press conferences, round tables and discussions with key stakeholders and ambassadors are the most widely reported events related to child trafficking. During the initiative '*Трафикът на хора – време за действие*' ['Trafficking in human beings: time for action'] (18.10.2007–27.10.2007) various events and training sessions for children and parents belonging to groups at risk were organised in Sofia, Plovdiv, Varna, Pazardzhik, Topolovgrad, Rousse, Bourgas and the regions, with the cooperation and partnership of the International Organisation for Migration, the Nadya Centre Foundation and Caritas Bulgaria. A national campaign with the slogan 'Every child can become a victim of trafficking, especially the child we see rarely' (April-October 2007) was organised by the Face to Face Association, an NGO. Within the framework of this campaign 5,000 posters and 5,000 brochures were published and circulated, and an information video clip, created by the Face to Face Association, was broadcast regularly on the private national Nova TV channel over a period of three months. On 4.12.2007, a round table discussion for experts from Bulgaria, Norway, Netherlands, Germany, USA, Sweden and Greece was held at the Sheraton Hotel in Sofia on the topic 'For and against legalising prostitution in the context of trafficking in human beings – viewpoints and good practices'. The aim of this discussion was to get acquainted with the experience of other countries, and to discuss the pros and cons of possible legalisation or criminalisation of prostitution, as well as to evaluate how the relevant legal framework has affected trafficking in human beings, which is an issue of primary interest. In 2007, SACP developed a *Практическо ръководство за социална работа с деца-жертви на насилие* ['Practical Guide for Social Work with Children, Victims of Violence'] and

¹¹¹ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), *Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г.* [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 6.

Методология за оценка на риска от насилие в семейството [‘Methodology for Domestic Violence Risk Assessment’], designated for social workers in child protection and social assistance departments of the social assistance directorates for working on signals (reports of suspicious or criminal activity) and cases of child victims of violence and violence prevention. The document *Помагало по превенция на насилието в училищната мрежа* [‘Aid for Prevention of Violence in the School Network’] is disseminated in schools and is also published on the SACP website. The documentary *Деца срещу насилието* [‘Children against Violence’], made by students from the town of Kyustendil is also disseminated in the school network. SACP experts took part in an inter-institutional working group for the development of *Справочник със съвети към пострадалите лица за получаване на бърза и ефективна защита в случай на домашно насилие* [‘Reference Guide with Advice for Victims – How to get fast and efficient protection in cases of violence in the home’], which is to be published in an edition of 15,000 copies and will be disseminated in the state institutions in charge of child protection, in schools, among NGOs working with children, among victims of violence, etc. SACP maintains the specialised Internet site *Противодействие на сексуалната експлоатация с търговска цел* [‘Counteraction to Commercial Sexual Exploitation’]. The main objective of the site www.stopech.sacp.government.bg, launched in 2004, is to provide comprehensive information on the issues of sexual and commercial exploitation of children in terms of national legislation, international standards, national documents, practices and other useful information. An important emphasis is the digital form for conveying signals (reports of suspicious or criminal activity). From 2004 until the end of 2007, 483 signals were received reporting violation of children’s rights, and a major part of these concerned illegal and harmful content on the Internet (child pornography, sale of pornographic materials), for which timely measures were undertaken jointly with the MoI and the Prosecution Service for removing this content. For 2007, a total of 219 signals relating to violence (physical, psychological, sexual) neglect, illegal and harmful content on the Internet were received. Information about missing Bulgarian and foreign minor and juvenile nationals is also published on the SACP website. Since May 2003, the State Agency for Child Protection has been providing the service *анонимно интернет консултиране – клуб ‘Тийнейджър’* [‘Anonymous Internet consulting – Teens Club’] on their website <http://www.sacp.government.bg/teensclub.htm>. Since June 2007, the SACP has been providing consultation services for parents regarding the development and the rights of their children. A team of professionals in the areas of psychology, law, social work and pedagogy is responsible for the *Клуб Родители* [‘Parents Club’]. So far 23 parents have made inquiries to this Parents Club.

- [41]. A pilot project, the ‘National Child Hotline – 0800 19 100’, has been implemented since November 2007, and is a joint initiative of SACP and UNICEF-Bulgaria. Contractor for this project is the Nadya Centre Foundation. Seven consultants and 14 operators work for the hotline operation. The national

child hotline provides crisis intervention, specialised information on the rights of the child and guidance for choosing appropriate service providers and child protection/ social assistance departments. The hotline's objectives are to provide children with a partner with whom they can discuss issues and problems which concern and disturb them; to identify cases of children at risk and to undertake the measures necessary to provide information and to promote the child protection system, and to expand the opportunities for sending signals for breaches of the rights of the child. The hotline characteristics are the easy-to-remember telephone number (0800 19 100), national coverage, free of charge, round-the-clock operation, adherence to the principles of confidentiality and relative anonymity. Before this hotline was opened, the Animus Foundation (NGO) was involved in identification and rehabilitation of victims of trafficking (including children) through a hotline and a crisis centre in Sofia. In 2004, its hotline (tel. 9817686) provided consultations for three girls and one boy, who were victims of sexual abuse; 68 girls at risk of involvement in trafficking and eight girls who were victims of trafficking. Psychotherapy and consultations were provided to two girls who were victims of trafficking, and six girls used the residential service in the crisis centre in 2004.¹¹²

- [42]. No evidence for direct participation in systematic and consistent prevention measures on behalf of Roma/poor/disabled women and children, or of NGOs, which work with these groups, was found.

¹¹² Bulgaria/Министерство на вътрешните работи и Държавна агенция за закрила на детето (2005) *Доклад за изпълнението на плана за действие срещу сексуалната експлоатация на деца с търговска цел 2003-2005*, [Report on the implementation of the national plan against sexual exploitation of children 2003-2005], 2005, p. 23.

C. Appointment of legal guardian

[43]. Each parent is the legal guardian of his/her children up to the age of 14. Parents can represent their children in any circumstances, and can give consent to legal actions involving children aged 14 to 18 where such actions are to the benefit of such children.¹¹³ If the parents are involved in trafficking, the child will be represented in administrative proceedings by a social worker in the child protection department at his/her permanent address, and in criminal proceedings, the court might also appoint a lawyer. In cases of unaccompanied children from abroad, the consular offices of the Ministry of Foreign Affairs inform the State Agency for Child Protection and the Ministry of Interior, and the latter are obliged to search for the parents. In cases of unaccompanied children within Bulgaria, the police stations are obliged to search for the parents or other legal representatives of the children and to inform child protection departments at the social assistance departments located in the place of permanent address of the child. The above mentioned obligations are regulated by the Coordination Mechanism for Unaccompanied Children, which is not a legislative act but an internal coordination document between several agencies and ministries. Under the provisions of the Combating Trafficking in Human Beings Act,¹¹⁴ the National Commission for Combating Trafficking in Human Beings and its local commissions, and the shelters and centres for support and rehabilitation are obliged to search immediately for the families of child victims of trafficking. The specialised authorities provided under the Child Protection Act should ensure representation of the child. The authorities responsible for ensuring protection and representation of children under the Child Protection Act are social workers at child protection departments, and directors of child care institutions, when children are placed in the care of such institutions.

[44]. According to the Criminal Procedure Code¹¹⁵ legal representation in court may be provided by parents and grandparents. In cases where a conflict of interests exists between a victim who is minor or adolescent and his/her parents or legal guardian, the respective body appoints a special representative – a lawyer.¹¹⁶ Analysis of the legislation and practice¹¹⁷ does not point to clear regulation of legal representation for a child who is victim of trafficking when criminal proceedings are not started. There is no specific training (provided for in

¹¹³ Bulgaria/*Семеен кодекс* [Family Code] (28.05.1985) Art. 73, para. 1.

¹¹⁴ Bulgaria/*Закон за борба с трафика на хора* [Combating Trafficking in Human Beings Act] (20.05.2003), Art. 24.

¹¹⁵ Bulgaria/*Наказателно-процесуален кодекс* [Criminal Procedure Code] (29.04.2006), Art. 91, para. 2

¹¹⁶ Bulgaria/*Наказателно-процесуален кодекс* [Criminal Procedure Code] (29.04.2006), Art. 101, para. 1.

¹¹⁷ Interviews with two directors of crisis centres for child victims of trafficking in Pazardzhik and Balvan, on 27.06.2008 and 07.07.2008.

legislation or in practice) for lawyers representing children, including child victims of trafficking.

- [45]. The research did not find any evidence of the existence of a policy on age assessment. The Ministry of Interior is responsible for identification of the trafficked child, including name, age, place of birth, etc., but among its responsibilities there are no specific rules for age assessment.
- [46]. In case the legal representation in court is done by an official from the Child Protection Department at the Social Assistance Agency then usually the official has 14 days to prepare the case. Taking into consideration the current workoverload of these officials (being 817 in number for 1.4 million child population¹¹⁸) dealing with all cases of domestic violence, children at risk, children in institutions, children prepared for adoption or foster care it is highly likely that two weeks are not sufficient time for preparation of the case of a trafficked child. In criminal proceedings at first instance courts the consecutive hearings on a case take place each month. Since the researcher did not find any court cases on trafficked children it is impossible to state whether legal representation of the children takes place and whether there is sufficient time for the guardian to prepare the case. According to the interviewed directors of two crisis centers for trafficked children there had been no criminal investigative activities with the children while they stayed in the centers and thus it is difficult to understand whether the children victims are ever involved in such proceedings.

D. Coordination and cooperation

- [47]. The only document that demonstrates coordination is the *Координационен механизъм за рефериране и обгрижване на случаи на непридружени български деца и деца-жертви на трафик, завръщащи се от чужбина* [Coordination Mechanism for Referral, Care and Protection of Repatriated Bulgarian Unaccompanied Children and Children – Victims of Trafficking Returning from Abroad].¹¹⁹ This Mechanism was signed by the Chairperson of the State Agency for Child Protection (SACP), the Deputy Minister of Interior, the Deputy Minister of Labour and Social Policy and the Deputy Executive Director of the Agency for Social Assistance. The system for inter-institutional referral at national level includes the Ministry of Interior (MoI), the State Agency for Child Protection (SACP), the Agency for Social Assistance (ASA), the Ministry of Education and Science (MES), the Ministry of Foreign Affairs (MFA), the National Commission for Combating Trafficking in Human Beings

¹¹⁸ <http://www.bghelsinki.org/index.php?module=resources&lg=en&id=650>.

¹¹⁹ http://www.stopech.sacp.government.bg/?sid=professional_eng&pid=000000046 (accessed 04.08.2008).

- (NCCTHB), the International Organisation for Migration (IOM), the International Labour Organisation (ILO), et al. At local level, multidisciplinary teams responsible for provision of social and medical care, protection, education, and employment for victims of trafficking are established at child protection departments. These teams include representatives from regional police departments, regional inspectorates of education, regional healthcare centres, employment agencies, NGOs, providers of social services and others, appointed by social assistance departments/child protection departments.
- [48]. Shelters and centres for protection and support of child victims of trafficking are established by providers of social services for children (NGOs) or the NCCTHB (shelters) and the local commissions for combating trafficking in human beings/municipalities (centres). Shelters must be registered with the Social Assistance Agency and NCCTHB, and licensed by the State Agency for Child Protection. The activities and organisation of shelters is regulated by the provisions of the Combating Trafficking in Human Beings Act, and by the Regulations for Shelters for Temporary Placement and Centres for Protection and Support of Victims of Trafficking.¹²⁰ The legislation does not specify which authority can place a child in such shelters. Since shelters are establishments that provide social services, this could be either a local social assistance department, or the child protection department within it. As no such shelters currently exist in Bulgaria, no research on practice could be carried out for the present research.
- [49]. The researcher did not receive information about the existence of an independent monitoring of implementation of Guidelines aimed at protection of personal data of children victims of trafficking, although written requests were sent to NCCTHB, Ministry of Interior and State Agency for Child Protection. None of them replied to this question.
- [50]. The researcher explicitly asked the NCCTHB about the existence of cooperation agreements between Bulgaria and countries of origin regarding victims of trafficking. In its written reply the NCCTHB did not point out the existence of such agreements but enlisted the international projects Bulgaria participates in regarding combating trafficking.
- [51]. In 2007 NCCTHB¹²¹ started cooperation with Netherlands, USA, Norway and Italy and since then it is a partner to Romania in the project “Reduction of the number of victims of trafficking from Bulgaria and Romania, exploited in Spain and Italy”. The NCCTHB worked on several projects on the international level in 2007. Under the *Програма за подобряване на отговора на трафика на хора в Югоизточна Европа* [Program for improvement of the reply to

¹²⁰ Bulgaria/Правилник за приютите за временно настаняване и центровете за закрила и помощ на жертвите на трафика на хора (09.03.2004).

¹²¹ Written reply from NCCTHB, dated 02.07.2008, p.5-7.

trafficking in human beings in Southeastern Europe] it increases its capacity to work on harmonising the databases of trafficked human beings together with all other nine countries. Thus regional criteria for databases were elaborated, a handbook was published in six languages and two databases – for trafficked people and for people who traffick were created. Software for the victims was installed at the NCCTHB and for the traffickers – at the Supreme Cassation Prosecution Office and officials were trained to work with it. Under the project *Транснационален механизъм за рефериране на жертвите на трафик на хора в Югоизточна Европа* [Transnational mechanism for referral of victims of trafficking from Southeastern Europe] since the end of September 2007 the NCCTHB became the main coordinator for Bulgaria. It has to develop mechanisms for full transnational support of the victims and institutionalise the international cooperation for supporting the victims from Albania, Bosnia, Herzegovina, Bulgaria, Croatia, Macedonia, Moldova, Montenegro, Romania, Serbia and Kosovo. Under the project *Намаляване на броя на жертвите на трафик от България и Румъния, експлоатирани в Италия и Испания* [Reduction of the number of victims of trafficking from Bulgaria and Romania, exploited in Spain and Italy], funded by the European Commission, the main aim was to form an expert group consisting of representatives from each partner country to prevent trafficking by trainings in each country aiming at identification of the prerequisites for trafficking, adequate solutions of the problem and information campaign. Under the project *Трафика на хора в България и Холандия – общи усилия в борбата с един общ проблем* [Trafficking in human beings in Bulgaria and Netherlands – joint efforts in combating the same problem] in November 2007 governmental delegation from Netherlands offered cooperation to Bulgaria in establishment of an expert center for combating trafficking, sharing expertise, capacity building of Bulgarian institutions to combat trafficking, modernising the equipment for interrogation of victims of trafficking, trainings of policemen and prosecutors. In December 2007 joint work with Norway government started on actions against trafficking in human beings between the two countries.

E. Care and protection

[52]. According to the Combating Trafficking in Human Beings Act,¹²² victims of trafficking are placed in shelters for temporary placement for a period of 10 days when they declare themselves as victims and at their request, under the conditions and order established by the regulations. The period of stay might be extended to 30 days if the local commissions, investigative authorities or the court so propose, or when a victim expresses a wish to stay. Victims of trafficking who express the wish to cooperate with investigative authorities are entitled to special protection status for the period of the criminal proceedings, which includes permission for long-term stay in the country for foreign citizens, and extension of the period of stay in the shelters.¹²³ After identification of the victims, the investigating authorities are obliged to inform them immediately of the opportunity to receive special protection if they declare consent to cooperate with investigation of the crime within 30 days.¹²⁴ If proposed by the State Agency for Child Protection, this period may be extended to two months when the victim is a child.¹²⁵ The prosecutor is obliged to issue a decision on whether special protection status is to be provided to the victim within three days after he/she receives the application. If the prosecutor refuses to grant such status, the decision may be appealed before a higher prosecutor within three days and the latter should decide immediately.¹²⁶ Permission for long-term stay is issued by the Ministry of Interior authorities under the rules of the Foreigners in the Republic of Bulgaria Act, on the basis of the prosecutor's decision. Persons granted such permission are entitled to the rights of permanent residence holders, but with one exception – they are not allowed to leave Bulgaria and re-enter without a visa while the period of residence granted has not expired. Permission is not issued to persons who do not have identity documents and refuse to cooperate with procedures to establish their identity.¹²⁷ The period of stay in the shelters should be as long as the prosecutor's decision determines, and not longer than the period duration of the criminal proceedings.

¹²² Bulgaria/Закон за борба с трафика на хора [Combating Trafficking in Human Beings Act] Art. 9, para. 2 (20.05.2003).

¹²³ Bulgaria/ Закон за борба с трафика на хора [Combating Trafficking in Human Beings Act], Art. 25. (20.05.2003).

¹²⁴ Bulgaria/ Закон за борба с трафика на хора [Combating Trafficking in Human Beings Act], Art. 26, para. 1(20.05.2003).

¹²⁵ Bulgaria/ Закон за борба с трафика на хора [Combating Trafficking in Human Beings Act], Art. 26, para. 2 (20.05.2003).

¹²⁶ Bulgaria/ Закон за борба с трафика на хора [Combating Trafficking in Human Beings Act], Art. 27. (20.05.2003).

¹²⁷ Bulgaria/ Закон за борба с трафика на хора [Combating Trafficking in Human Beings Act], Art. 28. (20.05.2003).

- [53]. According to the State Agency for Refugees, there are no cases of child refugees who were victims of trafficking for the period 2000-2007.¹²⁸
- [54]. Detained children, like detained adults, are entitled to the right to have a lawyer, to know why they are detained, and to ask for a person of their choice to be informed about their detention by the police.¹²⁹ Their detention in the police station cannot be longer than 24 hours. Physical coercion and restraint cannot be used by the police against children.¹³⁰ Detained children are always placed separately from adults. For purposes of finding out a current or permanent address, provision of care for children who are vagrant, neglected or abused or engaged in begging or prostitution, or investigation of children who have performed ‘antisocial acts’, or runaway children, the police may detain and place such children for temporary stays in homes that are closed institutions for children.¹³¹ Detention should not last more than 24 hours, but with permission from the prosecutor it can be extended up to 15 days, and in exceptional cases could be extended up to two months.¹³² These homes are managed by the Ministry of Interior.¹³³ The purpose of detention is to provide psychological, pedagogical and medical care, to investigate the reasons for vagrancy, antisocial behaviour and neglect, and to recommend the best placement and care for the child.¹³⁴
- [55]. According to Art. 24 of the Combating Trafficking in Human Beings Act, the authorities, the shelters and the centres for protection and support are obliged to start procedures immediately to search for the families of trafficked children. According to the Coordination Mechanism for Referral, Care and Protection of Repatriated Bulgarian Unaccompanied Children and Children – Victims of Trafficking Returning from Abroad,¹³⁵ social assistance departments and the

¹²⁸ Interview with Ani Andreeva, head of the Social Activities and European Refugees Fund Department at the State Agency for Refugees, on 07.07.2008.

¹²⁹ Bulgaria/Закон на Министерство на вътрешните работи [Ministry of Interior Act], Art. 63.

¹³⁰ Bulgaria/Закон на Министерство на вътрешните работи [Ministry of Interior Act], Art. 73, para. 4.

¹³¹ Bulgaria/Закон за борба с противообществените прояви на малолетни и непълнолетни [Combating Antisocial Behaviour of Minors and Adolescents Act] (15.03.1958) (with many amendments, the last of these in 2005), Art. 35.

¹³² Bulgaria/Закон за борба с противообществените прояви на малолетни и непълнолетни [Combating Antisocial Behaviour of Minors and Adolescents Act] (15.03.1958) (with many amendments, the last of these in 2005), Art. 37.

¹³³ Bulgaria/Закон за борба с противообществените прояви на малолетни и непълнолетни [Combating Antisocial Behaviour of Minors and Adolescents Act] (15.03.1958) (with many amendments, the last of these in 2005), Art. 34.

¹³⁴ Bulgaria/Закон за борба с противообществените прояви на малолетни и непълнолетни [Combating Antisocial Behaviour of Minors and Adolescents Act] (15.03.1958) (with many amendments, the last of these in 2005), Art. 36.

¹³⁵ Bulgaria/Координационен механизъм за рефериране и обгрижване на случаи на непридружени български деца и деца-жертви на трафик, завръщащи се от чужбина [Coordination Mechanism for Referral, Care and Protection of Repatriated Bulgarian Unaccompanied Children and Children – Victims of Trafficking Returning from Abroad, p.5.

child protection departments at the permanent address of the child are obliged to prepare reports every three months for every case of a returned child and for the activities planned for the case by the multidisciplinary team at local level, until the reintegration plan is completed, or long-term protection measures are put in place. They also cooperate and continuously exchange information with other SADs/CPDs, working on the case to ensure the best interests of the child. Multidisciplinary teams at local level prepare trimester reports for every case of an unaccompanied trafficked child returned from abroad, and for the activities planned for the case under the supervision of the SAD/CPD.¹³⁶ Representatives from regional healthcare centres and regional inspectorates for education are responsible for involving the child in various reintegration programmes, to prevent the child being taken abroad again.

- [56]. Pursuant to Art. 10 of the Combating Trafficking in Human Beings Act, shelters for temporary placement are to ensure decent accommodation and conditions for maintaining personal hygiene, to provide the victims with food and medicines, to ensure urgent medical and psychological support, and help children connect with their families as well as specialised authorities and organisations. The staff in the shelters consists of social workers, medical staff, teachers, psychologists, and lawyers. Art. 11 of the same act stipulates that the centres for protection and support at the local commission for combating trafficking are also obliged to ensure specialised psychological and medical care. According to the regulations for shelters,¹³⁷ medical care for the victims in the shelters is to be provided by healthcare establishments determined by the national or local commissions, with which contracts are signed for performance of these activities. Each victim should be medically examined. Regulation 26 of 14.06.2007 issued by the Ministry of Health provides for the rules and procedures for provision of medical services to women who are not medically insured (which is the case for most of the trafficked women)¹³⁸. Women and children are entitled to medical examinations, pregnant women to tests to assess the risk of genetically transmitted diseases, and children and pregnant women who do not have medical insurance to tests for genetic diseases when there are relevant medical indications for such diseases. All new-born babies are entitled to screening for phenylketonuria and hypothyroidism. Medically insured women have the right to choose freely the hospitals where they can obtain professional obstetrics help free of charge. An assessment of all costs for medical care for victims of trafficking is expected to be made in order to

¹³⁶ It may be applicable that more than one multidisciplinary team is involved, according to the specific details of the individual case.

¹³⁷ Bulgaria/Правилник за приютите за временно настаняване и центрoвете за закрила и помощ на жертвите на трафика на хора [Regulations for Shelters for Temporary Placement and Centres for Protection and Support of Victims of Trafficking] (09.03.2004), Art. 26.

¹³⁸ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г. [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 15.

adequately ensure care for the victims. Since shelters and centres for support of the victims of trafficking are not yet established, the provision of medical services is a practical problem as it is difficult for the staff in crisis centres (that actually accommodate trafficked children at present) to establish who the parents of the children are, and whether the children are insured before the appointment of a general practitioner. Provision of specialised medical care is even more difficult, as a referral from a general practitioner (physician chosen and appointed by the parents/guardian of a child) is needed.

- [57]. There are three functioning crisis centres for child victims of trafficking, located in Balvan, Pazardzhik and Dragoman.¹³⁹ They were opened at the beginning of 2007. Children between six and 18 can be placed there for up to six months. The centres have an overall capacity of 30, and at the end of 2007, 26 children were using them. In 2007, 19 children lived in the centre in Dragoman, one boy and 18 girls, 16 of whom were victims of trafficking for the purpose of prostitution and theft. The centre in Balvan was used by 16 girls, only three of whom are victims of international trafficking, the rest are victims of trafficking within Bulgaria for prostitution. Twenty-five children were accommodated in Pazardzhik during 2007.¹⁴⁰ In several cases, children who were placed in the centre in Pazardzhik were trafficked again right after their release from the centre the same year, and admitted to the centre again. During the period January-March 2008, 27 children were accommodated in the three centres.¹⁴¹ Children are placed in the centres by order of the local social assistance department for periods of three or six months. This is so because the crisis centres are considered a social service under the Social Assistance Act and its regulations, and not under the Regulations for Shelters and Centres for Support and Rehabilitation of Victims of Trafficking. There is no correspondence between these regulations in terms of activities, duration of the stay and due protection of the children. There is only one provision regarding crisis centres in the Regulations for Implementation of the Social Assistance Act, which simply defines the crisis centres as places that provide a complex of social, health, and educational services for trafficked children. They are funded by the state through the municipalities as a social service, and there are no regulations for the funding of 'shelters for trafficked children'. The annual allowance per place in a crisis centre for 2007 was BGN 1,292 (appr. EUR 646) if the service is run

¹³⁹ Bulgaria/Government reply to questions of the UN Committee on the Rights of the Child for the review of the second report for implementation of the UN Convention of the Rights of the Child, 2008, p. 17, para. 47, available at: <http://www2.ohchr.org/english/bodies/crc/crcs48.htm>, (accessed 04.08.2008), Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г. [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 45.

¹⁴⁰ These figures were provided by the State Agency for Child Protection.

¹⁴¹ Written reply from SACP, number 05-00-4, dated 02.07.2008.

by a municipality and BGN 4,521 (appr. 2,260 Euro) if another provider runs the centre.¹⁴² In 2008 the annual allowance per place in a crisis centre is BGN 6,911 (appr. EUR 3,455).¹⁴³ In practice the crisis centres do not provide special protection for children in regard to investigation or access to education. They are subordinated to the municipality in terms of selection and appointment of the staff. Activities in the centres are funded by the state through the municipality and should be supervised and controlled by the Social Assistance Agency at the Ministry of Social Policy. The crisis centres experience problems ensuring urgent medical care because of lack of personal identity information, lack of legal guardianship of the child, lack of transportation, lack of information about the family and the risk for the child if reintegrated into it. This information is supposed to be provided by the police when the child is placed in their temporary stay homes.¹⁴⁴

- [58]. In an interview, a director¹⁴⁵ of one of the three crisis centres for trafficked children stated that risk assessments are carried out by social workers, but in practice the children resume contact with the traffickers within a period of three to ten days after release from the centres, and soon after that are once again accommodated in the centres. During their stay in the centre, the children in Pazardzhik have no contacts with the investigating authorities, and are allocated no legal representative in relation to criminal proceedings. In the crisis centre in Balvan the director stated that the only criminal proceedings she is aware of are those taken against the children – most often for theft. Social workers at the local social assistance departments represent children during administrative proceedings. When there are no opportunities to place them in a safer environment in the community, the children stay in the centres for periods of from three to six months. Their families are often involved in the trafficking, other relatives are not reliable, foster families are not willing to take care of a child in such circumstances and a system has not yet been developed for this. Both crisis centers and police stations do not keep statistics about the number of

¹⁴² Bulgaria/Решение 926 от 26.12.2006.г. на Министерски съвет за разделение на дейностите, финансирани чрез общинските бюджети, на местни и делегирани от държавата и за определяне на стандарти за финансиране на делегираните от държавата дейности през 2007 г. [Council of Ministers Decision 926, dated 29.12.2006 regarding division of activities funded by the municipal budgets into local and delegated by the state and for determination of standards for funding of the delegated by the state activities in 2007], available at: <http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0036&n=000010&g=->. (accessed 04.08.2008).

¹⁴³ Bulgaria/Решение 20 на Министерски съвет за разделение на дейностите, финансирани чрез общинските бюджети, на местни и делегирани от държавата и за определяне на стандарти за финансиране на делегираните от държавата дейности през 2008 г. [Council of Ministers Decision 20, dated 21.01.2008 regarding division of activities funded by the municipal budgets into local and delegated by the state and for determination of standards for funding of the delegated by the state activities in 2008], available at: <http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0036&n=000020&g=->. (accessed 04.08.2008).

¹⁴⁴ Interviews with two directors of crisis centres, on 27.06.2008 and 07.07.2008.

¹⁴⁵ Interview with G.S. in Pazardzhik, by telephone, 27.06.2008.

children who leave the centers with unknown destination so it was impossible for the research to find such.

- [59]. According to Art. 23 of the Combating Trafficking in Human Beings Act education in state and municipal schools under the conditions and order of Public Education Act should be ensured for children who are victims of trafficking. The Constitution of the Republic of Bulgaria¹⁴⁶ and the Public Education Act¹⁴⁷ recognise the right to education as a universal right, and stipulate that education is compulsory and free of charge for all children up to the age of 16. However, practice seems to show that some trafficked children who stay in crisis centres cannot be enrolled in mainstream schools immediately, because they lack language skills or basic literacy skills (in such cases, teachers at the centres work with the children individually), or because the high school is located at a great distance and there is no transportation, or because difficulties in identifying the personal data or providing medical care for the child do not allow his/her enrolment in school.¹⁴⁸
- [60]. Information about the administrative and court procedures for the protection and support of the victims of trafficking should be provided by the centres for protection and support at the local commissions for combating trafficking.¹⁴⁹ Again, interviews with directors of crisis centres for trafficked children provided information about lack of legal representation for children in practice, and numerous difficulties in ensuring informed consent for medical intervention, issuing identity documents, enrolment in schools where signatures of parents or legal guardians are needed. In regard to legal aid in criminal proceedings, the staff in crisis centres reported that they had not been involved in such matters and are not informed whether the child is provided with legal aid or not, but that social workers from child protection departments are usually involved in such proceedings.
- [61]. The research did not find evidence that any special needs of the trafficked children are met during the procedures for identification of the child's personality, legal procedures, accommodation in crisis centers, education and provision of health care services. Translators, easy-to-read and understand materials explaining duties and rights, psychological support and other relevant services are not available and according to information received from directors of crisis centers even the satisfaction of basic needs of the children who are accommodated in the centers seems to be a challenge.

¹⁴⁶ Bulgaria/*Конституция на Република България* (13.07.1991), Art. 53.

¹⁴⁷ Bulgaria/*Закон за народната просвета* (18.10.1991), Art. 4.

¹⁴⁸ Interviews with two directors of crisis centres, on 27.06.2008 and 7.07.2008.

¹⁴⁹ Bulgaria/*Закон за борба с трафика на хора* [Combating Trafficking in Human Beings Act] (20.05.2003), Art. 11.

- [62]. According to information provided by one of the operators at the hotline (where children may report sexual exploitation, abuse, violence, risk of trafficking)¹⁵⁰ some of the children who call the hotline report missing and sexually exploited children, but this happens rarely. Such reports are more usually sent directly to police stations and child protection departments, rather than reported on the phone. According to information provided by the Nadya Centre, from November 2007 when the hotline was opened until the end of December 2007, 7,733 calls were registered. Of these, 268 concerned real problems. Thirty-six calls were received from adults who reported children's problems.¹⁵¹
- [63]. The Ministry of Interior also developed a website, www.cybercrime.bg, where signals (reports) can be entered about cases of sexual exploitation and trafficking in children on the Internet.

¹⁵⁰ Telephone call by researcher 24.06.2008, 1 pm.

¹⁵¹ Bulgaria/ Държавна агенция за закрила на детето (ДАЗД), *Годишен доклад за 2007 г.* [Annual Report of the State Agency for Child Protection, 2007], p.10, available at: http://www.sacp.government.bg/index_bg.htm. (accessed 04.08.2008).

F. Best interests determination and durable solutions, including social inclusion/return

- [64]. The Child Protection Act provides for protection of the child through ensuring the most effective procedures and conditions to protect the best interests of the child.¹⁵² Children who are victims of abuse, exploitation, violence, or other cruel, inhuman and degrading treatment or punishment in or outside their family are considered, among others, to be ‘children at risk’¹⁵³. Children at risk are entitled to special protection.¹⁵⁴ When dealing with a case of a child at risk the social workers at social assistance departments are informed and they carry out risk assessment. On the basis of this report they propose appropriate measures for protection of the child. Although risk assessment is not mentioned in the legislation as a duty of social workers, the State Agency for Child Protection reports that in 2004 social workers were trained to assess risk in cases of children who suffered violence, and methodological materials on risk assessment had been sent to all child protection departments.¹⁵⁵
- [65]. In an interview, a director¹⁵⁶ of one of the three crisis centres for trafficked children stated that risk assessments are carried out by social workers, but in practice the children resume contact with the traffickers within a period of three to ten days after release from the centres, and soon after that are once again accommodated in the centres. During their stay in the centre, the children in Pazardzhik have no contacts with the investigating authorities, and are allocated no legal representative in relation to criminal proceedings. In the crisis centre in Balvan the director stated that the only criminal proceedings she is aware of are those taken against the children – most often for theft. Social workers at the local social assistance departments represent children during administrative proceedings. When there are no opportunities to place them in a safer environment in the community, the children stay in the centres for periods of from three to six months. Their families are often involved in the trafficking, other relatives are not reliable, foster families are not willing to take care of a child in such circumstances and a system has not yet been developed for this.

¹⁵² Bulgaria/*Закон за закрила на детето* (13.05.2000) Art. 3, item 3.

¹⁵³ Bulgaria/*Закон за закрила на детето* (13.05.2000) , para. 1 of the additional provisions, item 1, item 6, item b).

¹⁵⁴ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 5, para. 1.

¹⁵⁵ Bulgaria/*Government second report for implementation of the UN Convention of the Rights of the Child to the UN Committee on the Rights of the Child*, 2007 p. 41, para. 177-178 , available at: <http://www2.ohchr.org/english/bodies/crc/crcs48.htm>. (accessed 04.08.2008).

¹⁵⁶ Interview with G.S. in Pazardzhik, by telephone, 27.06.2008.

The children are rarely placed in institutions, and if they are, they often escape within a short time. While they are in the centres some of the children study in the local schools, and are assisted by the social workers, psychologists and teachers in the centres. The children's mental state and behaviour is often characterised by anger, aggression, self-harm, suicide attempts. Psychiatric care is not officially ensured and funding for the centres does not cover provision of regular examinations and help. Blood tests are performed, and the physical health condition of children is characterised by one case of early pregnancy and one of hepatitis.¹⁵⁷ There have so far been no problems due to language barriers (January 2007-June 2008). Children with learning disabilities are placed in the crisis centre in Pazardzhik, where the staff attempts to teach these children basic levels of literacy and hygiene skills. The majority of the children come from very poor families where there were not enough beds, and no running water or electricity, and where they had no access to healthcare, education and no opportunity for socialisation.

- [66]. The Asylum and Refugees Act¹⁵⁸ provides that the best interests of the child are paramount¹⁵⁹ and that an unaccompanied minor or adolescent foreigner, seeking or receiving protection on the territory of Bulgaria should have a guardian appointed under the provisions of the Family Code.¹⁶⁰ The State Agency for Refugees provides supervision and takes measures to ensure prevention of, cruel, inhuman and degrading physical and mental treatment of these children.¹⁶¹ If a guardian is not appointed, unaccompanied foreign children should be represented during proceedings by social workers from the child protection departments.¹⁶² Foreign children seeking protection (usually children who cross the border unaccompanied by adults) have the same rights to education and vocational training as Bulgarian children.¹⁶³ Unaccompanied foreign children up to the age of 18 shall be placed with their relatives or other persons close to them, in a foster family, in a children's institution, or in other places specialising in the care of minors and adolescents.¹⁶⁴ Unaccompanied foreign children who have been granted refugee or humanitarian protection status are placed until the age of 18 with their relatives or other persons close to them, in a foster family, in a children's institution specialising in the care of minors and adolescents under the Child Protection Act (meaning that proposals for placements are issued by the Child Protection Departments and final decisions on placements are issued by district courts).¹⁶⁵ According to the State

¹⁵⁷ Information in paragraph 53 was provided from Pazardzhik crisis centre on 27.06.2008 and concerns trafficked children who stayed in the centre during 2007.

¹⁵⁸ Bulgaria/Закон за убежището и бежанците [Asylum and Refugees Act] (01.12.2002).

¹⁵⁹ Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 6a.

¹⁶⁰ Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 25, para. 2.

¹⁶¹ Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 25, para. 3.

¹⁶² Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 25, para. 5 in connection to Art. 15, para. 7 of the Child Protection Act.

¹⁶³ Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 26.

¹⁶⁴ Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 29, para. 7.

¹⁶⁵ Bulgaria/Закон за убежището и бежанците (01.12.2002), Art. 33.

Agency for Refugees, there are no cases of child refugees who were victims of trafficking for the period 2000-2007.¹⁶⁶

- [67]. In each administrative or court procedure where the rights and interests of a child are involved, it is obligatory that any child over the age of ten receives a hearing, unless this hearing is damaging to the interests of that child.¹⁶⁷ Where a child has not yet reached the age of ten, he/she may still be heard and his/her opinion taken into consideration, depending on the level of his/her development and understanding. The decision of the hearing of the child should be reasoned.¹⁶⁸ Before hearing the child, the administrative or court authority should ensure provision of the information necessary to help the child form his/her opinion, and should inform the child of the possible consequences of his/her wishes or opinions, and of each decision of the administrative body or court.¹⁶⁹ In all cases the hearing and consulting of the child should be performed in an appropriate environment and in the presence of a social worker from the social assistance agency at the permanent address of the child, and where necessary in the presence of another specialist.¹⁷⁰ The court or the administrative body orders the hearing to be held in the presence of the parent, guardian or other close person known to the child, unless this does not correspond to the interests of the child.¹⁷¹ In each case the administrative body or the court shall notify the Social Assistance Department (SAD) appropriate to the current address of the child. The notification shall contain information about the subject of the proceedings, the parties, the task of the SAD and the deadline for its implementation. This notification shall be issued at least 14 days prior to the hearing. The SAD appoints a representative who sends a statement or report if he/she is not able to be present at the hearing.¹⁷² The SAD might represent the child in cases regulated in the legislation.¹⁷³ The child has the right to legal aid and the right to appeal in all proceedings related to his/her interests and rights.¹⁷⁴
- [68]. Evidence of specialised integration programmes for trafficked children were not found by this research. No such provision is mentioned in programmes, plans and legislation, or by the officials interviewed at the National Commission for Combating Trafficking in Human Beings¹⁷⁵ and the State Agency for Child Protection, or those who work in crisis centres. Access to education, vocational

¹⁶⁶ Interview with Ani Andreeva, head of the Social Activities and European Refugees Fund Department at the State Agency for Refugees, on 07.07.2008.

¹⁶⁷ Bulgaria/*Закон за закрила на детето* [Child Protection Act] (13.05.2000), Art. 15, para. 1.

¹⁶⁸ Bulgaria/*Закон за закрила на детето* (13.05.2000), Art. 15, para. 2.

¹⁶⁹ Bulgaria/*Закон за закрила на детето* (13.05.2000) Art. 15, para. 3.

¹⁷⁰ Bulgaria/*Закон за закрила на детето* (13.05.2000) Art. 15, para. 4 (18.04.2003).

¹⁷¹ Bulgaria/*Закон за закрила на детето* (13.05.2000) Art.15, para. 5 (09.05.2006).

¹⁷² Bulgaria/*Закон за закрила на детето* (13.05.2000) Art. 15, para. 6 (09.05.2006).

¹⁷³ Bulgaria/*Закон за закрила на детето* (13.05.2000) Art. 15, para. 7 (18.04.2003).

¹⁷⁴ Bulgaria/*Закон за закрила на детето* (13.05.2000) Art. 15, para. 8 (18.04.2003).

¹⁷⁵ Interview with Ivanka Georgieva, NCCTHB official, telephone interview, 26.06.2008.

training and health services are provided for in the legislation for trafficked children, in the same way as they are for all children.

G. Prosecution

- [69]. Art. 140 of the Criminal Procedure Code¹⁷⁶ regulates the rules for interrogation of minor and adolescent witnesses. Witnesses who are minors (children younger than 14) are interrogated in the presence of a pedagogue or psychologist and when necessary the parent or the guardian are also present.¹⁷⁷ Witnesses who are adolescent (children aged from 14-18) are also interrogated in the presence of those persons, if the authority (police/investigators/court) finds that necessary.¹⁷⁸ The parents, guardians, psychologists and teachers may ask questions if permitted by the interrogating body.¹⁷⁹ The interrogating authority should explain to witnesses who are minors the necessity of stating the truth, without warning the witness about liability.¹⁸⁰ The Criminal Procedure Code also gives the opportunity for interrogation of a witness whose identity is kept secret.¹⁸¹ It provides for use of audio and video tapes for interrogation.¹⁸² Other measures for protection of persons threatened during criminal proceedings are provision of a bodyguard, protection of property, temporary placement in a secure place of residence, change of school/workplace, change of personal identity.¹⁸³ The Criminal Procedure Code does not specifically provide for child-sensitive procedures other than interrogation.
- [70]. In 2006, the Council for Criminological Research conducted a study of general criminal court prosecutions which concluded with the imposition of a penal sentence, and which had been instituted under Art. 159a-159c (Trafficking in human beings) of the Criminal Code since their introduction into the Code in 2002.¹⁸⁴ In the course of the research it was decided to modify the research methodology so that the prerequisites and conditions for these crimes to occur would also be researched. The aim was to allow a comparison of the risk factors found in this survey and one carried out previously, to evaluate the dynamics of the events studied, and to perform an expert assessment of the risk factors and conditions for human trafficking, taking into account the recommendations of

¹⁷⁶ Bulgaria/Наказателно-процесуален кодекс [Criminal Procedure Code] (29.04.2006).

¹⁷⁷ Bulgaria/Наказателно-процесуален кодекс (29.04.2006), Art. 140, para. 1.

¹⁷⁸ Bulgaria/Наказателно-процесуален кодекс (29.04.2006), Art. 140, para. 2.

¹⁷⁹ Bulgaria/Наказателно-процесуален кодекс [Criminal Procedure Code] (29.04.2006), Art. 140, para. 3.

¹⁸⁰ Bulgaria/Наказателно-процесуален кодекс (29.04.2006), Art. 140, para. 4.

¹⁸¹ Bulgaria/Наказателно-процесуален кодекс (29.04.2006), Art. 141.

¹⁸² Bulgaria/Наказателно-процесуален кодекс (29.04.2006), Art. 238 and Art. 240.

¹⁸³ Bulgaria/Закон за защита на лица, застрашени във връзка с наказателно производство [Protection of Persons, Threatened in Connection to Criminal Proceedings Act], (25.05.2005), Art. 6.

¹⁸⁴ Bulgaria/Национална комисия за борба с трафика на хора (НКБТХ), Доклад за дейността на Националната комисия за борба с трафика на хора за 2007 г. [Report on the Activity of the National Commission for Combating Trafficking in Human Beings 2007], p. 18.

the European Commission working sub-group on ‘Trafficking in Human Beings’.¹⁸⁵ In view of these recommendations, expert assessment must be conducted on an annual basis. At present, the two sub-surveys are on the immediate agenda, and the methodology section has already been elaborated.

- [71]. According to the Supreme Prosecution Office in Bulgaria,¹⁸⁶ in 2005, 23 criminal proceedings against 34 persons were opened on the basis of Art. 155, para. 5, item 1 of the Criminal Code (persuasion of another person to engage in prostitution and other sexual abuse after an order or as an implementation of a decision of an organised criminal group).
- [72]. In 2005, the prosecution offices in Bulgaria paid particular attention to trafficking in children. A special register is kept at each prosecution office in the country for all crimes of trafficking in children that are investigated. In 2005, the investigative authorities opened criminal proceedings on 111 cases of trafficking in children (the victims in these cases were 100 girls and 11 boys), and in 2004 they were 71 such proceedings (the victims being 60 girls and 11 boys). These figures derive from a broad interpretation of trafficking, including smuggling under Art. 279 and Art. 280 of the Criminal Code and persuasion to engage in prostitution under Art. 155 of the Criminal Code.¹⁸⁷ In 2006, 218 criminal proceedings on trafficking in human beings were opened. Seventy-two indictments were submitted to the court, and 74 persons were convicted of trafficking crimes. Sentences were passed and enforced on 61 persons.¹⁸⁸ In 2007, 212 cases of trafficking in human beings under Art. 159a-c of the Criminal Code were monitored by prosecutors in Bulgaria. Sixty-seven indictments were submitted to the court against 110 accused persons. Eighty-five persons were convicted of trafficking in human beings, and 73 were awarded sentences that were enforced in 2007.¹⁸⁹

¹⁸⁶ Bulgaria/ Главна прокуратура [Supreme Prosecution Office] (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], p. 7, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

¹⁸⁷ Bulgaria/ Главна прокуратура [Supreme Prosecution Office] (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], pp. 7, 8, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

¹⁸⁸ Bulgaria/ Главна прокуратура [Supreme Prosecution Office], *Доклад на прокуратурата на Република България за 2006 година* [Report for the Prosecution Offices in Republic of Bulgaria Activities 2006], p.8, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

¹⁸⁹ Bulgaria/ Главна прокуратура [Supreme Prosecution Office], *Доклад на прокуратурата на Република България за 2007 година* [Report for the Prosecution Offices in Republic of Bulgaria Activities 2007], p.14, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

- [73]. According to the Supreme Prosecution Office,¹⁹⁰ a practical difficulty in investigation of the organised criminal groups involved in transnational trafficking crimes is that the victims (often female) leave the country legally, in line with visa and border rules, and the crimes are being committed in the EU countries which are the final destination for the trafficking. It is also difficult to find evidence on cases where pregnant women leave Bulgaria and deliver their babies abroad, and where false fathers with the consent of the mothers then legally register such children as their own. Trafficking of such babies cannot be legally defined in these cases, as they were not born and were not subject to criminal activity when their mothers crossed the border, and because there is mutual understanding and consent between the false fathers and the mothers, which hinders police intervention in investigation. Trafficking in children for the purpose of sexual exploitation, theft and begging abroad is also difficult to investigate, according to the Supreme Prosecution Office,¹⁹¹ as the children leave Bulgaria legally and accompanied by an adult who is usually their parent, and in all cases with the consent of both parents.
- [74]. In 2006 the Supreme Court of Cassation initiated two cases¹⁹² under Art. 159a-c of the Criminal Code (trafficking in human beings), the judgements on which were issued in 2007. There was only one case initiated under Art. 159a-c of the Criminal Code in 2007.¹⁹³
- [75]. Starting from 2006, official data on the number of convicted and sentenced perpetrators of trafficking in human beings have been kept at the National Statistical Institute (NSI). The data are not differentiated according to the age/gender/other characteristics of the victims. In 2006 the NSI produced a compact disk¹⁹⁴ with such data, according to which 58 trafficking crimes were investigated during 2006, and resulted in court proceedings in which 45 persons were convicted. Twenty-five persons were sentenced to one to three years of imprisonment, two persons to up to 6 months of imprisonment, eight people to six months to one year, two people to three to five years, and eight people to three to five years. The majority of the perpetrators are men aged between 30-39 who are unemployed. Forty-four of those sentenced for trafficking crimes committed in 2004 and previous years fall in to this category..

¹⁹⁰ Bulgaria/Главна прокуратура [Supreme Prosecution Office] (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], p.10, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

¹⁹¹ Bulgaria/ Главна прокуратура [Supreme Prosecution Office] (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], p. 11, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

¹⁹² Bulgaria/Върховен касационен съд/Cases 618/2006 and 1000/2006, with judgements on them 143/2007 and 268/2007 respectively.

¹⁹³ Bulgaria/Върховен касационен съд/Number 668/2007, judgement 13/2008.

¹⁹⁴ Bulgaria/Национален статистически институт [National Statistical Institute], *Престъпления и осъдени лица 2006* [Crimes and Persons Convicted 2006].

- [76]. On 01.01.2007, the Assistance and Financial Compensation of the Victims of Crimes Act entered into force.¹⁹⁵ It provides for the right to assistance comprising urgent medical care, psychological consultations, free legal assistance and practical assistance¹⁹⁶ to the victims of trafficking,¹⁹⁷ among victims of other crimes, if these crimes were committed after 30.06.2005.¹⁹⁸ Foreign citizens of EU Member States are also entitled to assistance and financial compensation under this act.¹⁹⁹ Psychological consultations are provided by NGOs working in the field of protection of victims of crime after the victim files an application. The costs of these consultations are paid by the Ministry of Justice to the NGOs who provide such services. Practical assistance is also provided by NGOs. Free legal aid is provided under the Legal Aid Act.²⁰⁰ Financial compensation is provided after a conviction has been made or after the issue of an act by a prosecutor or court for suspension or closure of a criminal case.²⁰¹ The amount awarded might range between BGN 250-5000 (appr. EUR 125-2500),²⁰² and is supposed to compensate for expenses related to medical treatment, funeral, court and administrative fees, and missed income.²⁰³ The victim should apply for financial compensation to the regional governor appropriate to his/her current address, or to *Национален съвет за подпомагане и финансова компенсация на пострадалите от престъпления* (the National Council for Assistance and Financial Compensation of the Victims of Crimes) at the Ministry of Justice)²⁰⁴ within two months after conviction or the enforcement of the court or prosecutor's act regarding the criminal case.²⁰⁵ An expert commission²⁰⁶ at the Ministry of Justice Council is obliged to decide on the application within three months of its submission. The decisions of the Council are not subject to appeal. The

¹⁹⁵ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007).

¹⁹⁶ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 8.

¹⁹⁷ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 3, para. 3.

¹⁹⁸ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), additional para. 4.

¹⁹⁹ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления [Assistance and Financial Compensation of the Victims of Crimes Act] (01.01.2007), Art. 1.

²⁰⁰ Bulgaria/Закон за правната помощ (01.01.2006).

²⁰¹ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 12.

²⁰² Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 13.

²⁰³ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 14.

²⁰⁴ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 7. This states that this council should be established at the Ministry of Justice. Its address is 1 Slavyanska Street, Sofia, 1040, tel. +3592/9805067.

²⁰⁵ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 18.

²⁰⁶ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 22, para. 2.

commission decides on whether the victim has a right to compensation, and if so, what the amount of the compensation should be. The victim is not entitled to compensation if he/she did not inform authorities about the crime (unless important reasons hindered him/her doing so), or if the victim has already been compensated in another way.²⁰⁷ The victim is entitled to the right of compensation and assistance for crimes committed within and outside Bulgaria.

[77]. Each parent can represent/defend his/her children during criminal proceedings.²⁰⁸ According to the Criminal Procedure Code,²⁰⁹ legal representation in court of any child victims of crimes (including child victims of trafficking) may be provided by parents and other direct relatives in the ascending line, and in cases where a conflict of interests exists between a victim who is minor or adolescent and his/her parents or legal guardian, the appropriate body appoints a special representative – a lawyer.²¹⁰ Thus children are entitled to legal aid, but this is not mandatory and free of charge in cases where they are victims.

[78]. This research did not find data of compensation of children victims of trafficking. Since the existence of court cases on trafficking in general are reported in 2006 for the first time in national statistics, the Supreme Court heard only two cases of trafficking in 2006 and electronic databases of the courts are not available it is impossible to find out if any civil or criminal cases of trafficking in children were finished with financial compensation or fine for the perpetrator.

H. Miscellaneous

Below are some examples of crimes of trafficking in children, the information on which was provided by the Supreme Prosecution Office in 2005.²¹¹

- **Pazardzhik District Prosecution Office**
 - inv. case № 543/2005 at the Pazardzhik Investigation Service

²⁰⁷ Bulgaria/Закон за подпомагане и финансова компенсация на пострадалите от престъпления (01.01.2007), Art. 14.

²⁰⁸ Bulgaria/Семеен кодекс [Family Code] (28.05.1985), Art. 73, para. 1.

²⁰⁹ Bulgaria/Наказателно-процесуален кодекс [Criminal Procedure Code] (29.04.2006), Art. 91, para. 2.

²¹⁰ Bulgaria/Наказателно-процесуален кодекс [Criminal Procedure Code] (29.04.2006), Art. 101, para. 1.

²¹¹ Bulgaria/ Главна прокуратура [Supreme Prosecution Office] (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], pp.8- 11, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.

against three accused persons for recruiting and transportation abroad of women (among whom were children) for the purpose of prostitution.

- **Haskovo District Prosecution Office**

- police case № 124/2005 Haskovo Police Department – trafficking of a girl with for the purpose of prostitution. The case was closed after a forensic assessment of the perpetrator showed he was unable to comprehend his actions.
- police case № 250/2005 at the Haskovo Police Department – against two accused persons for trafficking of a girl for the purpose of forced prostitution. The victim was brought back to her parents.
- police case № 420/2005 at the Haskovo Police Department – trafficking of two girls for the purpose of forced prostitution by abduction.

- **Svishtov District Prosecution Office**

- inv. case № 246/2004 at the NIS – against a female accused person who as a parent received payment to give her daughter, born in 1991, to live in a sexual relationship with a Serbian citizen in Germany, and received payment to give her niece, also born in 1991, to live in a sexual relationship with a Serbian citizen in Belgium. (Art. 192, para. 1 CC.)

- **Ruse District Prosecution Office**

- police case № 73/05 at the Ruse District Police Department (under Art. 159b, para. 1, Art. 159a, para. 1, item 2) – transportation across the border of a girl for the purpose of forced labour (committing theft abroad) She was registered at Vienna Police Departments on numerous occasions. The Social Assistance Department issued order 3Д-228/11.11.2005 for placement in a children’s institution.
- police case № 743/05 at the Ruse District Police Department – against five accused persons who used the condition of dependency of a girl and placing her in servitude transported her across the border for the purpose of theft and forced labour. She was repatriated from Slovenia, Czech Republic, Belgium, Poland and Holland.

- **Sofia District Prosecution Office**

- police case № 41/2005 at the border at Kalotina / case № 1022/04 at Slivnica Prosecution Office – against a female person who recruited a girl and transported her across the border against her will for the purpose of slavery (Art. 159b, para. 2).

- **Regional Prosecution Office-Sofia:**

- inv. case № 66/2005 at the NIS / case № 38400/04 at the District Prosecution Office-Sofia – trafficking of a female child across the

- border by use of force and fraud (Art. 159b, para. 2 and Art. 159a, para. 2, item 1 and 2).
- inv. case № 230/05 at the NIS / case № 45190/05 at the District Prosecution Office-Sofia – trafficking of a female child by crossing the border for the purpose of using her for forced labour (Art. 159a, para. 2).
 - inv. case № 140/05 at the NIS / case № 26832/05 at the District Prosecution Office-Sofia – transfer across the border and transportation to Austria of many women, among whom were girls under the age of 18, for the purpose of prostitution (Art. 159a).
 - inv. case № 120/05 at the NIS / case № 17982/05 at the District Prosecution Office-Sofia – two persons who by promising and giving benefits convinced two girls and transported them abroad for the purpose of prostitution (Art. 159b, para. 2, Art. 159a, para. 2, item 6 and Art. 155, para. 3).
 - inv. case № 10/05 at the NIS / case № 46538/05 at the District Prosecution Office-Sofia – transportation of two girls to Italy for the purpose of prostitution (Art. 159a, para. 2).
 - -police case № 335/05 / case № 7901/05 at the District Prosecution Office-Sofia – recruiting persons, among whom there were two children, from Romania for the purpose of prostitution in Bulgaria (Art. 159a, para. 2).
 - inv. case № 237/05 at the NIS / case № 51774/05 at the District Prosecution Office-Sofia – transportation of people, among whom were children, from Arabic countries to Bulgaria for the purpose of forced labour (Art. 159, para. 1).
 - -inv. case № 86/05 at the NIS / case № 18530/05 at the District Prosecution Office-Sofia – persuasion and transportation across the border of two girls for the purpose of prostitution (Art. 159b).
 - inv. case № 1/05 at the NIS / case № 5327/04 at the District Prosecution Office-Sofia – persuasion by use of force and fraud and transportation of one girl to Austria for the purpose of prostitution (Art. 159b, para. 2, Art. 159a, para. 2, item 2).

In 2005 at district prosecution offices in Sliven, Burgas and Aitos, 17 cases were opened for investigation by the National Investigation Service under Art. 182a of the Criminal Code (trafficking of newly born babies and pregnant women for the purpose of illegal adoption of the babies abroad). The proceedings were postponed while replies to the requests sent by the Bulgarian authorities were awaited from other countries.

I. Good practices

- [79]. The research did not find any examples of good practice regarding legislation, policy or practice related to prevention, protection or prosecution of trafficking in children.

Annex 1 - Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking								
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)								
Number of trafficked children receiving education/training, in particular secondary education and vocational training					No way to find data	No way to find data	No way to find data	Crisis centers started working in January. according to directors of such centers less than

								50 % recei ve educ ation
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)					No data that any children received legal assistance	No data that any children received legal assistance	No data that any children received legal assistance	No data that any children received legal assistance
Number of final convictions based on child trafficking cases, per year					Trafficking in children 71 cases opened	Trafficking in children 111 cases opened	Trafficking in human beings 218 cases opened, 72 indictments sub	Trafficking in human beings 212 cases opened, 67 indictments 85 convicted people

							mitted, 74 persons convicted, 61 sentences into force	le, 73 sentences into force. ²¹²
Total of amount of compensation paid to trafficked children, per year								
Average of amounts of compensation paid to trafficked children, per year								
Range of amount of compensation paid to trafficked children, per year								

Any other tables or statistics relevant for child trafficking

²¹² Bulgaria/Главна прокуратура [Supreme Prosecution Office], *Доклад на прокуратурата на Република България за 2007 година* [Report for the Prosecution Offices in Republic of Bulgaria Activities 2007], p.14, <http://www.prb.bg/php/document.php>, accessed 4.08.2008.