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Analysis of legislative background on the fight against human trafficking in the Slovak Republic / *Human security - the synergy of freedom and individual responsibility*

Abstract

Human trafficking crosses borders between regions, countries and continents. Taking into account this fact, it is clear that the effort to improve the fight against this unwanted phenomenon requires international cooperation between Member States. This post presents an analysis of the current legal status of the fight against trafficking in human beings in the Slovak Republic in accordance with the rules of the Council of Europe. To make the fight against trafficking in human beings, the authors of the article proposed in the Slovak Republic special legislation aimed at combating trafficking in human beings with an emphasis to deal with the coordination area, but also in the identification of victims of trafficking in human beings and the provision of aid to these victims.

Key words: trafficking in human beings, the national coordinator, victim of human trafficking, identification of victims, victim assistance, support and protection of victims of trafficking in human beings, the national program.

Council of Europe Convention on action against trafficking in human beings (hereinafter referred to as “the Convention”) defines the obligation for the Contracting Parties to the Convention on the adoption of measures for the introduction or strengthening of national coordination between the various bodies responsible for preventing and combating trafficking in human beings. As a first step, to which the Slovak Republic has declared the fight against trafficking in human beings has been the resolution of the Government of the Slovak Republic No. 668 of the day 7. In September 2005, adopted the report on the activities of the Government of the Slovak Republic in 2005, aimed at preventing and combating trafficking in human beings. On the basis of the decision of the Government of the Slovak Republic was appointed national coordinator for the fight against trafficking in human beings was adopted by the first conceptual material at the national level in the form of a national action plan to combat trafficking in human

beings for the period 2006-2007. This document included among its primary tasks of creating a mechanism for the management and coordination of activities in the field of combating trafficking in human beings.

For the purpose of the fulfilment of the tasks set out at the end of 2006 was issued an internal regulation of the Ministry of Interior of the Slovak Republic on the establishment of the Expert group in the field of the fight against trafficking in human beings (hereinafter referred to as “the expert group”). This is a group of professionals, which is a consultative and coordinating body of the national coordinator, addressing the issue pro-actively, the fight against trafficking in human beings at the strategic level and composed of representatives of the relevant ministries, the Office of the Government of the Slovak Republic, the Office of representative Government of the Slovak Republic for Roma communities, the General Prosecution Office of the Slovak Republic, of the Association of towns and municipalities of Slovakia, the International Organization for Migration IOM and representatives of non-governmental organizations in Slovakia. With regard to the functioning of the expert group, the national coordinator of the roofing are its decisions binding on all of its members, and hence for the participating departments, offices, organizations and non-governmental organizations, which, however, is not explicitly expressed in the generally binding regulation.

For this reason, it is necessary to consider the drafting of the Bill, which would set a role for interested not only in the area of coordination, but also in other areas necessary to perform tasks in the fight against trafficking in human beings. On 23 July. In April 2008 the Government of the Slovak Republic approved the national programme for the fight against trafficking in human beings for the period 2008-2010 (hereinafter referred to as the “national program”). In terms of the performance of the tasks of the national programme are the Ministry of Interior of the Slovak Republic created the law of internal multidisciplinary working groups in the field of the fight against trafficking in human beings, which are focused on the provision of comprehensive care to people with prevention of trafficking victims of human trafficking and deal with problems arising from the “ad hoc” group in the field of the fight against trafficking in human beings, which are aimed at the prevention of trafficking in human beings and to provide comprehensive care for victims of human trafficking and deal with problems arising from the “ad hoc”.

In order to ensure a uniform procedure, published by the Ministry of Interior of the Slovak Republic in December 2006, the internal regulation of the security programme for the promotion and the protection of victims of trafficking in human beings (hereinafter referred to as “the programme”). It should be noted that the internal management of the Ministry of Interior of the Slovak Republic Act cannot bind other departments to carry out the tasks, therefore, recommends the adoption of a comprehensive legal norm of higher legal force, which ultimately derives from the draft assessment report of GRETA, in order to ensure an effective fight against trafficking in human beings with a multidisciplinary approach, as is apparent from the explanatory report to the Convention. It should also be taken of the extent of the phenomenon of trafficking in human beings, which requires

a response and countermeasures to comprehensive and systematic level, which implies the involvement of a wide range of public, private and third sector and their effective coordination, as defined in the current National program for the fight against trafficking in human beings for the years 2011-2014 which was approved by the Government of the Slovak Republic 16. February 2011.

Measures will be carried out in accordance with the performance of the tasks of the national programme to combat trafficking in human beings for the years 2011-2014 and in the framework of the implementation of the analysis of the situation in the area of prostitution and associated demand for sexual services in 2012 and the development of the conceptual material with suggestions for solutions; the implementation of the research focused on the lack of information concerning the forms of trafficking in human beings; increase awareness about trafficking in human beings on the demand side, as well as for potential offenders.

To ensure the prevention of trafficking in human beings demand used in the Slovak Republic the system of aid in material difficulty, which is a kind of safety net for people with low or absent TV. In Slovakia is composed of a wide range of measures, aid policy from the provision of direct financial transfers to increase income (e.g. assistance in material need, State social benefits) through a reduction in expenditure (material in the form of a subsidy for the child, the school, the provision of the services), to support active inclusion measures, direct access to employment, education and active participation in social life. The key is to ensure that income support measures (in particular families with children), promoting access to employment, education and integration into the labour market, access to public services and the development of human capital. The system of social protection (individuals, the family and its members) is ensured in particular through instruments assistance in material need. Within the meaning of the Constitution of the Slovak Republic to every person who is in need, have the right to such assistance, which is essential to ensure the basic living conditions of the above law is the constitutional guarantee — for every citizen. The goal is to aid in hardship should the nature of the preventive measures and temporary solution only for those whose potential can be activated. Families with children the State financially supports within the system of state social support and social benefits of the national recurrent lump.

The provision of benefits is governed by laws which lay down the legislative conditions for entitlement to individual benefits, their amount, method and procedure for their payment, including provisions aimed at minimizing the possible use of ineffective funds. According to the Act No 5/2004 Coll. on employment services and on amendments to certain laws, as amended by later regulations (hereinafter referred to as the “law on employment services”) is a citizen of the right to access to employment without any restrictions in accordance with the principle of equal treatment in labour relations and similar legal relations established by the anti-discrimination law. Control of illegal work and illegal employment is carried out and the penalties imposed by the Head Office of labour, social and Family Affairs (hereinafter referred to as “headquarters”) under the law on employment services

and labour inspectorates under the law No 125/2006 Coll. on labour inspection and on the amendment of the law on undeclared work and illegal employment. Control activities include, inter alia, permission to enter freely and at any time, subject to the control of illegal work and illegal employment and workplaces to the extent necessary to enter on private land and communications; to require proof of the identity of the natural person appearing at the workplace of the employer and an explanation of the reason for its presence. With a view to preventing and banning discrimination on the basis of sex, the Government of the Slovak Republic has adopted two strategic materials:

- The national strategy for the prevention and eradication of violence against women and in families
- The national strategy for gender equality

Of these strategic materials subsequently adopted action plans, which are based on the basic objectives and strategies formulated in specific tasks, including the determination of the responsibility of circuits for their implementation: The national action plan for the prevention and eradication of violence against women; The national action plan for the prevention and eradication of violence against women for years; National action plan on gender equality for the period.

The provision of education in any field is from the perspective of the subject of focus set out in law No 245/2008 Coll. on the upbringing and education (Education Act) and on the amendment of certain laws and from the perspective of the education they provide is the issue contained in Act No 317/2009 Coll. on the teaching staff and professional staff, and on amendments to certain laws. According to the Education Act, education in schools and educational establishments may be carried out solely on the basis of exchanges of socio-educational program. In the context of the Education Act, it is possible to distinguish between the State and the school teacher-training program. The State shall determine the content of the training programmes of education and training in schools under the law in order to obtain the necessary competences. These public education programs are published by the Ministry of education, science, research and the sport of the Slovak Republic (hereinafter referred to as “the Ministry”). If there was a specific national training program, where it would be possible to include the educational programmes in the field of combating trafficking in human beings, according to the Education Act, the scope of the competent central authority of the State Administration intended, within the scope of which the issue belongs in the cooperation with the Ministry. Public education programs are also the starting point for the development of school curricula, the creation and assessment of textbooks, instructional texts and a comprehensive assessment of the results achieved in the framework of the educational process. It is also the key for the content of individual items that make up the content of the lesson plans and curricula for individual schools according to § 9 of the Education Act. The school education program is the starting document, according to which education is carried out in a particular school and Director of the school after consultation in the Council of the school of education and the Council of the school. If you require a creator shall have the

right to approve of a particular school's curriculum. Maybe a tutorial on the fight against trafficking in human beings is not included in the national curriculum, and therefore cannot be included in the school curricula, which are concretization of state educational programs. Teaching-learning process in the field of combating trafficking in human beings, therefore, can be contained only within the curricula of selected specific socio-educational subjects, such as civics. For bodies which may provide different types of education is an essential Act of teaching staff and professional staff, which distinguishes between the different categories of educational and professional employees. In the framework of the teaching of the civil doctrine covering on the fight against trafficking in human beings, they play an essential role teachers, who must complete a course of study that focus so as required by law, or to continue in a continuous education, which is however voluntary and lies in the systematic acquisition of credits per unit completed the study programme. Just as it has in the educational process of the essential role of pedagogic assistant, or tutors.

An integral part of the problem of trafficking in human beings is the removal of organs. Its legal framework is in the conditions of the Slovak Republic provided for in title II of law no 576/2004 Coll. on health care, services related to the provision of health care and on amendments to certain laws, as amended by later regulations (hereinafter referred to as "the law of health care"). This law laid down all the essential attributes of a legal procedure to remove bodies (in particular the definition of entities which are authorized to undertake procurement, as well as the terms and conditions of the donation). Unauthorized subscription is included in the scope of the criminal law. In the case of the health care law provides that the removal of organs (as well as the donation, testing, processing, preservation, storage, transfer or distribution of organs, tissues or cells) may be carried out for the purposes of transplantation, as well as scientific research aims for just such a provider who has issued for these purposes, any authorization that is issued pursuant to the Act of 2004 on 578/health care providers, health care workers, trade organizations in the health sector and on amendments to certain laws, as amended by later regulations (hereinafter referred to as the "law on providers"). In accordance with the law on health care, it is forbidden to remove and transfer of organs, tissues and cells, as well as for the purpose of financial gain or other material benefit. The donation of organs, tissues or cells is voluntary and free of charge. The law clearly lays down the conditions for the care of the donation. Among the measures to facilitate the prevention of the establishment of a National Transplant Registry include the demand can be list of people waiting for a transplant, where the order of the medical aspect, and a list of potential donors exclusively. Also have a legal obligation to notify health care providers of all cases in which they have reasonable grounds for believing Also have a legal obligation to notify health care providers of all cases in which they have reasonable grounds to suspect that the damage to the health or death of a person may have the participation of the other person.

In addition to the already mentioned general binding rules are the professional guidelines issued by the Ministry of health of the Slovak Republic hereinafter provided for:

- donation, procurement of human organs from the bodies of the living and deceased donors, the donor testing and transfer of human organs to the recipient,
- transport in connection with the program of organ transplants, tissues, cells, and allocation of organs for transplant purposes,
- the choice of the recipient's body and mapping algorithm of the patients on the waiting list for transplantation

To prevent demand in relation to preventing sexual exploitation of children and adolescents, it is necessary to mention also the non-legislative measures, such as the publications concerning the syndrome CAN with an emphasis on how to prevent the sexual exploitation of children and adolescents.

The procedure for the identification of victims of trafficking in human beings in the Czech Republic, as well as their possible inclusion in the programme for the promotion and the protection of victims of trafficking in human beings is an essential part of the national frame of reference (i.e. the structure of cooperation, within which public authorities fulfil their obligation to protect the human rights of the victims of trafficking, and to coordinate these efforts in strategic partnerships with civil society). The basic aim is to ensure respect for the human rights of victims of trafficking in human beings and the provision of services. Secondary to the development of national policies and procedures can help for the victims of trafficking, such as the legalization of their stay, and then edit the for example legal establishment, their compensation and to provide protection. The provision of basic human rights and dignity of the victims shall be conditional upon their early identification, which is also a condition of their designation as victims. The measures must take into account the fact that the victims of trafficking in human beings often have problems relating to awareness of the situations in which they are located. Identify potential victim of trafficking in human beings may be any entity arising from public authorities or non-governmental organizations within the framework of the Slovak Republic, as well as from abroad, as well as the victim, and her family members through National help lines for victims of human trafficking 0800 800 818. Revealed potential victims are referred to the care of non-governmental organizations or IOM International Organization for migration in Slovakia, which initiate the procedure for the identification of potential victims of trafficking in human beings on the basis of the above initiatives through the identification of the questionnaire, the personal record of the client, which is based on the definition of trafficking in human beings. The Protocol to the Palermo international (additional protocol to prevent, Suppress and punish trafficking in persons, especially women and children, to the United Nations Convention against transnational organized crime).

In the scope of the current national programme to combat trafficking in human beings (hereinafter referred to as “NAP”) is:

- increasing the expertise of representatives of State and non-State actors working with “endangered” in relation to trafficking in human beings, groups
- ensure uniform identification of victims of trafficking by creating a single form of identification on the basis of which they will follow all the involved actors. Part of the tasks in this section also aims at improving and enhancing the ability of their own victims,
- coordination in the area of the stakeholders in the cases of trafficking in the case of a minor, and those aliens.

To facilitate the identification of victims of trafficking in persons Office of the International Organization for Migration IOM has developed a manual, which was approved by the Ministry of the Interior in Bratislava, the Slovak Republic and persons coming into contact with the victims was provide work activities has been explicitly included psychological counselling provided for victims of violence and has been processed “a methodical instruction to develop messages for psychologists and other professional staff, research and consultancy in the psychological services”.

The Act of teaching staff and professional staff provides an effective mechanism for the prevention, which consists of preventive measures in schools and educational establishments is carried out by psychologists, school psychologists, pedagogues, social educators, hospitals. The mechanism shall contribute to the early diagnosis of possible disturbances of behavior among children and students, who may be or are victims of trafficking in human beings. Professional staff to assist the process of identifying the victims of this serious crime. The identification of victims of trafficking in human beings is also possible in the framework of the curriculum, and it is therefore also important support activities of the teaching staff in the context of education.

In relation to the identification of victims of trafficking in human beings is a significant obligation to notify health care providers under the Act on providers. In addition to the provision of health care providers are required to notify the Prosecutor, investigator or police authority of reasonable grounds for believing that the damage to the health or death of another person, as well as participation might have suspected neglect, cruelty or abuse of a minor or other person, who is not eligible for legal acts or whose legal capacity has been restricted. This obligation covers only a limited part of the issues framed in trafficking in human beings. In addition to the above legal obligations is a professional guideline issued by the Ministry of health of the Slovak Republic prepared a procedure:

- health professionals in the provision of health care to a woman at risk of violence. It streamlines the procedure for acts of gender-based violence, which results in, or is directed to the fact that its result was a physical, sexual or psychological damage figures and women, including threats of such acts, coercion, or any suppression of freedom, whether in public or in private life;

- health care providers in cases of suspected sexual abuse of persons under eighteen years of age. Guidance builds on the mandatory reporting of health care providers within the meaning of section 79 (1). 2 of the Act on providers.

In order to ensure a uniform procedure for the entities involved in the identification of victims of trafficking, it is recommended to adjust the legislation to identify victims of trafficking in human beings in the field of health.

Generally binding legislation in the area of health, particularly in this area do not. Health activities are mainly focused on increasing the level of knowledge in the detection of possible victims of trafficking, as well as the ability to empathetic communication with victims, advisory services, and therapeutic options. Victims of trafficking in human beings, who are the beneficiaries of public health insurance, medical care is provided on the basis of law No 580/2004 Coll. on health insurance and on the amendment of Act No. 95/2002 Coll. on insurance and on amendments to certain laws, as amended by later regulations (hereinafter referred to as the “law about health insurance”) under the same conditions as the other policy holders. In the case of insurance claims incurred by the victims of trafficking in human beings, there is a possibility of an agreement with the health insurance company for rescheduling. At the same time, it is possible the agreement cancellation fee for late payment, interest on arrears, respectively.

Social and legal protection and social custody authority (the “authority” of social and legal protection) in the implementation of measures for the protection of victims of trafficking in human beings, in the meaning of socio legal of the Act No. 305/2005 Coll. on the protection of children and social custody and social and legal protection and on amendments to certain laws (hereinafter referred to as the “law for the protection of social and legal protection”), Act No. 36/2005 Coll. on the family and other applicable legal standards as well as in accordance with international conventions, which are Slovak Republic subscribes. Measures for the protection of children and social custody social and legal protection (hereinafter referred to as “social and legal”) shall be carried out for the child, a natural person, family, group and community an adult, in particular, through social work, methods, techniques and procedures appropriate to the knowledge of social sciences and knowledge on the status and the development of socio-pathological phenomena in the society. Authorities active in the provision of protection and social protection social and legal and social custody kids whose parents are unable or unwilling to discharge their parental rights and obligations, or whose parents are physically or psychologically or sexually abuse. Implementation of the measures for the protection of social and legal is focused on providing social counselling, social work, will be able to participate in the field programmes for assistance to victims of trafficking in human beings and, through advisory services provides, in particular, consultancy in the field of psychological treatise services and psychological assistance for the clean-up of the family. Enforcement authority performs the function of a guardian. In the performance measures for the protection of socio legal authority socio legal protection works closely with the police, the courts, the prosecution service, school, school facilities, municipalities, higher territorial

units, accredited bodies, medical devices, as well as other legal and natural persons operating in the area. From the point of view of the protection of social and legal protection we consider performance measures for minors victims of trafficking in human beings to be sufficiently modified, you need to use a sufficient amount of legislative instruments in the implementation of the measures for minors victims of trafficking in human beings.

In the field of international child abduction is the task of the States parties to the Convention on the civil aspects of international child abduction, and to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the country of their habitual residence. In the field of international adoption is for the States parties to the Convention on the protection of children and cooperation in inter-State adoption one of the main objectives the adoption of measures to ensure that, in order to act in the best interests of the child and the adoption of international respect for his fundamental rights and to prevent the abduction, sale or trafficking of children. The law on social services ensures and declares the fulfillment of the needs of victims of trafficking in the field of social services and, in particular, by ensuring the provision of specific forms of assistance and accommodation. Specifically for the dormitory room, shelter, emergency housing, which is also provided that the device is a physical person who is a victim of trafficking and the people and represents the most appropriate social services for victims of trafficking in human beings as a precaution against dangerous people by ensuring the confidentiality and anonymity of a natural person accommodation – victims of human trafficking. In the context of possible assistance to victims of trafficking in human beings, in respect of children or pupils in schools and school facilities are the essential provisions of the Education Act and the Act on teaching staff and professional staff, by means of which it is possible to help children or pupils if they are victims of trafficking in human beings. In the framework of the curriculum are the different forms of a specific way of schooling. It is possible to allow individual children education. In addition, if a student was abducted to a foreign country for the purpose of trafficking in human beings, and there are problems with its release to the home Member State, it is possible to ensure that the socio-educational process even in another State, the study results will be such a pupil. An important form of autonomous learning, which allows students to engage in a crime victim than a proper curriculum is an individualized learning plan that is an individual form of teaching-learning process and allows you to that is an individual form of teaching-learning process and enables students to engage in education and, therefore, is a form of assistance to the victim. The activity of the special educational establishments, which are diagnostic centre, re-education Centre and medical-education sanatorium is an essential form of assistance to victims. In the case of assistance to victims of trafficking in human beings can help educational staff and professional staff, its activities, and on the basis of the tasks entrusted to them in the context of education for teaching staff and professional staff laid down by law.

The internal legislation of the Ministry of Interior of the Slovak Republic, were created Programme for the promotion and the protection of victims of trafficking

in human beings (hereinafter referred to as “The Programme”). The Programme encompasses a wide range of assistance for victims of trafficking in human beings, as a Slovak, as well as foreign, whether stateless persons and entities involved in the fight against trafficking in human beings. The aim of the programme is to provide assistance to the victims, to ensure the protection of their basic human rights, freedoms and dignity, and to motivate the victim to witness statements, which make it easier for law enforcement authorities in the detection, prosecution and the perpetrators of the crime of trafficking in human beings reproof. For the effective functioning of the programme and qualified to provide services to victims according to their individual needs to conclude contracts with NGOs and the IOM in Bratislava on funding from the State budget. The recovery and reflection period under the Convention is seen in the Slovak Republic as a “recovery”, within the meaning of the internal law of the Ministry of Interior of the Slovak Republic lasts 90 days. During that period the foreign victim entitled to ensure comprehensive care, including legalization of stay on the territory of the Slovak Republic for a period of at least 90 days. Comprehensive care for victims of human trafficking – it is the citizens of the Slovak Republic, as well as foreigners granted during the period of crisis care and time to recover for a period of 90 days. After this time it is in the case of a decision on cooperation with law enforcement authorities, victims provided by the comprehensive care throughout the criminal proceedings. After the completion of the criminal proceedings, according to the needs of the care provided during the period of reintegration in the duration of 90 days. If the victim decides not to cooperate with law enforcement agencies in criminal proceedings is provided by the comprehensive care throughout the period of the criminal proceedings. After the completion of the criminal proceedings, according to the needs of the care provided during the period of reintegration in the duration of 90 days. If the victim decides not to cooperate with law enforcement agencies in criminal proceedings is provided by the comprehensive care of the victim, who is a citizen of the Slovak Republic during the period of 90 days and the reintegration of the victim of trafficking in human beings – an alien is provided during the period of preparation for the return to their country of origin.

Act No. 48/2002 Coll. on the residence of aliens and on amendments to certain laws (No 220/2010 Coll. full text of the law on aliens) deals with the permission of the tolerated residence permit, which is granted to an alien who is also, inter alia, the victim of a crime related to trafficking in human beings, where at least 18 years of age, to a maximum of 90 days. In the case of a minor alien be granted police permission to stay such an alien, if tolerated by the Department’s child found in the territory of the Slovak Republic. At the same time, the law also governs the issue of renewal of the authorization to stay for at least 180 days, tolerated and even repeatedly, if it takes the reason for which the authorization was granted and the presence of aliens in the territory of the Slovak Republic, it is necessary for the purposes of criminal proceedings. Authority or person entrusted with law enforcement by the Ministry of the Interior shall inform the alien, having been granted a tolerated residence permit on any programmes or projects whose aim is to enable its integration into the company during the duration of the stay. The

Ministry of the Interior may grant permission for permanent residence without fulfilling the conditions laid down in the law on aliens, if it is necessary for the provision of protection and assistance to witnesses under a special law (Act No. 256/1998 Coll. on the protection of witness in the wording of later regulations). Repatriation and return of victims of trafficking shall be carried out in accordance with the law on aliens (Act No. 48/2002 Coll. as amended) and the law on asylum (Act No. 480/2002 Coll., as amended). After the entry of the alien into the program it is the aid granted for the voluntary return to the country of origin, and mediation assistance service provider operating in the country of origin. Victims of human trafficking who are citizens or residents of the Slovak Republic that the usual competent authorities of another Member State identified as victims of trafficking and, subsequently, their repatriate in the Slovak Republic may apply for inclusion in the programme. Reintegration of victims into society is also subject to the provisions of the internal law of the Ministry of the Interior with respect to the specific needs of the particular victims of human trafficking. Due to the fact that the internal law of the Ministry of Interior of the Slovak Republic unable to commit to other entities involved in providing assistance to victims of trafficking in human beings, we recommend that you consider the edit area to fulfil the obligations for the provision of assistance to victims of trafficking in human beings, in the form of the legal act-the law.