

Binnenzijde omslag, links onder:

The universal notion of protecting human dignity, which is at stake in case of THB, is underlined by the words 'Mensenhandel is verboden' (trafficking in human beings is prohibited) on the front cover of this report. These words are taken from the Charter of Fundamental Rights of the European Union which is part of the Treaty establishing a Constitution for Europe. Following the example of the Dutch artist Henk Visch, who organised in 2003 an exposition under the title 'Mensenhandel is verboden', the words are put in handwriting to stress the importance of their notion in daily practice.

# Trafficking in human beings

**Third report of the  
Dutch National Rapporteur**

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## Abbreviations used

ACVZ	<i>Adviescommissie Vreemdelingenzaken</i> (Advisory Committee on Aliens Affairs)
AIDS	Acquired Immune Deficiency Syndrome
AIVD	<i>Algemene Inlichtingen- en Veiligheidsdienst</i> (National Intelligence and Security Service)
AMA	<i>Alleenstaande minderjarige asielzoeker</i> (unaccompanied underage asylum seeker)
BAMA	<i>Begeleide alleenstaande minderjarige asielzoeker</i> (supervised unaccompanied underage asylum seeker)
BFO	<i>Bureau Financiële Ondersteuning</i> (Financial Support Bureau)
BLinN	Bonded Labour in the Netherlands
BNRM	<i>Bureau Nationaal Rapporteur Mensenhandel</i> (Bureau of the Dutch National Rapporteur on Trafficking in Human Beings)
BOOM	<i>Bureau Ontnemingswetgeving Openbaar Ministerie</i> (Prosecution Service Criminal Assets Deprivation Bureau)
BRT	<i>Bovenregionaal Recherche Team</i> (Supraregional Crime Squad)
BZK	<i>Binnenlandse Zaken en Koninkrijksrelaties</i> (Ministry of the Interior and Kingdom Relations)
CAHTEH	Committee on Action against Trafficking in Human Beings
CBA	<i>Criminaliteitsbeeldanalyse</i> (Crime Projection Analysis)
CBS	<i>Centraal Bureau voor de Statistiek</i> (Statistics Netherlands)
CCIC	Cross Channel Intelligence Conference
CDEG	Steering Committee for Equality between Women and Men
CDPC	European Committee on Crime Problems
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CFI	Criminal Financial Investigation
CIE	<i>Centrale Inlichtingen Eenheid</i> (Central Intelligence Unit)
COA	<i>Centraal Orgaan opvang Asielzoekers</i> (Central Agency for the Reception of Asylum Seekers)
CoE	Council of Europe
CPB	<i>Centraal Planbureau</i> (Netherlands Bureau for Economic Policy Analysis)
CSO	Community Service Order
DCI	Defence for Children International
ECPAT	End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes
ECPAT-NL	ECPAT-Netherlands
EEA	European Economic Area
EU	European Union
FIOD	<i>Fiscale Inlichtingen- en Opsporingsdienst</i> (Fiscal Information and Investigation Service)
FO	<i>Federatie Opvang</i> (Federation of Reception Shelters)
GGD	<i>Gemeentelijke Gezondheidsdienst</i> (Municipal Health Service)
GG&GD	<i>Gemeentelijke Geneeskundige- &amp; Gezondheidsdiensten</i> (Municipal Medical and Health Services)
GOC	<i>Grensoverschrijdend Criminaliteitsteam</i> (Cross-Border Crime Squad)
GPAT	Global Programme Against Trafficking in Human Beings
HIV	Human Immunodeficiency Virus
HON	<i>Handhaven Op Niveau</i> (Quality Enforcement Project)
IAM	<i>Informatie- en Analysecentrum Mensensmokkel</i> (Human Smuggling Information and Analysis Centre)
ICC	International Coordination Centres
ICC	International Criminal Court
ICCO	Interchurch Organisation for Development Cooperation
ICMPD	International Centre for Migration Policy Development
ICPO	International Criminal Police Organization
IEM	<i>Informatie-Eenheid Mensenhandel</i> (Trafficking in Human Beings Information Unit)
IGO	<i>Informatie Gestuurde Opsporing</i> (Intelligence Led Investigation)
IKP-S	<i>Informatie Knooppunt Politie Systeem</i> (Police Information Node System)
ILO/IPEC	International Labour Organisation/International Programme on the Elimination of Child Labour
IMES	Institute of Migration and Ethnic Studies

IOM	International Organization for Migration
JBZ(-Raad)	(Council of ministers of) Justice and the Interior
JIT	Joint Investigation Team
JOS (project)	<i>Juridische Opvang Slachtoffers seksueel geweld</i> (Legal Assistance for Victims of Sexual Violence)
KLPD	<i>Korps Landelijke Politie Diensten</i> (National Police Agency)
KMar	<i>Koninklijke Marechaussee</i> (Royal Military Constabulary)
LP	<i>Landelijk Parket</i> (National Public Prosecution Service)
LSOP	<i>Landelijk Selectie- en Opleidingscentrum Politie</i> (National Police Selection and Education Centre)
LURIS	<i>Landelijk Uniform Registratiesysteem van Internationale rechtshulpverzoeken</i> (National Uniform Registration System of International Legal Assistance Applications)
MOP	<i>Meldpunt Open Plaatsen</i> (Register of Available Places)
MOT	<i>Meldpunt Ongebruikelijke Transacties</i> (Centre for Reporting Unusual Transactions)
NAPS	<i>Nationaal Actieplan Aanpak Seksueel Misbruik van Kinderen</i> (National Action Plan for Combating the Sexual Abuse of Children)
NCIPS	<i>Nederlands Centrum voor Internationale Politiesamenwerking</i> (Netherlands Centre for International Police Cooperation)
NEWR	Network for European Women's Rights
NGO	Non-governmental Organisation
NISSO	Netherlands Institute of Social Sexological Research
NL	The Netherlands
NON	<i>Kernteam Noordost-Nederland</i> (North-East Netherlands Police Core Team)
NOVIB	<i>Nederlandse Organisatie voor Internationale Bijstand</i> (Oxfam Netherlands)
NRI	<i>Nationale Recherche Informatie</i> (National Crime Investigation Agency)
NRM	<i>Nationaal Rapporteur Mensenhandel</i> (National Rapporteur on Trafficking in Human Beings)
NRM1	First report by the National Rapporteur on Trafficking in Human Beings
NRM2	Second report by the National Rapporteur on Trafficking in Human Beings
NWAN	Nigerian Women Association in the Netherlands
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the United Nations High Commissioner for Human Rights
OLAF	<i>Organisation de la Lutte Anti-Fraude</i> (European Anti-Fraud Office)
OM	<i>Openbaar Ministerie</i> (Public Prosecution Service)
OOM	<i>Operationeel Overleg Mensenhandel</i> (Operational Consultation on Trafficking in Human Beings)
OSCE	Organisation for Security and Cooperation in Europe
PACO	Programme Against Corruption and Organised Crime in South-Eastern Europe
PICUM	Platform for International Cooperation on Undocumented Migrants
PMW	<i>Prostitutie Maatschappelijk Werk</i> (Prostitution Social Work)
PPM/dNP	<i>Projectgroep Prostitutie Mensenhandel/de Nederlandse Politie</i> (National Police Project on Prostitution and Trafficking in Human Beings)
PPS	Public Prosecution Service
RCP	Regional Clearing Point
REAB	Return and Emigration of Asylum seekers ex Belgium
REAN	Return and Emigration of Aliens from the Netherlands
RFSU	<i>Riksförbundet för Sexuell Upplysning</i> (Swedish Association for Sex Education)
SAARC	South Asian Association for Regional Cooperation
SGBO	<i>Onderzoeks- en Adviesbureau van de Vereniging van Nederlandse Gemeenten</i> (Research and Advice Bureau of the Association of Dutch Municipalities)
SiBa	<i>Statistische informatievoorziening en Beleidsanalyse</i> (Statistical Data Supply and Policy Analysis Unit)
SIOD	<i>Sociale Inlichtingen- en Opsporingsdienst</i> (Social Security Investigation and Detection Service)
SRTV	<i>Stichting Religieuzen Tegen Vrouwenhandel</i> (Dutch Foundation of the Religious against Trafficking in Women)
SSR	<i>Studiecentrum Rechtspleging</i> (Training and Study Centre for the Judiciary)
STD	Sexually Transmissible Diseases
STV	<i>Stichting Tegen Vrouwenhandel</i> (Dutch Foundation against Trafficking in Women)
TAMPEP	Transnational STD/AIDS Prevention amongst Migrant Prostitutes in Europe
THB	Trafficking in Human Beings

UN	United Nations
UNCICP	United Nations Centre for International Crime Prevention
UNICEF	United Nations Children's Fund
UNICEF UK	UNICEF United Kingdom
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
VAS	<i>Vreemdelingen Administratie Systeem</i> (Aliens Administration System)
VER	<i>Vereniging Exploitanten Relaxbedrijven</i> (Association of Sex Club Owners)
VNG	<i>Vereniging Nederlandse Gemeenten</i> (Association of Netherlands Municipalities)
VTV	<i>Vergunning Tot Verblijf</i> (Residence Permit)
VVR	<i>Verblijfsvergunning Regulier</i> (Regular Residence Permit)
VWS	<i>Volksgezondheid, Welzijn en Sport</i> (Ministry of Health, Welfare and Sport)
Wet BIBOB	<i>Wet Bevordering Integriteitsbeoordeling door het Openbaar Bestuur</i> (Promotion of Integrity Reviews by the Public Administration Act)
WIM	<i>Wet Internationale Misdrijven</i> (International Crimes Act)
WODC	<i>Wetenschappelijk Onderzoek- en Documentatiecentrum</i> (Scientific Research and Documentation Centre)
WvSr	<i>Wetboek van Strafrecht</i> (Criminal Code)

## Foreword

This is the English version of the revised and substantially abridged<sup>1</sup> Third Report on Trafficking in Human Beings that was presented to the Dutch government in July 2004. Just as in the First Report, attention will be given to legislation and regulations and the efforts of the police and the Public Prosecution Service in this area. The victims of trafficking will also be considered further, together with those non-governmental organisations and persons that provide them with assistance and represent their interests, such work being of incalculable value. A crucial factor is the awareness that these victims, because of exploitation, have had their human dignity severely impaired and have been forced into a position of subjugation to such an extent that this constitutes a breach of fundamental human rights. Society must act to combat this.

Providing information to the government can be a means of creating a better basis for drawing up or amending policy, but what is important is the way in which policymakers actually use this information. In the mean time, the Dutch government acted upon one of the recommendations in (the original, Dutch version of) this report. It formulated a national action plan on (combating) THB. The plan, which comprises the official governmental response to the report and was published in December 2004, will facilitate the monitoring of such policy developments and the outcomes achieved, for all parties concerned.

Many have contributed to the work of BNRM by making information available as well as answering or raising questions, responding to questionnaires and surveys, commenting on parts of earlier text versions of this report and carrying out analyses on data files. Many thanks go to them, in particular to Peter Paul Groen of the SiBa department of the WODC for his analyses of the database of the Public Prosecution Service, and to Alinde Verhaag for her contribution as guest staff member to BNRM.

Trafficking in human beings is still an issue of great political and social concern. It was one of the subjects particularly highlighted in 2003 during the Dutch presidency of the OCSE, one of the concrete results being an OCSE Action Plan. Trafficking in human beings covers an area in which organised crime is particularly active, often across national borders and attracted by high profits and a low risk of being caught. The importance of repressive action – investigation and prosecution – therefore is and remains obvious, but it is always better to prevent it in the first place. The Netherlands has a reputation to maintain as far as its policy on combating trafficking in human beings and its implementation is concerned.

I hope that this report will serve to encourage action on this issue and that you will find its contents useful and thought-provoking.

Anna G. Korvinus  
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March 2005

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<sup>1</sup> Details and highly specific Dutch aspects that have little relevance to countries abroad have been omitted. Highly complex parts of the text that are difficult to translate have been abridged or omitted. Mistakes observed have been corrected.

# 1 Introduction

## 1.1 Introduction

Although slavery has been abolished, this does not mean that it no longer occurs. Everywhere in the world, people are exploited by others. This happens within national borders as well as across them. Poverty and inequality, unemployment and political instability mean that there are people who, in the hope of a better life, fall victim to criminals and networks that exploit them unscrupulously. This exploitation is a highly profitable business.

Estimates of the precise number of victims vary, because different definitions are used and because these are forbidden activities that take place partly in hidden sectors (such as prostitution).<sup>2</sup> One thing is certain, however: it is a worldwide and serious problem.

When slavery and trafficking is referred to, this generally means forms of work under duress, or forced labour.<sup>3</sup> Where trafficking in human beings was initially connected exclusively or especially with exploitation in the sex industry, a wider interpretation is increasingly gaining ground. In the Netherlands too, national criminal legislation on trafficking in human beings, which is still associated exclusively with exploitation in the sex industry, will be broadened during the course of 2004 to encompass other forms of exploitation too.

## 1.2 Combating trafficking in human beings

Trafficking in human beings (hereinafter also referred to for convenience as THB) must be tackled, because one simply cannot stand by and watch the fundamental rights of others being so flagrantly violated. Otherwise, criminals will simply continue to recruit, sell and exploit others, creating more (new) victims.

It is therefore a good thing that the subject is receiving more and more attention. The Netherlands has always played a leading role on this issue. In the past, it was one of the first countries with national legislation on the subject; there are many initiatives from a more recent date on prevention, investigation, prosecution, assistance to victims and the collection of information on the phenomenon. Even more recently the Netherlands has also asked for attention to be focused on THB at an international political level. For example, THB was one of the areas of attention during the Dutch presidency of the Organisation for Security and Cooperation in Europe (OSCE) in 2003. In his opening speech to the OSCE Permanent Council,<sup>4</sup> the Minister of Foreign Affairs

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<sup>2</sup> It is not easy to collect reliable and representative information on trafficking in human beings (THB). At an international level there are a variety of organisations active in this area, but the information is difficult to combine and integrate. This is because of the differing angles of approach: only trafficking for sexual purposes or commercial organisation of prostitution in general; only cross-border THB or national THB (too); only exploitation in the sex industry or in other sectors too; only modern slavery or – less extreme – illegal employment too; only minors or adult victims too, but also because of the considerable differences between countries regarding legislation and regulations, policy, actors, available capacity and commitment as well as the information that is registered. Furthermore, THB – at a national level too – is a (partly organised) criminal activity and victims, for a variety of reasons (fear of the perpetrators or deportation, shame and because it will not benefit them very much), do not readily report their experiences. In addition, not all trafficking situations and victims are recognised or acknowledged as such, and the cases where this does indeed happen are not systematically registered, particularly if the victims themselves do not say that they are victims. Where this information is indeed registered, it is not always clear whether possible or actual victims are involved, and duplication cannot be ruled out because specific characteristics are not registered that could be traced back to individuals. Most of the information available concerns victims and suspects who have come to the attention of an authority in some way or other. There is little insight into the ‘dark numbers’, but these could be quite substantial.

<sup>3</sup> *Modern Slavery Act 2015*, <https://www.legislation.gov.uk/ukpga/2015/31/section/1/section/1>

cited 'trafficking' (of people, drugs and weapons) as a threat to stability and safety within and outside the OSCE region. Other countries and international organisations are also focusing on combating THB. In doing so, it is vital to ensure that the agreements made and action plans drawn up are actually implemented and carried out in practice. Sometimes it would appear that the gulf between what is written down on paper and that which actually happens in practice is actually widening.

Since the violation of human rights is often the cause and in any case the consequence of THB, the protection of human rights must be paramount in all measures taken to prevent and put an end to THB (see also the United Nations (UN) High Commissioner for Human Rights in the *Principles and Guidelines on Human Rights and Trafficking* published in 2002 (OHCHR, 2002; Sörensen, 2003)). It is also vital to consider the macro factors that are or could be the underlying source of international THB, such as poverty, gender issues and a lack of work and development opportunities.<sup>5</sup> In this respect the Swedish initiative to involve specifically the fight against THB in the Swedish development policy is interesting (Department for Global Development, 2003).

In (the discussions on) combating THB, we need to make a distinction between trafficking on the one hand, and human smuggling and prostitution on the other hand. The fact that this distinction is not always easy to make is the central subject in the following two paragraphs.

### 1.3 Trafficking in and smuggling of human beings

There is still sometimes the tendency (see also the First Report by the National Rapporteur on Trafficking in Human Beings (NRM))<sup>6</sup> to approach THB as a form of illegal immigration and to confuse it with human smuggling. Both phenomena are indeed described, under the heading of 'migration crime', as the undesirable consequences of globalisation. Both traffickers and smugglers of human beings operate across national borders and profit from economic problems and conflicts in certain regions. They exploit people's desire to build a better future for themselves elsewhere and capitalise on the growth in international communication and transport opportunities. These are similarities between them, but there are also fundamental differences. Smuggling is all about assisting people to enter or stay in another country illegally. Smuggling involves, first and foremost, compromising a nation's territorial integrity. It may be that a smuggled person is subsequently exploited, in order to repay the cost of the journey, for instance, but this need not necessarily be the case. Furthermore, the organised transport and accommodation for the smuggled person may be so degrading that these people could be regarded as victims whose human rights have been violated, but this too may not necessarily be the case. THB, on the other hand, is in itself and by definition a serious violation of the rights and personal integrity of the person being trafficked. It often involves cross-border activities, but this is not an essential feature; people can be trafficked without borders being crossed and when borders are indeed crossed this may not always be done illegally. The essence of THB is exploitation, the abuse of people in the pursuit of profit, using authority, violence, threats, deception or the abuse of the victim's vulnerable position, as a result of which his or her<sup>7</sup> own freedom of choice is considerably restricted. It is a form of modern slavery.

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<sup>5</sup> Ever more restrictive migration policies are also mentioned as a cause of THB. Putting up obstacles to entering a country legally creates circumstances that increase dependence and the risk of abuse and exploitation. However, even where the illegal crossing of borders no longer applies, this does not get rid of THB. Kartusch (2003) (p.7) points out that it is largely about the accessibility of the labour market. As long as the opportunity to enter a country does not give access to the regular labour market, the danger will remain that migrant women will be exploited in 'informal markets' such as prostitution, household or factory work.

<sup>6</sup> The previous BNRM reports will also be referred to hereafter as <sup>NRM1</sup> and <sup>NRM2</sup>.

<sup>7</sup> Both women and girls as well as men and boys can become victims of THB. Since most victims are women and girls according to the current Dutch definition which is (still) related to exploitation in the sex industry, and in order to avoid complicated distinctions as far as possible, this report will normally refer to victims

There is therefore a fundamental difference between trafficking in and smuggling of human beings (see also Shelley, 2003), as is also acknowledged in the recently published *Illegaleennota* (Policy Document on Illegal Aliens) (Ministry of Justice, 2004), which states that with the intended intensification of monitoring of illegal aliens, account will be taken of the fact that these aliens may also include victims of THB.

#### 1.4 Trafficking in human beings and prostitution

The fight against THB for sexual exploitation is often confused with the battle that some people wage against prostitution. Proponents of the abolitionist or prohibitionist approach regard not only THB but prostitution too as a form of violence (generally against women) and as a form of slavery that must be combated or even criminalised. They prefer to lump the phenomenon of prostitution together with THB (Agustín, 2001) and in their view prostitution cannot be regarded as work (Haveman & Wijers, 2001). What follows is that prostitution or the buying of sexual services become criminalised under the motto of combating THB<sup>8</sup> and countries or authors who do not seek a solution to the problem of THB by prohibiting the buying and selling of sexual services are criticised, often through the use of suggestive or incorrect information.

##### *Use of suggestive and incorrect information*

Dutch policy on legalising the commercial organisation of prostitution is repeatedly referred to as if there were no conditions and controls attached to it and as if the offering or buying of sexual services from minors were not banned.<sup>9</sup> Hughes and Denisova (2001) argue, under the telling heading ‘The corruption of civil society’, that the Netherlands also subsidises NGOs in the Ukraine in order to promote the interests of the sex industry. The fact that in the Netherlands, contrary to what is stated in the UN protocol on THB, not only exploitation, but also the profiting from such activity constitutes a criminal offence under the title ‘trafficking in human beings’ is not mentioned. Another book, edited by Farley (2003), which incidentally contains interesting information about the problems that sex workers may be confronted with, concludes with a contribution from Raymond on the reasons why prostitution should not be legalised. The book also cites the (English version of the) First Report of the NRM in a manner that suggests that (B)NRM is in favour of opening the borders for prostitutes from non-EU/non-EEA countries, whereas this is not the case.<sup>10</sup> Yet another example is Hughes (2002)<sup>11</sup>, who in a response to the annual Trafficking in Persons Report by the USA blackens the name of a number of persons and organisations<sup>12</sup> who are active in combating such trafficking (and above all provide support to victims) but do not oppose prostitution.

Opponents of the legalisation of prostitution take the view that trafficked victims are less noticeable in a legalised context (Shearer-Demir, 2003), that legalisation would only play into the hands

<sup>8</sup> The latter, for example, is the situation in Sweden.

<sup>9</sup> For example, at the presentation of the Swedish legislation on THB which came into force on 1 July 2002, the then Swedish Minister Winberg criticised the legalisation policy pursued by a number of countries, and posed the question whether the message put across by countries such as the Netherlands and Germany is not that (loosely translated) “the trafficking of women is OK and that it is also OK to buy sexual services from children” (Meeting of the Fourth Steering Committee Meeting EU/IOM European Conference on Preventing and Combating Trafficking in Human Beings, Östersund, Sweden, 1-2 July 2002).

<sup>10</sup> According to Raymond (p.319): “the Dutch National Rapporteur has stated that in the future, a solution may be to ‘offer [to the market] prostitutes from non EU/EEA [European Economic Area] countries, who voluntarily choose to work in prostitution (...)’”. What is ignored here is that this is in fact a quote from the field. What is literally stated is: “From the field the solution put forward for (...) is (...)”. It was also stated that: “For the risks and objections associated with this, reference should be made to the comments on this under point 24” (BNRM, 2002a, p.140). Point 24 states in response to a possible opening up of the market and the role that municipalities could be given in this: “However, it is not easy to determine (...) whether they are opting for this work freely (...). Because of the need to watch for risks of THB the thus approaching scenario does not look reassuring” (BNRM, 2002a, p.137).

<sup>11</sup> The presentation was held on 19 June 2002, under the title *The 2002 trafficking in persons report: lost opportunity for progress*.

<sup>12</sup> Including Amnesty and Human Rights Watch. See London (chairman) of the Anti-trafficking Initiative of the International U...

of traffickers and encourage THB (e.g. Hughes, 2000), as well as illegal prostitution and street and child prostitution, and that a repressive approach to prostitution is therefore to be preferred. However, there are disadvantages associated with a repressive approach, since such an approach does not distinguish between victims and independent sex workers, and clients will not play a role as a potential source of information on trafficking practices. Opponents of the criminalisation of prostitution take the view that it is precisely this that plays into the hands of the criminal networks (see, for example, Sörensen, 2003). They feel that prostitution would continue regardless,<sup>13</sup> while at the same time sex workers would be stigmatised,<sup>14</sup> criminalised or – because their clients could be prosecuted – marginalised because of a repressive approach, and that they will find it more and more difficult to protect their health, the latter particularly so because they will be less likely to make use of services and institutions, including those in healthcare (Brussa, 2003; Wolfers & Van Beelen, 2003). Moreover, they will have to obtain their customers in secret, which would make their work more dangerous (e.g. Östergren, 2003<sup>15</sup>; Lindahl, ENMP, 2003).<sup>16</sup> “An abolitionist regime offers prostitutes no protection”, nor does it safeguard their personal freedom (Boonen, 2000; p.47).

The reverse of the prohibitionist or abolitionist approach is the labourist approach. Labourists take the view that not all (migrant) prostitutes are victims of THB, but that there are also women who, usually for economic motives, make a well-considered decision to work in prostitution (for pointers in this direction, see e.g. Gülçür & İkkaracan, 2002; Butcher, 2003). Labourists regard prostitution as work. The prostitute is not a victim, at least not by definition (see also Boonen, 2000; Verhoeven, 2003), but a person competent to act for herself. The root of the problem of THB is that, within the context of work, the freedom of choice of another person is violated. The fact that it concerns prostitution is less relevant. The social condemnation of prostitution as an occupation makes prostitutes vulnerable to exploitation (Haveman, 1998). According to the labourists, solutions to THB must be sought in the emancipation of prostitution and prostitutes, improvements in the conditions under which prostitutes live and work, and a strengthening of their legal position. Strategies that lead to the accrual of ‘social capital’<sup>17</sup> among sex workers, giving them the opportunity to organise themselves and lobby for better working conditions, would seem to them to be the preferred way forward (Loff et al, 2003). Butcher (2003, p.1983) expresses it as follows: “we would do better to promote human rights than to oppose prostitution: the right to resist entering prostitution through trafficking in human beings, but also the right to work under statutory protection against ‘harm’, whether or not this concerns rape, violence, robbery or other violations.” This should preferably be in consultation with those involved, something that does not always happen with a criminalising approach (e.g. Haveman & Wijers, 2001; Östergren, 2003).

Whichever position one may take in the debate briefly described above, it is important not to devote (too) much energy to this debate itself, but to join forces internationally to tackle a phenomenon about which there is unanimity, namely THB, which involves coercion, forced labour

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<sup>13</sup> At a meeting on ‘male sex work in northern Europe’ (Stockholm, 23-24 May 2003) Lindahl of the RFSU (the Swedish Association for Sex Education) noted that in Sweden, four years after the purchase of sexual services had been made a criminal offence, there are still no signs of a decline in prostitution. It should be noted in this respect, though, that RFSU “agrees in a political sense with the vision that buying and selling sex is not compatible with a respectful vision of women, men, human rights and human dignity” (Schiffer & Giesbers, 2003).

<sup>14</sup> Lindahl’s views too at the above-mentioned meeting (Schiffer & Giesbers, 2003).

<sup>15</sup> At a presentation of the risks of the Swedish policy that criminalises buyers of sexual services, at the meeting *Weven met een zijden draadje* (Weaving with a silk thread), Rotterdam, 20 November 2003.

<sup>16</sup> Kulick (2003) too points out, in his analysis of the Swedish choice for criminalising the buying of sexual services, the harm that such a policy will do to those who actually do sell sex on the streets in the evenings. At the meeting on ‘male sex work’ mentioned above, Kulick also stated that street prostitutes have to accept more, and more dangerous, clients, and that clients are no longer willing to give evidence against violent or exploitative profiteers (Schiffer & Giesbers, 2003).



or the exploitation of underage or illegal persons in the sex industry or elsewhere. This is a plea to tackle an issue on which international agreement has already been achieved in drawing up the United Nations Protocol on Trafficking in Human Beings.

### 1.5 (B)NRM and the terms of reference

Since 1 April 2000 the Netherlands has had a National Rapporteur on Trafficking in Human Beings (NRM). For information on the background and the creation of this institution, you are referred to the First Report of the National Rapporteur. Suffice it to say here that the appointment of the NRM is the direct result of the Hague Declaration of 1997, which called upon member states to appoint national rapporteurs in order to report to their respective governments on trafficking in *women* (as it was referred to at that time). The importance of thorough information for drawing up policy in this area, which had already broadened in previous legislation to become trafficking in *human beings*, was underlined later in such documents as the Brussels Declaration (2002) and the OSCE Action Plan (2003).

#### *Rapporteurs in other countries*

As far as we know, apart from the Netherlands so far only Sweden has a national rapporteur on THB. This task was assigned to the *National Criminal Investigation Department* at the end of 1997 and is implemented by a police officer who also has operational duties. Since then a number of reports have been published. In Belgium the *Centrum voor Gelijkheid van Kansen en Racismebestrijding* (Centre for Equality of Opportunities and Combating Racism) publishes an annual report on THB. In Switzerland, one of the tasks of the *Swiss Coordination Unit against the Trafficking in human beings and Smuggling of Migrants* (KSMM) is to coordinate the preparation of reports and discussion papers on this issue (KSMM Fact Sheet). The unit started to work on 1 January 2003; there are no reports (as yet).<sup>18</sup> The Czech Republic has had a national action plan since 2003, which provides for the appointment of a national rapporteur. It is not clear whether this appointment has meanwhile been made. There are therefore not many national rapporteurs,<sup>19</sup> but a number of countries do have national coordinators, national action plans and/or working groups on THB. For example, as part of the Nordic-Baltic campaign Estonia appointed a national coordinator for THB in 2001. Romania also has a national coordinator. In Germany a working group on trafficking in women has been active since 1997. Romania, Slovenia and Slovakia also have working groups on THB (also known as 'task forces' or 'expert groups'). As well as the Czech Republic there are also national plans in other countries including Denmark, Lithuania, Norway, Romania and Slovakia.<sup>20</sup>

The task of the NRM is to collect information and to report to the Dutch government on THB. The rapporteur is supported in her work by a small office, the Bureau of the National Rapporteur on Trafficking in Human Beings (BNRM).<sup>21</sup> This institute is financed by five ministries<sup>22</sup> and occupies an independent position.

The NRM's terms of reference are in line with Section 250a of the Criminal Code (see Appendix 1) and the area of research is therefore solely exploitation in the sex industry; exploitation in other sectors is not included. Both in the First Report and the evaluation made by (B)NRM in 2003, BNRM pointed out the fact that for some time it has been difficult to work at an international level within these limited terms of reference.<sup>23</sup> This increasingly applies at a national level too, particularly once the definition of THB in the Dutch Criminal Code has been broadened to include exploitation in employment sectors outside the sex industry. The Government Response

<sup>18</sup> According to telephone information from the Federal Police, of which the unit forms a part.

<sup>19</sup> At a supranational level there are the *Special representative in trafficking in human beings* at the OSCE, the *UN special rapporteur on trafficking* and the *UN special rapporteur on the sale of children*.

<sup>20</sup> The above summary is intended as an illustration without pretending to be exhaustive.

<sup>21</sup> This consists of a senior researcher, a researcher, a legal assistant and an administrative/secretarial employee.

<sup>22</sup> The Ministries of Justice, the Interior and Kingdom Relations, Foreign Affairs, Health, Welfare & Sport and Social

to the first BNRM report therefore states, referring to the upcoming broadening of the definition, that “the NRM will be required to broaden the area on which the report should focus” (p.22). This report concentrates on the current, restricted definition of THB: exploitation in the sex industry. The upcoming broadening of the definition and the preparations that this will continue to demand from partners in the chain as regards investigation and prosecution as well as support for victims will however be discussed briefly.

## **1.6 The reports**

Various methods are used to collect information for the reports, including literature study, the studying of laws, treaties and jurisprudence, interviews with key figures, organising meetings, participation at symposiums, conferences and expert meetings and secondary analysis of information collected by others elsewhere.

When (B)NRM was set up it was assumed that there was much usable information available on THB. However, not everything or at least not enough is actually known, it is not available in an adequately structured form or it is insufficiently substantiated to be included in the reports. BNRM has limited resources to carry out its own empirical research,<sup>24</sup> but it does so relating to investigations by the Dutch police, as well as assistance activities and experiences concerning victims of THB.

In order for it to fulfil its task, the NRM and her staff have the right to study police and criminal records. The BNRM’s work focuses above all on the Dutch situation, but because of the frequent cross-border nature of trafficking crime, the effect of international and supranational treaties on the Dutch situation and the fact that one can learn from experience gained elsewhere, it has many international contacts too.

## **1.7 The parliamentary debate**

On 18 November 2003 there was a General Parliamentary Consultation on THB. It was a consultation on the First and Second Reports of the NRM, the Government’s Response to it and a letter from the Minister for Alien Affairs and Integration on the B-9 regulation for victims of trafficking. The following parties took part in the consultation: the Standing Parliamentary Committee for Justice, the Minister of Justice and the Minister for Alien Affairs and Integration.

The Standing Parliamentary Committee questioned the ministers generally quite critically on the attention to be given to prevention, the need for a more integral approach to tackling THB, shortcomings in the (implementation of the) B-9 regulation, the issue of providing shelter for victims and improving their protection, and the opportunities for a more generous policy in granting permanent residence permits to victims. In his answer, the Minister of Justice confined his answer largely to a summary of existing initiatives and said that for the time being he wanted to wait for the NRM’s Third report.<sup>25</sup> In the government’s response to this report the problem areas in combating THB would be specifically addressed, the minister said. Thus the minister responsible for THB deferred providing an answer to most of the questions.

The minister for Alien Affairs and Integration was more specific in answering the questions that concerned her area of work. She promised the Lower House that she would organise an experts’

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<sup>24</sup> BNRM does not have a budget for commissioning research.

meeting in the short term, in order to reach agreements with those involved in the implementation of the B-9 regulation to achieve a better application of this regulation in practice.<sup>26</sup> Since she regards the regulation as a good tool in itself, her starting point is that improvements must arise from a better application of the B-9 regulation in practice. The contents and implementation of the regulation affect the position of the victim. This involves issues such as prompt recognition of the possibility that a person is a victim of trafficking in actions relating to aliens law, as well as the victim's perception of safety and willingness to report the offence. In order to make improvements on these points and therefore contribute to a greater willingness on the part of the victim to make a report, the minister made clear that she was willing to cooperate in a thorough compilation of the victim's dossier. This means that it will be examined, in consultation with the bodies involved in the implementation of the B-9 regulation, how the information available to each of them concerning the safety of the victim and the risks she runs, both in the Netherlands and in the country of origin, can be collected and combined in order to support the victim in her (legal) position. This can benefit her perception of safety and the possibility to remain in the Netherlands once her temporary residence under the B-9 regulation has expired.

The discussion time available proved to be insufficient to deal with the subject in full during the debate. Partly because of the general approach to a large number of points, many questions remained unanswered.

For this reason, on 25 November 2003 a Continued General Parliamentary Consultation was held, during which the subject of THB, together with the subject of lifting the general ban on brothels, was brought up once again, this time in the presence of the three ministers involved. A total of 16 motions were proposed and seconded. Of these, four were passed.

#### *The motions passed*

The motions that are directly relevant to combating THB concern additional measures to guarantee the safety of illegal prostitutes who report THB, to ensure the proper reception of trafficking victims and assisting them to return home, and to solve problems in the B-9 regulation so that it can be more easily and efficiently implemented as regards the possibility of extending the victim's stay on humanitarian grounds. Also included was the promotion of preventive measures at secondary schools and encouraging a national awareness campaign among prostitutes, including a telephone line for questions and assistance to leave the sex industry.

## **1.8 This report**

This report contains both quantitative data for the period from 1998 to 2002 and qualitative data for the years 2002 and 2003. The report also discusses a wide range of subjects, with the emphasis on the Dutch situation. Relevant foreign information, however, is included.

There have been so many new developments and insights recently that this third report also contains detailed conclusions and recommendations.

Broadly speaking, the report covers the same subjects as those discussed in the previous reports. This is necessary because one of the BNRM's tasks is to make comparative analyses with earlier years. The report considers certain subjects or aspects, such as assistance and administrative control of the prostitution sector, in greater detail than previously. In order to combine as much information as possible with optimal accessibility and readability, explanations and additional information are placed in text boxes. The reader who is interested in the points concerned may read through these text boxes, while others can readily skip them. Some of the information originating from the BNRM's own empirical research and secondary analyses is included in an appendix (Appendix 4). A summary is also included.

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<sup>26</sup> This report's meeting has meanwhile taken place. During the meeting, motions to improve knowledge of the B-9

The various chapters endeavour as far as possible to follow the same pattern. Where there is both policy information and statistical data, the policy information is discussed first, after which the data is presented. With the latter, the emphasis is placed on the most recent year for which data have been obtained, namely 2002, but these figures are also considered within the context of the figures and developments since 1998.<sup>27</sup> Where international developments are also dealt with, these follow the statistical section. Each chapter concludes with a discussion of problem areas and points of attention.

Both of the earlier reports have also been published in English (in a slightly modified and abridged form).

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<sup>27</sup> At the time of writing this report not all the statistical data for 2003 was available (in full) or not yet analysed. However, Appendix 5 does contain some available figures for that year without any further analyses. An update containing more precise figures will be available in the Fourth Report of the NRM.

## **2 Legislation and regulations: policy framework**

### **2.1 Introduction**

This chapter gives a description of developments in the area of legislation and regulations relevant to THB, and the consequences of these for Dutch policy on combating THB. Related areas of policy are only discussed where they are directly relevant to the prevention and combating of THB. This chapter builds on Chapter 2 of the First Report.

### **2.2 Regulations and policy in relation to prostitution and trafficking in human beings**

#### **2.2.1 Short historical outline**

To date, Dutch legislation and regulations on THB have been closely related to the subject of prostitution. This relationship has been described in detail in the First Report. The past century and a half has shown that this relationship has always existed, right from the start. Attention for the subject of prostitution, and inherent to this for the subject of THB, was largely prompted by international movements concerning the (moral) acceptability of prostitution. These movements developed in the Netherlands from a strongly abolitionist view at the beginning of the 20th century to a more pragmatic, tolerant attitude towards the commercial organisation of prostitution and the running of brothels as the twentieth century progressed, ultimately resulting in the legalisation of prostitution businesses.

However, right from the start, THB was condemned and subject to sanctions. For example, Dutch criminal legislation and the associated policy on prostitution and trafficking in women had been brought into force even as far back as 1911. As well as a ban on pimping and running a brothel, at that time a provision was included in the Criminal Code (Article 250*ter*) which prohibited trafficking in women and girls for prostitution. Prompted by successive international initiatives that were consolidated in the League of Nations and later in the United Nations, criminal legislation was amended several times during the course of the 20th century, further refining Dutch prostitution and trafficking policy. In 1923 the crime of trafficking in women was extended to include trafficking in minors of the male sex. In 1994 the gender-neutral qualification of ‘trafficking in human beings’ was introduced into the wording of the Act. In 2000 the general ban on brothels was lifted.

#### **2.2.2 Lifting the general ban on brothels**

The lifting of the general ban on brothels on 1 October 2000 involved a number of amendments to the Criminal Code and a few other laws. In fact, it only meant that the commercial organisation<sup>28</sup> of (voluntary) adult prostitution was removed from criminal legislation. All forms of organisation of prostitution other than that among voluntarily consenting adults remained a criminal offence. Furthermore, profiting from such circumstances became a criminal offence.

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<sup>28</sup> In the following, the wordings ‘commercial organisation of prostitution’ or ‘running a brothel’ (or kindlike terms) are used for the legal(ised) forms of operating a sex business, both by an individual prostituting herself and as concerns the running of a professional sex establishment. These notions are used opposite to the term ‘exploitation of prostitution’. With the latter one meant in accordance with the international understanding all forms of performing

The aim of lifting the general ban on brothels was, from a pragmatic point of view, to achieve a better control and regulation of the prostitution sector without moralising. For this purpose, six objectives were formulated that aim on the one hand to turn the prostitution sector into a normal sector of business, freed of marginal criminal elements and to which the existing rules of labour and tax apply, and on the other hand to make it easier to tackle undesirable forms of prostitution (exploitation) more firmly. The lifting of the general ban on brothels thus led to a separation of the prostitution sector into a legal sector and a sector prohibited under criminal law. The legal sector is (the organisation of) voluntary prostitution among adults and subject to conditions. The 'illegal' sector consists of all other forms of (organisation of) prostitution, usually typified by exploitation.

### **2.2.3 The administrative approach**

The heart of the administrative approach to the prostitution sector is a decentralised licensing policy. The municipalities have in fact been charged with pursuing a local prostitution policy, based on the issue of licences for operating sex establishments. For this purpose, they can set rules in their General Municipal Bye-laws on the establishment, organisation and operation of the sex businesses within their boundaries. Without a license issued by the municipality, a sex establishment may not be operated.

Because the prostitution policy had been left to the local authorities, there was the 'risk' of widely diverging policy arising at a local level. After all, each municipality may set its own conditions concerning the type of prostitution and the number of sex establishments that may be permitted, the setup and licensing requirements and conditions for operating the establishments. Partly for this reason, the Association of Netherlands Municipalities (*Vereniging Nederlandse Gemeenten* - VNG), in drawing up a model General Municipal Bye-law, has endeavoured to create a degree of uniformity in prostitution policy.<sup>29</sup> In addition, the central government set a number of frameworks within which the local prostitution policy should develop. For example, the Minister of Justice stated that Article 151a of the Municipalities Act does *not* contain any provision that allows municipalities to prohibit prostitution within their boundaries. Some municipalities want to pursue such a policy in practice anyway, usually on moral grounds. The courts have not directly expressed a view on this yet, but we can deduce from jurisprudence on this subject that there is no scope for municipalities to make a moral judgement on whether the protection of morality justifies the ban on brothels. A court judgement is still forthcoming on the lawfulness of what is referred to as a 'dying-out' policy or a status quo policy, but for the time being it would appear that this policy does not correspond to the above-mentioned government ~~Criminal~~ legislation, too, sets limits on the operation of a sex establishment. These are usually in the form of licensing conditions in the model bye-law, and are therefore included in the local prostitution policy of virtually all municipalities. For example, a business licence can be refused if the proprietor has a criminal past and a licence can be withdrawn if illegal persons or minors are found working in the sex establishment.

### **2.2.4 Administrative control and enforcement**

#### **2.2.4.1 Introduction**

Administrative enforcement is implemented by means of an administrative control mechanism. Based on Article 151a of the Municipalities Act, officials may be appointed to supervise compli-

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<sup>29</sup> A study carried out by the Association of Netherlands Municipalities showed that 94% of the municipalities had adopted (initially) all of the model bye-law in their municipal bye-law and that the provisions of the model municipal

ance with the conditions laid down in the General Municipal Bye-Laws for the operation of a sex establishment. Officials may also be appointed to oversee street prostitution. An important power of these officials is to demand proof of identity. This obligation of prostitutes to identify themselves was introduced in particular to enable illegal workers and minors to be identified.

#### **2.2.4.2 Obligation to provide proof of identity**

The obligation of prostitutes to carry identification came into force at the same time as the lifting of the general ban on brothels, and means that they must present proof of identity on request, either straight away or at a later moment. Refusal to do so may constitute an offence (failure to comply with an official order), while not being able to or not wanting to comply with the demand may indicate that the person is working illegally or is a minor.

The introduction of compulsory identification led to objections from various quarters. The essence of the objection was that the prostitution sector is the only occupational sector on which such an obligation is imposed. This would supposedly have a discriminatory and stigmatising effect. It may be that the introduction of the Compulsory Identification (Extended Scope) Act will bring about some changes in this area.

#### **2.2.4.3 Administrative sanctions**

Administrative sanctions may be imposed by municipalities in the event of violation of regulations on operating a sex establishment. As well as a refusal to grant a business licence to an applicant who does not comply with the issuing requirements, sanctions may also be imposed on licensees who do not abide by the licensing requirements. These sanctions vary from a warning, to measures involving restricted opening times or an administrative penalty, to a temporary or permanent closure of the sex establishment and withdrawal of the licence. In order to take such a decision, the municipality requires information, which is primarily available through the supervisors. In addition, municipalities can make use of the opportunities afforded by the Promotion of Integrity Reviews by the Public Administration Act (*Wet Bevordering Integriteitsbeoordeling door het Openbaar Bestuur* - Wet BIBOB).

#### **2.2.4.4 Supervision and the role of the police**

The monitoring of regulations imposed on proprietors of sex establishments is a multidisciplinary task. Many organisations can be used for this purpose, such as the fire service, the Building Control Department, the Municipal Medical & Health Service, the Health and Safety Inspectorate and the Tax and Customs Administration. These inspections take place under local prostitution regulations or under special (administrative) laws and regulations.<sup>30</sup>

In most municipalities, police officers are appointed as supervisors within the meaning of the Municipalities Act. There are good reasons for this, but in practice it can also produce confusion, because the primary task of the police is to investigate criminal offences. Moreover, the powers of the police officer as a supervisor have a different legal basis. The regulatory task with regard to sex establishments is based on administrative law, in this case the Municipalities Act (Article

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<sup>30</sup> Examples: the Licensing and Catering Act, on which basis sex establishments may also be required to obtain a licence, and the Public Health (Preventive Measures) Act, which formulates a number of tasks for the municipalities in the area of public health. In addition, there are regulations under (national) labour and tax legislation that also apply

151a). The immediate tasks of the police, on the other hand, are based on the Police Act 1993 and constitute the upholding of law and order and providing assistance to those who need it.<sup>31</sup>

## **2.2.5 The criminal approach**

The basis of the criminal approach can be found in Article 250a of the Criminal Code, the provision on THB.<sup>32</sup>

### **2.2.5.1 The existing article on trafficking in human beings in the Criminal Code**

The scope of Article 250a of the Criminal Code was broadened by the Act of 13 July 2002 to include, next to the operation of prostitution whereby persons are involved involuntarily or as minors, this type of exploitation in *all forms* of sexual services. It was decided to do this because the forced involvement of adults and the exploitation of children in erotic pornographic scenes fell outside the scope of the existing provisions. The amended Article 250a of the Criminal Code<sup>33</sup> makes all forms of exploitation of forced sexual services, the employment of minors in sexual services and profiting from these circumstances a criminal offence. For the rest, the contents and severity of the punishment have remained the same.

At the same time, the extraterritorial scope of Article 250a of the Criminal Code was extended.<sup>34</sup> Dutch criminal law has been declared applicable to a) sexual exploitation of and trafficking in children aimed at sexual exploitation, committed by a Dutch person who is guilty of such an offence outside the Netherlands, and b) the alien who has or obtains a permanent home or residence in the Netherlands and is guilty of one of the offences referred to in Article 250a of the Criminal Code outside the Netherlands, in so far as such an offence has been committed in respect of a minor. In both cases the requirement of double criminality<sup>35</sup> has been cancelled.

### **2.2.5.2 The future article on trafficking in human beings in the Criminal Code**

Various international agreements to which the Netherlands has agreed require amendments to its (criminal) legislation in the area of THB.<sup>36</sup> The documents referred to all adopt a wider definition of the term 'trafficking in human beings'. This includes, in addition to the exploitation of the prostitution of others and other forms of sexual exploitation, coerced or forced work or services, slavery and practices and bondage comparable with slavery. Furthermore, the United Nations also includes the trafficking of persons with a view to removing organs under the definition of THB. In order to bring national criminal legislation in line with these international obligations, on 12 November 2003 the Bill entitled *Implementation of International Regulations to combat the Smuggling of and Trafficking in Human Beings* was sent to the Lower House. This Bill intends to broaden the definition (and the scope of the penal provision) on THB, in line with the said international agreements.

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<sup>31</sup> In upholding public law and order and carrying out tasks of assistance, the police are under the authority of the local mayor, and in upholding legal order under criminal law are under the authority of the PPS.

<sup>32</sup> As the 'successor' to Article 250*ter* of the Criminal Code, Article 250a makes a criminal offence all that is regarded as THB under Article 250*ter* of the Criminal Code, including the criminal exploitation of prostitution, but also profiting from such activity.

<sup>33</sup> Appendix 1.

<sup>34</sup> This concerns the degree to which the Dutch judiciary has jurisdiction in the case of THB crimes committed (partly) outside the Netherlands.

<sup>35</sup> This is the requirement that, in order to proceed with prosecution, an action is considered a crime under Dutch law as well as under the law of the country in which the crime was committed.

<sup>36</sup> Such as the Protocol on Trafficking in Children (A/RES/54/62, par. 7.15), the UN Protocol on Trafficking in Hu-



The most important change (relating to THB) that is being proposed in this Bill is the introduction of a single article in the Criminal Code, in which all forms of THB are made a criminal offence: Article 273a of the Criminal Code. This article will be included in the title *Crimes against personal freedom*.<sup>37</sup>

The article has virtually the same wording as Article 3 of the UN Protocol and Article 1 of the EU Framework Decision on combating Trafficking in Human Beings. It labels as trafficking certain activities that, using specific means, are committed with the aim of exploiting another person. Exploitation constitutes at least the exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory work or services and practices comparable to slavery or servitude, as well as the commercial organisation of sexual activities of minors and certain activities with the aim of removing organs. In the case of the latter, where adults are involved a form of coercion must be used, whereas this element is not necessary for minors. The punishability of recruiting, taking or kidnapping a person to perform sexual activities on a commercial basis with or for a third party in another country has been maintained; the requirement of coercion does not play a role with such activity.<sup>38</sup> Finally, THB is also taken to mean the profiting or benefiting from all the above-mentioned activities. The actions made punishable under the existing Article 250a of the Criminal Code remain punishable under the new article.

The sentence for THB and trafficking under aggravating circumstances will not change: a prison sentence of up to 6 years or a maximum penalty of € 45,000 for ordinary THB, increasing to 8 years and a maximum penalty of €45,000 if the offence is committed by two or more persons *or* the victim is not yet 16 years old and a prison sentence of up to 10 years and an equivalent financial penalty if the offence was committed by two or more persons on a person who had not yet reached the age of 16 years. However, the Bill on THB adds the threat of a prison sentence of up to 12 years or a penalty of €45,000 if the THB leads to severe bodily injury or the other person's life is endangered. If THB results in death, a maximum prison sentence of 15 years applies or a penalty of up to € 45,000. As well as these punishments, it remains possible to remove certain rights from the convicted person<sup>39</sup> and, if the trafficking is committed as part of his occupation, to ban him from pursuing that occupation.

*National Rapporteur on THB: specific attention to sexual exploitation*

In her advice to the Minister of Justice on the draft Bill, the NRM proposed making a distinction between THB for sexual purposes and other forms of THB. The nature of (forced) sex work and its effect on the person involved is so specific, especially if this occurs under involuntary circumstances, that such a distinction would seem to be justified. After all, the victim of sexual exploitation will feel severely impaired in her physical and mental integrity.<sup>40</sup> Such a distinction, for example, could have been made by placing the articles about sexual exploitation on the one hand and other forms of exploitation on the other hand in a *lex generalis* versus *lex specialis*. In that case, when deciding on the severity of the punishment, account could also have been taken of the distinction between exploitation in the sex industry and other forms of exploitation.

<sup>37</sup> The National Rapporteur on THB had already argued for this in her First Report, because this title is the most appropriate due to the nature and manifestation of the offence.

<sup>38</sup> The inclusion of this provision is the consequence of the *International Convention for the Suppression of the Traffic in Women of Full Age*, that was drawn up by the League of Nations in 1933 and ratified by the Netherlands. This Convention also offers protection to women who have been 'traded' with their consent. It has been pointed out from different quarters that abandoning the requirement of coercion once a national border is crossed is contrary to the underlying principles of the current legislation on prostitution and THB, and that it is difficult to maintain in that policy that voluntary prostitution comes under the 'immoral purpose' referred to in the Convention. The legislator has deliberately chosen to uphold this provision, but there is doubt as to the extent to which this viewpoint can be maintained in all circumstances and with regard to all countries, certainly since social and economic circumstances (may) differ considerably from country to country and also per individual within a country.

<sup>39</sup> Such as the right to hold an office or certain offices (e.g. an official or a position in an official authority), serving in armed forces and acting as counsel or court-appointed administrator (Article 251 of the Criminal Code).

<sup>40</sup> Apart from that, a person's physical and mental integrity may also be liable to impairment in the case of other forms of exploitation, especially if one considers that with THB it always must concern persons involving the most

In the Bill currently under consideration, all forms of THB are grouped together under a single provision. “In this provision, account may be taken where necessary of THB aimed at sexual exploitation.”, according to the Explanatory Memorandum. This memorandum also adds that the most serious forms of exploitation concern exploitation involving the impairment of physical integrity, such as with sexual exploitation and the removal of organs. In so doing, the government emphasises at any rate the special character of (*inter alia*) forced sexual services. This is important, since a (too) broad definition may lead to too many activities being labelled as THB, whereas it should refer to the most serious forms.

*National Rapporteur on THB: THB and the slave trade*

In her advice on the draft Bill, the NRM asked for attention to be given to the relationship between the proposed article on THB and the existing articles that deal with the slave trade (Articles 274-277 of the Criminal Code). Since (modern forms of) slavery and practices comparable with slavery or servitude also come under the broad interpretation of THB, the NRM believes that the slavery provisions that have now fallen into disuse can be abolished. However, according to the Explanatory Memorandum, the government will be holding on to the slavery articles for the time being, because the provisions correspond in the main with the penal provisions that were drawn up as an elaboration of a Treaty with Great Britain in 1818. Furthermore, the Netherlands is party to a number of UN conventions against slavery and the slave trade, and the UN Protocol has not superseded these conventions.

## **2.3 A few additional (statutory) regulations and provisions**

### **2.3.1 Provisions in the Criminal Code**

Below follows a (brief) explanation of a number of provisions in the Criminal Code that are relevant to the problem of THB.

#### *Youth prostitution*

At the same time as lifting the general ban on brothels, a number of directly related provisions in penal law were tightened up in relation to youth prostitution. For example, sex with an underage person between 12 and 16 years offering services as a prostitute became subject to criminal prosecution *ex officio*, instead of only on complaint (Article 245 of the Criminal Code). With the partial amendments to morality legislation two years later, the distinction between prosecution on complaint and prosecution *ex officio* in the case of sex with an underage person younger than 16 years was removed entirely. The complaint requirement was replaced at that time by the obligation for the Public Prosecution Service (PPS) to give the underage person the opportunity to express his or her opinion on the offence committed and possibly his or her views on the desirability of prosecution. This was regarded as an extra safeguard that criminal prosecution would follow where required, and would not be pursued if the interests of the underage person so dictate. Article 248b of the Criminal Code, introduced with the lifting of the general ban on brothels, makes sex with an underage person between 16 and 18 years who is engaged in prostitution a criminal offence and carries a maximum prison sentence of 4 years. Before then, sex with a consenting person in that age category was not a criminal offence. This amendment is intended as the concluding element in tackling child prostitution, to protect the underage person (~~prostitute~~) and underage person younger than 12 years fully remains a criminal offence (maximum prison sentence of 12 years (Article 244 of the Criminal Code).

#### *Child pornography*

The provisions in the Criminal Code that concern child and youth pornography have also been subject to a number of amendments recently. These had primarily to do with making ‘virtual child pornography’ a criminal offence, and raising the minimum age of persons used in porno-

graphic images and participating in pornography from 16 years to 18 years (Article 240b of the Criminal Code). This brings the minimum age for pornography in line with that for prostitution.

### *Slave trade*

Articles 273-277 of the Criminal Code contain a number of provisions in which the slave trade and directly related activities are made a criminal offence. The First Report pointed to a possible overlap between the slave trade provisions and the article on THB, at any rate for the intermediary element of trafficking. In actual investigative and prosecution practice, however, the slave trade article is no longer used.<sup>41</sup>

### *Abduction*

Article 278 of the Criminal Code makes abduction a criminal offence, for which a prison sentence of up to 12 years may be imposed. In the Explanatory Memorandum to this article, which dates from the 19th century, the legislator states that this provision only provides for those cases where a person is abducted from the Netherlands to another country. However, in its ruling of 20 November 2001, the Supreme Court decided that Article 278 of the Criminal Code must be interpreted in such a way that it also applies to persons brought into the Netherlands from abroad. If this point of view is followed, it is highly conceivable that Article 278 of the Criminal Code is (also) applicable to THB.

### *Human smuggling*

Human smuggling (Article 197a of the Criminal Code) and THB are still confused with each other. The reason is that many victims of trafficking remain in the Netherlands as illegal immigrants, often arriving in this country with the aid of another person and then remaining here. These are indeed elements of the crime of human smuggling. Trafficking, however, concerns first and foremost exploitation and profiting from it, while in addition bringing persons over the border for prostitution purposes can be classified as trafficking. Whereas with smuggling the emphasis is on the illegal crossing of borders, with trafficking the aim of bringing the trafficked persons into prostitution or exploiting them is the central element. This does not alter the fact that at the moment THB is suspected, elements of the crime of human smuggling may also be involved, for which reason trafficking and smuggling are often charged in the same case.

The Explanatory Memorandum to the Bill to broaden the definition of (and the scope of the penal provision) of THB (hereinafter referred to as the Bill on THB) states that smuggling and trafficking can be distinguished, but not always separated. The fact that in the case of smuggling of human beings there may also be humanly degrading circumstances under which the smuggled person is transported or accommodated does not make him a victim of this smuggling according to the letter of the penal provision, neither can it be labelled as THB unless the smuggling subsequently develops into exploitation in the form of forced work or services. However, the government does state in the above-mentioned Explanatory Memorandum that the seriousness of human smuggling increases when this is coupled with the violation of elementary human rights. That is why the Bill, which also proposes amendments in the area of human smuggling, proposes broadening the scope of the smuggling provision with sentences of up to 12 years maximum or a penalty of € 45,000 and a maximum of 15 years and the same penalty, if the smuggling causes serious bodily injury or is life-threatening to others, or if the smuggling leads to death.

### *Illegal employment*

Employing persons who have entered or remain in the Netherlands illegally is a criminal offence under Article 197b of the Criminal Code. Normally the alien concerned will not possess a work

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<sup>41</sup> DNDM contains a number of provisions for slave trade as an alternative to THB. It was a provision which entailed

permit. Employing aliens without a work permit to carry out work is also a criminal offence under the Economic Offences Act. The Criminal Code refers to this as a crime, whereas the Economic Offences Act regards it as an offence. This difference is expressed in the punishment: a maximum of one year imprisonment or a penalty of up to € 45,000 in the case of violation of Article 197b of the Criminal Code, compared to the threat of detention of no more than six months or a penalty of up to € 11,250 under the Economic Offences Act. The Board of Procurators General, in the *Handhavingsarrangement Wet Arbeid Vreemdelingen* (Arrangement for Enforcing the Aliens Employment Act), has stated that it regards Article 197b of the Criminal Code as eminently suitable for tackling the more serious cases of illegal employment, particularly in the case of blatantly malafide employers<sup>42</sup> or if there is a situation of exploitation.

### 2.3.2 Other (statutory) regulations

#### *The B-9 regulation*

The B-9 regulation<sup>43</sup> has not undergone any substantive changes recently. However, it has been indicated verbally on more than one occasion that the Ministry of Justice is working on some amendments. Changes are necessary because in practice the regulation is not always clear and problems arise in its implementation. Forthcoming developments too, such as the broadening of the definition of THB and the possibility agreed upon at EU level for victims of trafficking to be allowed to work during their stay in the Netherlands within the framework of the B-9 regulation make amendments necessary. Apart from changes in relation to this latter point in the longer term, the question is whether the B-9 regulation will be substantively changed. During the General Consultation of the Parliamentary Standing Committee for Justice with the ministers of Justice and Alien Affairs and Integration, both ministers made it known that, in their view, the regulation as it currently stands is adequate. However, it was acknowledged that there are problems in its implementation.

#### *Refugee status for victims of trafficking?*

It is repeatedly proposed granting victims of trafficking refugee status.<sup>44</sup> This plea would appear to have little chance of success under existing Dutch case law. This is because the criteria that apply for admission as a refugee are related to the general situation in the country of origin and the fact that the person involved cannot rely on the protection of that country due to a well-founded fear of persecution, whereby the threat must originate from the official authorities or large groups within society. The threat for an individual, coming from one or a few countrymen or small groups, which is usually the case with THB, cannot be easily included in these criteria. It is the case, however, that a person who requests asylum in the Netherlands and who appears to be a possible victim of THB, should be informed about the B-9 regulation which she may then appeal to. However, there are well-founded arguments from various sides for making the Refugee Convention applicable to victims of THB.<sup>45</sup>

#### *The Aliens Employment Act and the sex industry*

The general principle of the Dutch government (laid down in the Aliens Employment Act Implementation Decree) is that work by aliens in the Dutch sex industry, even after lifting the general

<sup>42</sup> The Board would appear to indicate here deliberate intent and the employer's knowledge of the illegality of the working alien.

<sup>43</sup> The regulation in Section B-9 of the Aliens Act Information Guidelines, on the basis of which victims (and witness-informants too, under restrictive conditions) of THB are permitted to remain in the country for the duration of the investigation, prosecution and sentencing of the suspect.

<sup>44</sup> This means refugee status according to the UN Convention relating to the Status of Refugees (1951). Article 29 paragraph 1a of the Refugee Convention 2000 states that being a refugee under the Convention may constitute possible grounds for a (temporary) residence permit.

<sup>45</sup> This is derived from the argument that gender should be a criterion in asylum law. In this sense: Shearer Demir (2003), who states that under certain circumstances victims of THB may be regarded as belonging to a specific group in society, who because of a well-founded fear of persecution need international protection. See also Wetmore (2003) who in her article on the *Topic: Temporary residence for victims of trafficking in the United States* concludes that even

ban on brothels, may not be permitted (for the time being). Because of international agreements on the subject, this principle does not apply to subjects of the EU/European Economic Area (EEA).<sup>46</sup> They may therefore work in the Dutch sex industry under the same conditions as those which apply to Dutch nationals, as self-employed persons or in salaried employment.

The Dutch government has been partly hauled back into line by the European court concerning its intention not to allow (for the time being) any aliens from outside the EU/EEA to work in the Dutch sex industry. In its judgement in the Jany case<sup>47</sup> the Court of Justice of the European Communities ruled that prostitution is an economic activity that, under certain conditions,<sup>48</sup> comes under this definition in the Association agreements. This ruling means that an alien from an Association country<sup>49</sup> may appeal to the right to set up business in the Netherlands to work as an *independent* prostitute. The right to set up business, however, is not absolute and may be made subject to a system of prior controls. In doing so, the Netherlands may check whether the applicant a) actually intends to pursue his occupation as a self-employed person without carrying out work in salaried employment at the same time or having recourse to public funds, b) has sufficient resources to pursue the independent activity and c) has a reasonable chance of success. Subjects of non-Association countries and non-EU/EEA countries are not admitted to work in the sex industry.

*Restrictions on working in prostitution and THB*

A number of NGOs have repeatedly argued that where aliens cannot work legally in the sex industry in the Netherlands but are still interested in doing so, a ban on or obstacle to doing this legally means a considerable risk of becoming dependent on third parties, with exploitation as a potential and harmful consequence. They therefore regard the ban on issuing work permits for prostitution work in salaried employment and the conditions that are or may be imposed on subjects of Association countries who want to come and work in the Netherlands as self-employed prostitutes as encouraging THB. In reverse, it can also be said that Article 250a of the Criminal Code (and also the future Article 273a of the Criminal Code) regards the recruiting, transport or abduction of persons with the intention of putting them to work in another country in the sex industry as a variant of THB, even if no coercion or threats are used.

The enlargement of the EU on 1 May 2004 will have consequences for the opportunities of the subjects of the ten new member states to come and work in the Netherlands. Accession means that these countries become part of the internal market, where the free movement of persons, services and capital is the basic principle. This means that in principle the labour market of the existing member states are also opened and remain open to subjects of the acceding countries. This also applies to the legalised sex industry in the Netherlands. A number of EU countries, however, have made use of the possibilities afforded by a transitional phase, during which the labour market can still remain (partially) closed to subjects of the acceding countries for some considerable time yet. This includes the Netherlands, which wants to limit opportunities to sectors in which there is a clear shortage of workers. The prostitution sector is not on that list.

*The Compulsory Identification (Extended Scope) Act*

As per 1 January 2005 the Compulsory Identification (Extended Scope) Act will enter into force. This Act lays down that anyone aged fourteen years and older must produce a valid identity document by order of a police officer or a supervisory official. In the sector of the sex industry, the duty to carry identification extends also to persons who have not yet reached the age of fourteen years. A mere indication of illegality and minority is sufficient to allow the (administrative)

<sup>46</sup> These are the 15 'old' member states of the EU, as well as Norway, Iceland and Liechtenstein.

<sup>47</sup> Ruling of the Court of the European Community dated 20 November 2001 in the case C-268/99 Jany et al.

<sup>48</sup> These conditions are: a) without any relationship of authority concerning the choice of the activity, the working conditions and the remuneration, b) under one's own responsibility and c) for remuneration which is paid in full and direct to him.

<sup>49</sup> This refers to the countries with which 'association agreements' have been entered into, being the Czech Republic

supervisory official legitimately to inspect an identity document. For the police, within the context of its crime prevention tasks, under these circumstances there must be a reasonable suspicion of the person being guilty of a criminal offence.

#### *The Promotion of Integrity Reviews by the Public Administration Act*

The Wet BIBOB came into force on 1 June 2003. The purpose of this Act is to prevent a situation where the government facilitates criminal activities by granting licences and subsidies or awarding contracts. The Act contains two instruments for this purpose.

Firstly, an administrative body may refuse or withdraw a decision (licence or subsidy) if there is a) a serious threat that the decision will also be used to exploit the proceeds of criminal offences (e.g. money laundering), b) a serious threat that the decision will also be used in order to commit criminal offences (e.g. as a cover) or c) when facts and circumstances indicate that in order to obtain the decision a criminal offence has or may have been committed (e.g. forgery of documents or bribery).

Secondly, an administrative body may ask for advice from the BIBOB Office set up with this Act.<sup>50</sup> This is a part of the Ministry of Justice, specialised in making enquiries into (closed) sources of information, as well as processing and assessing the information thus obtained.<sup>51</sup> Sectors to which the BIBOB is applicable have been designated by ministerial decree. Sex establishments and escort services come under this as far as licensing is concerned.

## **2.4 International developments**

### **2.4.1 Introduction**

THB is not only of concern to individual countries. Often it involves organised, cross-border crime that violates (fundamental) human rights. For these reasons, the international community is extremely concerned with this subject. International developments in tackling THB are following each other in rapid succession leading to a flood of international treaties, conventions, decisions and recommendations. This paragraph discusses international developments that are important for the national legal order.

### **2.4.2 International organisations<sup>52</sup>**

#### **2.4.2.1 Introduction**

Tackling and combating THB continues to be an issue high on the agenda of international organisations. Each organisation deals with the subject based on its own background, putting the emphasis on different aspects. However, the organisations all agree in being convinced of the need to promote cooperation, both between countries and among the international organisations themselves, and they call on all parties to do so. Although the powers of these international organisations are in fact limited to making agreements in the regulatory sphere (legislation and regulations), a clear trend can be seen towards drawing up enforceable or compulsory agreements and a more practical, implementation-oriented approach. 'Codification' is added to with concrete initiatives designed to implement these agreements made. The extent to which this occurs varies between the organisations.

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<sup>50</sup> According to the BIBOB Office, local government authorities only ask for such advice to a very limited extent.

<sup>51</sup> It concerns such aspects as more information about a person's criminal and financial background as well as information from police records and other investigation records (Uitsluitend 2003).

Below follows a description of the most important and recent developments brought about within the framework of the four largest international organisations most relevant to Europe (UN, EU, Council of Europe and OSCE).

#### 2.4.2.2 United Nations

The objectives of the United Nations (UN) are: maintaining international peace and security, strengthening the international legal order and compliance with human rights and fundamental freedoms, as well as encouraging international cooperation in solving social, cultural and humanitarian problems. These aspects are worked on by the main agencies of the UN, as well as specialised organisations set up within the framework of the UN. The UN is active in a wide range of areas, including THB. The underlying principle throughout as well as the first line of approach is always the protection and promotion of human rights.

##### *Trafficking in human beings – documents and initiatives*

- The *UN Convention against Transnational Organised Crime*<sup>53</sup> (hereinafter referred to as the UN Convention), the ‘parent Convention’ to which three protocols are linked in the area of human smuggling, THB and trade in small weapons, came into force on 29 September 2003. The annex *Protocol to prevent, suppress and punish Trafficking in Persons, especially Women and Children*<sup>54</sup> (hereinafter referred to as the UN Protocol), came into effect on 25 December 2003. The Netherlands is not (yet) one of the ratifying countries. It will only do so when the Bill on THB comes into effect, since only then will national legislation and regulations be in line with the requirements laid down by the UN Protocol.

The definition of THB adopted in the UN Protocol will force the Netherlands to amend its legislation on THB. The scope of this definition, in fact, also covers trafficking in other employment situations and the removal of organs. The trafficking provisions in the Dutch Criminal Code are therefore being amended in this area. As regards the *scope* of activities that may be considered as THB, however, current Dutch legislation is already fairly wide-ranging. Besides the transportation of a person across the border to bring him or her into the sex industry in another country, the exploitation of adults and – without the use of force too – the use of underage persons in the sex industry and even profiting from these circumstances come under the scope of THB in the Netherlands. The literal text of the UN definition would appear only to cover certain activities where coercion is used with a view to exploitation, i.e. the trafficking activity (trading of persons). Strictly interpreted, exploitation itself would not come under this definition. The way in which the UN definition is used in other international documents (see below) would appear sometimes to confirm this strict interpretation. However, the fact that the UN Protocol also contains provisions concerning the protection of the victim implies that the protocol does indeed intend to include exploitation itself as well.<sup>55</sup> After all, it is logical to refer to a person as a victim only after that person has been affected by certain actions and not when only an intention exists. Furthermore, it is difficult to imagine that the international community would only have concerned itself with achieving agreement on the initial phase, and not on later phases of THB (the actual exploitation). Profiting from THB, which does indeed fall within the scope of Dutch criminal legislation on THB, does not however fall within the scope of the UN Protocol. On that point, therefore, Dutch legislation is broader.

The UN Protocol also contains provisions with measures to prevent THB and to protect victims. There are also elements that deal with cooperation, and measures are described such as tightening up border controls, security and checking of travel documents and the exchange of

<sup>53</sup> Doc.A/55/383, passed by Resolution A/RES/55/25 of 15 November 2000.

<sup>54</sup> New York, 15 November 2000, included in the Treaty Series, year 2001, no. 60.

information. Although this means that the protocol deals with tackling THB on a broad front, the compulsory character of these more subsidiary provisions in the area of protection, prevention and cooperation leaves quite a bit to be desired. They contain ‘opt-out’ clauses, which allow parties to argue against (full) implementation of these provisions.<sup>56</sup>

The UN Protocol has broad international support and is repeatedly cited as an (important) source and basis for other documents, even by other international organisations. This applies in particular to the definition of THB contained therein. For example, the preamble to the EU Framework Decision on combating Trafficking in Human Beings mentions the UN Protocol as a decisive step towards international cooperation in this area, and the Framework Decision adopts a definition of THB that leans heavily on the UN definition. The OSCE Action Plan on THB has even adopted the UN definition verbatim.

- In 2002 the *Office of the United Nations High Commissioner for Human Rights* (OHCHR) published the *Principles and Guidelines on Human Rights and Trafficking* by the High Commissioner.<sup>57</sup> Taking the premise that tackling the problem of THB must always involve the entire chain, this document contains recommendations that should serve as the starting point in prevention and suppression, as well as in the care for and assistance offered to victims. The basic principle here is the concept that violation of human rights is both a cause and consequence of THB, reason why the protection of these rights must be the fundamental basis of all measures. These guidelines are developed further in eleven guidelines, resulting in all kinds of obligations that nations should take upon themselves, ranging from the recognition and protection of victims of trafficking, research and evaluation, the harmonisation of definitions and procedures for cooperation in the fight against THB.

It is worth noting that the High Commissioner refers to ‘trafficking and related exploitation’. The actual exploitation would therefore seem not to come under the term of ‘trafficking in human beings’ and would appear to be in line with the above-mentioned, limited interpretation and scope of the definition adopted by the UN. Nevertheless, this does not alter the fact that the relationship between trafficking and exploitation is explicitly made and that the recommendations therefore focus on both aspects.

The OHCHR started up a Trafficking Programme in 1999, aimed at working on the integration of a human rights perspective in international, regional and national anti-trafficking activities. Within this framework, the High Commissioner has an advisor specifically on the subject of THB.<sup>58</sup> The programme places emphasis on the development of regulations and policy, particularly at an international and regional level, and aims to achieve the integration of anti-trafficking measures in related areas such as migration, labour, security and gender issues. The OHCHR also wants to be a catalyst and partner in the anti-trafficking activities of other organisations.<sup>59</sup>

- In 2000 the *Optional Protocol on the sale of children, child prostitution and child pornography* to the *UN Convention on the Rights of the Child* was drawn up.<sup>60</sup> The Netherlands signed this protocol on 7 September 2000.<sup>61</sup> The protocol builds on a number of provisions from the treaty to which it is linked. As far as trafficking in children is concerned, these are the clauses that call on nations to protect children from economic exploitation in general, and from the

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<sup>56</sup> It concerns such phrases as “to the extent possible under its domestic law” (Article 6 subsection 1), “shall consider adopting appropriate measures” (Article 7 subsection 1) and “State parties shall establish comprehensive policies” (Article 9 subsection 1, preamble).

<sup>57</sup> E/2002/68/Add.1 (2002).

<sup>58</sup> The Adviser on Trafficking to the High Commissioner.

<sup>59</sup> In the OHCHR document, *Eliminating trafficking and protecting the rights of trafficked persons* (not published), the OHCHR gives a summary of what was achieved in 2003 and the targets and strategies for 2004. See also the OHCHR’s *Trafficking in Persons Information Note* of March 2001, available on the Internet.

<sup>60</sup> The protocol was adopted and opened for signing, ratification and accession by the UN General Assembly Resolution A/RES/54/263 of 25 May 2000 and came into force on 18 January 2002.

<sup>61</sup> Ratification was only taken place after the Bill on THB, submitted together in implementation of this protocol has



exploitation of children in forced work and work that is dangerous to or interferes with the health and physical, mental, spiritual, moral and social development of the child in particular. This includes in any case sexual services and sexual abuse. The protocol lays down further rules on the protection of children from economic exploitation and harmful use. It contains the obligation to make these activities a crime, regardless of whether they are committed in the country itself or transnationally, or on an individual or organised basis, and to establish for this purpose a certain degree of extraterritorial jurisdiction. Furthermore, member states must take measures to protect the rights and interests of the child during legal proceedings, and to develop and strengthen activities to prevent exploitation. Finally, nations are called upon to promote international cooperation in preventing, detecting, investigating, prosecuting and sentencing the perpetrators of the sale of children, child prostitution and pornography and child sex tourism. The protocol also includes an obligation of the member states to report on the measures they have taken to implement the obligations of the protocol. After an initial report specifically about the implementation, reports must then be submitted every five years.

- Within the framework of the International Labour Organisation (ILO) the *Worst Forms of Child Labour Convention* was drawn up in 1999.<sup>62</sup> This Convention, ratified by the Netherlands on 14 February 2002, obliges the member states to take effective measures immediately to safeguard the banning and outlawing of the worst forms of child labour. This includes at any rate every form of slavery or practices equivalent to slavery – including trafficking in children and forced or compulsory work -, the use, recruitment or offering of children for sexual activities and work that due to its nature or the circumstances under which it is carried out is likely to be harmful to the health, safety or morality of children. The term ‘trafficking in human beings’ as adopted in the (future) Dutch legislation will undoubtedly fall within the scope of this Convention as far as children are concerned.<sup>63</sup> The Convention obliges the member states to set up mechanisms to monitor the implementation of the measures aimed at implementing the obligations under the Convention. In addition, member states must develop and implement action plans to outlaw the most serious forms of child labour and draw up preventive measures, whereby governments should consult employer and employee organisations. Where child labour does occur, a member state must act immediately and effectively and lend all necessary assistance in the resocialisation and social integration of the child involved. Finally, countries must cooperate and assist each other in implementing this Convention. This would involve matters such as providing support for social and economic development, programmes to combat poverty and universal education. The General Conference of the ILO, in its *Worst Forms of Child Labour Recommendation*,<sup>64</sup> included recommendations that clarify the obligations set out in general terms in the Convention.<sup>65</sup> For example, the terms ‘action plans’ and ‘dangerous work’ are defined more explicitly and additional measures are being proposed. It also recommends that member states regularly collect information on the nature and extent of the problem, so that this can serve as a basis for determining priorities in tackling it.
- The *Global Programme Against Trafficking in Human Beings* (GPAT) focuses more on the practical side of combating THB. This programme has been developed by the UN Office on Drugs and Crime (UNODC), in cooperation with the UN Interregional Crime and Justice Re-

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<sup>62</sup> ILO Convention no. 182 of 17 June 1999 (Staatsblad 50 (1999) no. 177).

<sup>63</sup> Since the term ‘trafficking in children’ is not defined in this Convention, here too the question arises whether the meaning given to the term corresponds (fully) with definitions in other international documents. Without providing any greater clarity on this matter, the ILO/IPEC document *Synopsis of international law relevant to child trafficking* (2001) states that the definition of THB in the UN Protocol is a useful guide when action is being taken against trafficking as referred to in ILO conventions such as this one.

<sup>64</sup> Recommendation no. 182 concerning the *Prohibition and immediate action for the elimination of the worst forms of child labour*, ILO General Conference, 17 June 1999 (Staatsblad 50 (1999) no. 177).

<sup>65</sup> The preamble also states that the Recommendation is intended as an addition to the provisions of the Convention.

search Institute (UNICRI), and started up in March 1999. The GPAT assists member states of the UN in their fight against THB, and aims to increase awareness of the involvement of organised criminal groups in trafficking and to contribute to the development of an effective penal approach to the problem. This is done in two ways: firstly through data collection and analysis. The UN Centre for International Crime Prevention (UNCICP) has set up a database containing quantitative data on THB, information on world trends, methods that traffickers use and the victims and perpetrators of trafficking, including data on investigation and prosecution.<sup>66</sup> These data are analysed and explained in reports that are produced on a regular basis at a national, regional and world level.<sup>67</sup> Secondly, technical cooperation projects are carried out in certain countries, offering specific expertise in these projects to intensify the fight against THB. This helps countries of origin, transit and destination to develop strategies and practical activities. At a national level, the GPAT aims to contribute to public awareness, the training of judicial officials, advice on legislation and regulations, improving the assistance given to victims and witnesses, and promoting institutional capacity. Within the framework of the GPAT work has also been carried out on a toolkit that provides examples of promising practices in the fight against THB, in the field of legislation, investigation and prosecution, victim protection and assistance and international cooperation.

#### *Other initiatives*

- The *UN Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW Convention; hereinafter referred to as the UN Women's Convention)<sup>68</sup> that was ratified by the Netherlands in 1991 contains a clause relating to trafficking in women. Article 6 of the Convention obliges member states to take all necessary and/or suitable measures in order to combat "all forms of traffic in women and exploitation of prostitution of women". These words show that a broad definition of 'trafficking in human beings' is being assumed, namely all forms of social and economic exploitation, but it does equate trafficking in women with exploitation in prostitution. As regards the term 'exploitation' in this article, the Minister of Social Affairs and Employment stated that the term means the *exploitation of women* in a negative sense. As the legal employment of prostitutes since the lifting of the general ban on brothels must in principle be regarded as employment, it does not come under the terms of Article 6, according to the Minister.<sup>69</sup> It is fair to assume that this interpretation also applies to other international documents in which the term 'exploitation' is used. It is important, though, to continue to emphasise this towards other countries.<sup>70</sup>
- During the Third Commission of the General Assembly of the UN<sup>71</sup> the Netherlands generally submits each year a resolution on certain forms of violence against women. This usually con-

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<sup>66</sup> The database also contains similar information on human smuggling.

<sup>67</sup> An initial *Global crime and corruption report* which also highlights the subject of THB and will include the above-mentioned data is being prepared by UNCICP (situation November 2003).

<sup>68</sup> Convention of 18 December 1979 (UN Doc. A/34/46), which came into force on 3 September 1981.

<sup>69</sup> This explanation is important, since the English term 'exploitation' can have both a neutral and a negative interpretation, for which there are two different words in Dutch, namely 'uitbaten' (neutral) and 'uitbuiten' (negative). In principle, 'exploitation' in international documents is used in its negative sense. In the (international) discussion on prostitution, however, prohibitionists and abolitionists argue that prostitution is a form of violence against women, or is even by definition involuntary and as a result is a form of THB. In this discussion, some people try to bring prostitution (of adults) within the scope of the definition of THB. Because of its chosen prostitution policy, the Netherlands must therefore be careful to use the correct terminology and avoid confusion regarding the translation of the term 'exploitation'.

<sup>70</sup> All the more because in the Dutch report to the CEDAW Committee (Directorate for the Coordination of Emancipation Policy, 2000) the Executive Summary of a study into Dutch policy in the light of the UN Women's Convention by Boerefijn and Van der Liet-Senders states that the CEDAW takes the view that pimping must also be a punishable offence and the commercial organisation of prostitution therefore does indeed fall within the scope of Section 6 of this Convention.

<sup>71</sup> This is one of the six commissions that comprise part of the tasks of the General Assembly when it is not meeting

cerns a single, specific form of violence against women. The Netherlands has initiated the idea of producing an omnibus resolution, which would deal with various forms of violence against women together. Such an omnibus resolution is in preparation, and if there is enough interest and support, it will be submitted to the Third Commission.<sup>72</sup> The draft text of this *Resolution on the elimination of all forms of violence against women*,<sup>73</sup> hereinafter referred to as the Omnibus Resolution, describes ‘trafficking’ as a form of violence against women, against which states must take preventive and repressive measures and organise assistance for victims of trafficking. States are also called upon to combat the (underlying) causes of trafficking, such as poverty, sexual inequality and disempowerment. The document also mentions ‘sexual and other forms of exploitation’ as a cause of trafficking. This would appear to distinguish trafficking from actual exploitation (in the sex industry).<sup>74</sup>

The draft resolution takes the chain concept as its starting point: states are called upon to cooperate with each other to investigate, prosecute and sentence all suspects involved in trafficking, both at home and abroad. Furthermore, in addition to various forms of assistance, states are called upon to provide professional training and in doing so to work together with NGOs. Such a call, especially if it is made by the Netherlands, implies the moral obligation on the part of the Netherlands to modify the B-9 regulation in this respect, and actually to provide such a facility.

- In 1990 the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, the Convention for Migrant Workers in short, was adopted.<sup>75</sup> The Convention aims to protect the fundamental human rights of migrant workers and their family members in the country where they are working. The Convention contains mandatory provisions, laying down the rights and obligations of both the states and the migrant workers and their families. The aim of the Convention is to ensure that migrants are treated equally and enjoy the same working conditions as the local population. This is based on the idea that they are not only workers, but people too, whose human rights must be protected. One of the objectives served by this is that the exploitation of migrant workers is prevented and outlawed in the whole migration process. The Convention prohibits slavery and servitude, as well as forced or coerced work. A committee of independent experts will supervise compliance with the Convention by the countries which are party to it.

#### *No ratification by the Netherlands*

It took 13 years for the required 20 ratifications to be received for the Convention on Migrant Workers to come into force. The Convention only came into force on 1 July 2003. The Netherlands is not one of the ratifying countries, nor is any other Western country.<sup>76</sup>

### **2.4.2.3 European Union**

One of the prime objectives of the European Union (EU) is to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is safeguarded, in combination with appropriate measures concerning controls at its outer borders, asylum, immigration and the prevention and combating of crime. Within this area, the Union aims to provide its citizens with a high level of security by promoting police and judicial cooperation in criminal cases, both direct and through Europol and Eurojust (Article 29 of the EU Treaty). THB is one of

<sup>72</sup> The concept of a preference for a single, all-embracing document on violence against women is expressed within the context of the Council of Europe through the *Recommendation on the protection of women against violence* described below.

<sup>73</sup> This is the draft text of 16 October 2003.

<sup>74</sup> In its contacts with the Ministry of Foreign Affairs which is coordinating the preparation of the Omnibus Resolution, the Bureau of the Rapporteur on Trafficking in Human Beings has pointed out this apparent flaw.

<sup>75</sup> This text was adopted during the 60th plenary meeting of the General Assembly of the UN on 18 December

the few categories of crime explicitly referred to in this article. This provision underlies countless developments and decisions within the EU in the area of cooperation in criminal cases in general, and in the area of THB in particular.

*Trafficking in human beings – documents and initiatives*

- The *Framework Decision on combating trafficking in human beings*, hereinafter referred to as the Framework Decision on THB.<sup>77</sup> The members must comply with this Framework Decision before 1 August 2004.

*Framework decisions*

The tool of Framework Decisions has been added to the EU's set of legal instruments with the Amsterdam Convention. The purpose of a Framework Decision is to bring the legislation and regulations of the member states more in line with each other. A Framework Decision is binding as to the result, whereas the member states are free to choose the form and the means. A Framework Decision therefore does not have a direct effect and must be implemented by being converted or incorporated in national legislation and regulations.

The Framework Decision on THB was one of the direct reasons for the Bill on THB. It obliges member states to make offences categorised as THB a criminal offence, referring specifically to exploitation in relation to labour and sexual exploitation, for which the member states must adopt a minimum-maximum punishment of 8 years imprisonment if special circumstances apply. This does not constitute any problems for the Netherlands, in view of the fact that the specific circumstances correspond with the aggravating circumstances referred to in Article 250a of the Criminal Code. In addition, the Framework Decision on THB obliges member states to provide for the liability of legal persons and to establish jurisdiction when the criminal offence has been committed either entirely or partly in that member state's territory, the perpetrator (suspect) is one of its own subjects or the criminal offence was committed to benefit a legal person established in the territory of that member state. The Bill on THB also includes these aspects, in so far as they are not already included in existing legislation. On the matter of the protection of and assistance to victims, the Framework Decision on THB is very cursory and only dictates that any report or complaint requirement for the victim is cancelled in the above-mentioned cases in which a member state has to establish jurisdiction to tackle THB. Furthermore, children who are victims of trafficking are regarded as particularly vulnerable victims as referred to in the *Framework Decision on the status of the victim in criminal proceedings* (see below). In such cases, member states must also ensure there is appropriate assistance for his or her family.

- The *Framework Decision to combat the sexual exploitation of children and child pornography*<sup>78</sup> specifically concerns children<sup>79</sup>. This Framework Decision obliges the EU member states to amend their national legislation in order to achieve uniform regulations in the area of child pornography and child prostitution. Both crimes are mentioned in the preamble to the Framework Decision as (a very serious form of) sexual exploitation of children and a serious violation of the human rights and fundamental rights of the child to a harmonious upbringing and development. For this reason, the Framework Decision obliges the member states to make a number of deliberate acts of a sexual nature committed towards children a criminal offence. It concerns involving children in pornographic activities, as well as the recruitment of children for and coercing them into prostitution and profiting from it. These acts are already a criminal offence in the Netherlands under the THB article.

<sup>77</sup> Decision of 19 July 2002 (2002/629/JBZ), published in OJ L 203 of 18 August 2002 and coming into force on the same day.

<sup>78</sup> Framework Decision 2004/68/JBZ of 22 December 2003, OJ L 13 of 20 January 2004.

- *Draft Framework Decision on the prevention and control of trafficking in human organs and tissues.*<sup>80</sup> Referring to the definition of THB contained in the UN Protocol, the Greek EU presidency presented a proposal for a Framework Decision on trafficking in human organs and tissues. This was necessary, according to the presidency, because the Framework Decision on THB does not contain any provisions on trafficking in human organs, whereas the UN Protocol takes a crucial step towards international cooperation to combat trafficking in human organs. Since both the EU and the individual member states have signed the UN Protocol, they are also obliged to take measures in the area of THB with the purpose of removing organs and tissues. This Framework Decision aims to provide for this. The draft text, however, goes further and contains proposals that cover the entire chain (from the above-mentioned THB to the trafficking in organs for financial gain and implantation of organs and tissues originating from such trafficking). A number of countries have doubts about the necessity and desirability of a Framework Decision on trafficking in human organs, and many member states take the view that there is no urgent need for this Framework Decision at present, partly because the trade in organs and tissues, as far as is known, does not yet occur in Europe on a large scale.<sup>81</sup> For this reason, the debate on the draft Framework Decision has not progressed beyond a general discussion. Member states made a large number of reservations, which means that the subject will possibly be brought up for discussion again at a later date.
- As part of the intended creation of a common asylum and immigration policy within the EU, the then (Spanish) presidency in 2002 presented a proposal for a *General plan for combating illegal immigration and trafficking in human beings in the European Union.*<sup>82</sup> The basis of the plan is the combating of illegal immigration, and in its details no further distinction is made between the activities to be undertaken specifically in the area of THB. Only on the issue of sanctions is it specifically mentioned in relation to THB that decisions must be made in the short term on whether particular benefits or assistance can be given to victims. On 11 February 2002 the European Commission presented an initial proposal for a *Directive “on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities”*,<sup>83</sup> hereinafter referred to as the Temporary Residence Permit Directive. Following negotiations, on 4 November 2003 the Council of Ministers presented a new draft of the Directive.<sup>84</sup> The changes made to the text are clearly expressed in the new title of the Directive: *Proposal for a Council Directive on the residence permit issued to third-country nationals victims of trafficking in human beings or to third-country nationals who have been subjects of an action to facilitate illegal immigration who co-operate with the competent authorities.* Firstly, there is no longer any mention of a short-term residence permit but a residence permit in itself. However, Article 1 of the Directive states that such a residence permit is only for a short period. Secondly, the Council has dropped the original thirty-day deadline for the reflection period and leaves the duration of this period for the member states to decide. Finally, the title refers, where human smuggling is concerned, not to victims but to persons who have been the subject of smuggling. This latter modification in particular may be regarded as an important reason why the Netherlands has agreed with the modified text of the Directive. As far as the result to be achieved is concerned, the Directive is imperative for member states with regard to victims of trafficking, as a result of which such victims will or can be given a temporary residence permit if they cooperate in investigating and prosecuting the traffickers, but only if they have severed all links with the suspected perpetrators. For persons who have

<sup>80</sup> Text of 28 March 2003 (7247/03).

<sup>81</sup> Annotated agenda for the meeting of the Council of Ministers of Justice and the Interior and the Mixed Committee of 5 and 6 June 2003.

<sup>82</sup> Proposal 2002/C 142/02, OJ 14.6.2002, C 142.

<sup>83</sup> Document COM(2002) 71 Final, 2002/0042 (CNS), OJ 28.5.2002, C 126 F.

been the subject of smuggling, the member states *may* apply the same regulation. Those to whom the regulation is applicable will be given a period of reflection, shelter, a contribution towards living costs, necessary medical treatment, psychological assistance, translation services and free legal aid, and their need for safety and protection has to be taken into account. During the term of the residence permit, the person concerned must also have access to the labour market, professional training and schooling. By agreeing in principle to the regulation, the Netherlands has accepted the above-mentioned facilities and obligations.<sup>85</sup> The draft Directive will now be presented to the European Parliament for further consultation and advice.<sup>86</sup> After it has been debated there, the Directive must still be formally passed and adopted,<sup>87</sup> following which it can be incorporated in national legislation and regulations. It is not yet known how the Netherlands will do this.

- Following the *European Conference on Prevention and Combating Trafficking in Human Beings, Global Challenges for the 21<sup>st</sup> Century*<sup>88</sup>, the so-called *Brussels Declaration on Preventing and Combating Trafficking in Human Beings* (hereinafter referred to as the Brussels Declaration) was drawn up. Its purpose is to develop European and international cooperation further with concrete measures and standards, best practices and mechanisms to combat THB. Proposals are being put forward for this purpose that cover the entire chain of THB and all forms of exploitation. An appendix elaborates on this in a series of action points for cooperation and coordination, prevention, victim protection and assistance as well as police and judicial cooperation. Although the Brussels Declaration is not a formal EU decision and therefore not binding,<sup>89</sup> the European Commission has ‘adopted’ the text and made it known that it will use the Brussels Declaration as a route planner for its further policy on THB. For example, the ‘Expert group on trafficking in human beings’ has been set up, its task being to advise the Commission on all matters relating to THB.<sup>90</sup> The framework for its activities is the Brussels Declaration and one of its first tasks is to draw up a report, on the basis of which the Commission can formulate more specific proposals at a European level. It is therefore a kind of action plan, which should be published in the later part of 2004. The Brussels Declaration also contains a recommendation for a mechanism at a national level, such as a national rapporteur, that contributes to a regular evaluation, monitoring and improvement of the implementation of national policy. This could in turn create links at a European level, in close cooperation with EU bodies and other forms of European collaboration.<sup>91</sup>
- *The European Forum on prevention of organised crime* that was set up by the European Commission in 2001 and which has a Workshop on ‘Prevention of Trafficking in Human Beings’ (hereinafter referred to as the EU Prevention Forum) is referred to in the Brussels

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<sup>85</sup> This means that, once the Directive has been formally adopted, the Netherlands must review the B-9 regulation accordingly, since under the current regulation working is not permitted during the validity of the B-9 permit.

<sup>86</sup> On 9 March 2004 the European Parliament voted on the amended version (Doc. A5-0099/2004), whereby the thirty-day period was reinstated and the Parliament also made clear that when a short-term residence permit is withdrawn or not extended, the authorities must carry out a risk analysis concerning the safety of the person concerned.

<sup>87</sup> This took place on 29 April 2004.

<sup>88</sup> Conference, organised by IOM International, in cooperation with the European Commission and the European Parliament (Brussels, 18-20 September 2003).

<sup>89</sup> Important to the Netherlands, because the Brussels Declaration contains passages that do not conform to Dutch policy on prostitution. Should it be decided to formalise the Brussels Declaration at any moment in the future, the Netherlands will have to consider certain formulations of the text in its negotiations.

<sup>90</sup> Decision of 25 March 2003 (2003/209/EC), OJ 26.3.2003 L 79. The expert group consists of 20 persons, qualified in the area of THB and related issues. The members are appointed in their personal capacity by the Commission and come from the EU member states, candidate member states and intergovernmental, international or non-governmental organisations active at a European level. The composition of the expert group is laid down by decision of 27 August 2003 (2003/C 205/03), OJ 30.8.2003 C 205. The appointments came into effect on 1 September 2003, for a period of 1 year.

<sup>91</sup> In fact a reiteration of the recommendations from the Hague Convention (1997) to appoint national rapporteurs.

Declaration as a forum that the Commission, together with the above-mentioned expert group, should use intensively in its anti-THB activities. The EU Prevention Forum brings persons together who work in the chain for tackling and combating THB in Europe. By discussing problems and presenting ways to tackle them and solutions for problem areas identified, the EU Prevention Forum serves as a sounding board for the European Commission. During the fourth meeting<sup>92</sup> the European Commission announced the first steps in the implementation of the recommendation from the Brussels Declaration to intensify cooperation between law enforcement agencies and civil society. This public-private partnership is regarded by the Commission as an important tool in preventing and combating THB. Civil society, often NGOs that work with trafficking victims, in fact possesses a great deal of knowledge and experience, usually succeeds in winning the confidence of the victim and knows the advantages but also the pitfalls and dangers for the victim where it concerns cooperation with law enforcement.

- The *Draft Council Recommendation on the improvement of methods of prevention and operational investigation in combating organised crime involving trafficking in human beings*<sup>93</sup> is currently under negotiation between the EU member states. It calls upon the member states to develop appropriate preventive strategies and to take measures that enable enforcement agencies to act more effectively against organised traffickers. In concrete terms, it concerns recommendations such as developing training courses, using investigative methods especially tailored to organised crime, including confiscation, the use of networks of liaison officers and Europol and enabling the enforcement agencies to make use of information collected by the Health and Safety Inspectorate. The latter is necessary to give the police and the PPS sufficient resources to be able to track down labour exploitation.

#### *Other initiatives*

- As part of the measures relating to police and judicial cooperation in criminal cases, the *Framework Decision on the status of victims in criminal proceedings* was drawn up.<sup>94</sup> Its aim is to offer victims of crime a high level of protection and to defend their interests, regardless of the member state in which they find themselves. For this purpose, the Framework Decision contains provisions that provide these victims assistance before, during and after the criminal proceedings, in order to mitigate the consequences of the crime. Victims of THB also fall within the scope of the provisions. These provisions concern, inter alia, the opportunity to access information relevant to the victim's protection, the opportunity as victim to take part in the criminal proceedings and to obtain legal advice and legal representation (free of charge) for this purpose, the right to an acceptable level of protection for the victim and his/her family members, victim support in the form of initial reception followed by assistance and the right to compensation. All these provisions must go to prevent the secondary victimisation of the victim.
- During the summer of 2003 the *European Convention on the future of Europe* was concluded with the presentation of the draft *Treaty establishing a Constitution for Europe*.<sup>95</sup> The purpose of this constitution is to lay down the structure, fundamentals, principles and powers of the EU in an all-embracing document. An important part is formed by the *Charter of Fundamental Rights of the European Union*, which contains a summary of rights, freedoms and principles recognised by the EU that apply to the EU, its member states and citizens. Article II-5 of this charter states categorically that THB is prohibited. The same provision also con-

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<sup>92</sup> Meeting of 30 June 2003, the first meeting of the EU Prevention Forum after drawing up the Brussels Declaration.

<sup>93</sup> Document 11374/3/03 of 30 October 2003.

<sup>94</sup> Framework Decision 2001/220/Council of Ministers of Justice and the Interior dated 15 March 2001, OJ L 082 of 22.3.2001.

tains a ban on slavery, servitude and forced labour.<sup>96</sup> Article II-32 also contains a ban on child labour and states that working young people must be protected against economic exploitation. The member states still need to conduct negotiations on the text of the treaty before it can be signed. This does not alter the fact that in the above-mentioned areas the member states are already bound to a range of EU measures that have been described above and which form part of the *acquis communautaire*.

- In the *Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union*<sup>97</sup> the opportunity is created to set up Joint Investigation Teams, or JITs. Since the Convention must be ratified by each member state before it can come into force<sup>98</sup> - a time-consuming matter – and the Council of Ministers had already urged in Tampere in 1999 for the immediate formation of joint investigation teams as a first step towards combating issues such as THB, the Council of Ministers drew up a separate *Framework Decision on joint investigation teams*.<sup>99</sup> This Framework Decision only provides for the formation of JITs and is intended already at this stage to be a binding instrument at EU level in respect of joint investigations into such issues as THB.  
At the Netherlands' initiative, the police, the PPS, Europol and Eurojust are currently making preparations in joint consultation to set up the first JIT on THB.
- Various other EU initiatives of a general nature may be significant for tackling and combating THB. Those of a fairly recent date are:<sup>100</sup>
  - *Council Framework Decision on the European arrest warrant and the surrender procedures between Member States*.<sup>101</sup> The Netherlands is preparing legislation in anticipation of the implementation of this Framework Decision.
  - *Council Framework Decision on the execution in the European Union of orders freezing property or evidence*.<sup>102</sup>

#### *Law enforcement within the EU*

The EU is also giving more practical attention to the problem of THB, and has four instruments at its disposal in the fight against organised crime. Those important in relation to THB are the Task Force of European Chiefs of Police, Europol and Eurojust.<sup>103</sup> Not one of these instruments is a genuine transnational institution with transnational powers. They are all forms of collaboration between member states, their powers being determined in practice by the national competences of the participants and whereby their primacy depends on the attention the member states want to devote to cooperation. In its current system, incidentally, the EU lacks its own, supranational criminal law and code of criminal procedure from which law enforcement agencies could derive direct powers. In this respect, the proposal of a European area of justice, which the Minister of Justice launched during the formal opening of Eurojust, is worth mentioning.<sup>104</sup>

The extent to which the idea of a complete chain of criminal law within the EU influenced the authors of the European Convention is not totally clear. In the provisions concerning the powers of the Union, the main area of 'freedom, security and justice', which also encompasses the tack-

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<sup>96</sup> In view of the definition of THB contained in the EU Framework Decision on THB that has been signed by the EU, as well as the definition contained in the UN Protocol, it is doubtful whether the term THB does also cover the terms slavery, servitude, forced labour and compulsory labour.

<sup>97</sup> OJ dated 12.7.2000, C 197, passed on 29 May 2000 and to be adopted by each member state according to its own constitutional procedure.

<sup>98</sup> In preparation for the Netherlands.

<sup>99</sup> Framework Decision of 13 June 2002, OJ dated 20.6.2002, L 162.

<sup>100</sup> Not for all instruments mentioned the state of affairs is known; for this reason the location of the documents concerned is given.

<sup>101</sup> Council Framework Decision of 13 June 2002, OJ 18.07.2002, L 190.

<sup>102</sup> Framework Decision 2003/577/JHA of 22 July 2003, OJ 2.8.2003, L 196.

<sup>103</sup> The fourth instrument, the European Anti-Fraud Office (OLAF), is not included here.



ling of organised crime, is regarded as an area in which the Union has only shared competence (Article 13). This means that this area is excluded from the exclusive competence of the Union, which prevents the creation of European criminal law and criminal procedure. In addition, reference is only made in this respect to cooperation and mutual recognition and its improvement. Nevertheless, an opening towards more independent powers in the area of investigation and prosecution of certain criminal offences would appear to be on the cards. In fact, in the section ‘Judicial cooperation in criminal cases’, Article III-175 sets out the possibility for setting up a European Public Prosecution Service to tackle serious crime with a cross-border dimension. This European PPS would be authorised to investigate, prosecute and bring to judgement perpetrators and accessories (paragraph 2). The sentence “The European Public Prosecution Service shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences” (paragraph 2) may lead one to deduce that there is no intention to create a European Criminal Court. However, there would appear to be scope for individual police powers, on the one hand because the European PPS, according to paragraph 2, can exercise the functions of (European) prosecutor in cooperation with Europol, and on the other hand because Article III-177 in the section on ‘Police Cooperation’ refers to the possibility of a functional task for Europol.<sup>105</sup> Negotiations on the European Convention are still in progress at the time of writing this report.

The Task Force of European Chiefs of Police and Europol are discussed in Chapter 6; Eurojust in Chapter 7.

#### 2.4.2.4 Council of Europe

The aim of the intergovernmental Council of Europe (CoE) is to promote European unity by safeguarding the freedom of the individual, democracy and the rule of law, its guiding principle being the promotion and protection of human rights. One of the tasks set by the CoE is to search for solutions to social problems, such as intolerance, drugs, terrorism and organised crime. The latter, coupled with the protection of human rights, has focused the CoE’s attention on the subject of THB<sup>106</sup>, resulting in a large number of texts being drawn up and adopted by various bodies of the CoE. As part of another task, namely the consolidation of democratic stability in Europe, the CoE is also developing project-based activities to tackle THB. Below follows an overview.<sup>107</sup>

##### *Trafficking in human beings – documents and initiatives*

- *The Recommendation on action against trafficking in human beings for the purpose of sexual exploitation*<sup>108</sup> states the need for a pan-European strategy for tackling THB and protecting victims. For this purpose, the Committee of Ministers recommends that the member states review their legislation and practices and, where necessary, take measures in the area of prevention, research, investigation and prosecution as well as relief and assistance for victims. The appendix to the Recommendation gives a definition of THB for sexual purposes<sup>109</sup> and

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<sup>105</sup> Art. III-177 paragraph 2 sub b. Incidentally, these operational actions must be carried out by Europol together with the competent authorities of the member states or in joint investigation teams.

<sup>106</sup> In the *Fact Sheet Trafficking in Human Beings for the Purpose of Sexual Exploitation* (CoE Division Equality between Women and Men, PC.DEL/342/00 dated 19 June 2000) the CoE is referred to as the ‘natural home’ for combating this phenomenon.

<sup>107</sup> From 2000. For a concise description of all activities the CoE undertook in the fight against THB, see: *Action undertaken by the CoE in the field of trafficking in human beings*, [http://www.coe.int/T/E/human\\_rights/trafficking/1\\_Overview/Introduction.asp](http://www.coe.int/T/E/human_rights/trafficking/1_Overview/Introduction.asp).

<sup>108</sup> Recommendation R (2000) 11, with appendix, dated 19 May 2000.

<sup>109</sup> This definition covers both the activity of recruitment and the (legal or illegal) transportation or migration, as well as the organisation of the exploitation, including the use of coercion. The preamble considers that THB for sexual purposes must result in damage for the victim. The above wording corresponds to that in the UN Protocol on

numerous measures are proposed that the member states should take. These are not legally binding for the member states.

- The *Recommendation on the protection of children against sexual exploitation*<sup>110</sup> also limits itself to exploitation for sexual purposes. The scope of the Recommendation, however, is broader than simply trafficking in children, on the one hand because the Recommendation also covers child prostitution and child pornography, but on the other hand due also to the definitions used concerning the subject of ‘trafficking in human beings’. For example, it states that the term ‘sexual exploitation’ is a broad term that also includes, in addition to pornography and prostitution, sexual slavery and trafficking in children for these purposes, to which is added that the term ‘trafficking in children’ covers the recruitment, transportation, bringing into the country, housing, delivering, receiving or buying of children with the aim of sexual exploitation. The latter definition of the term would seem to indicate that trafficking in children does not include the exploitation itself, whereas in the first sexual exploitation is included in trafficking in children.<sup>111</sup> This would appear to be intrinsically incompatible. Moreover, this Recommendation also makes a distinction between (sexual) slavery and trafficking.<sup>112</sup>
- In its *Recommendation on a Campaign against trafficking in women*<sup>113</sup>, the Parliamentary Assembly of the CoE makes recommendations for the member states and the Committee of Ministers for reinforcing the fight against trafficking in women.<sup>114 115</sup> The recommendations to the member states vary from taking specific preventive and information-providing measures, drawing up measures for assisting and protecting and providing a permanent residence permit for victims who cooperate with the investigation and prosecution of the perpetrators, to making the deliberate use of the services of an exploited person a criminal offence, appointing national rapporteurs on THB and drawing up annual reports on the national situation on how trafficking in women is being tackled. One of the recommendations made to the Committee of Ministers is to set up an ‘observation post’ for information and research purposes and to draft a European Convention on trafficking in women to include assistance to and protection of the victim, repressive measures and a monitoring mechanism.

#### *CDPC response to the Recommendation*

At the request of the Committee of Ministers, the European Committee on Crime Problems (CDPC) produced its response to this Recommendation.<sup>116</sup> It contains a summary of the steps already taken by the CoE in the fight against THB. Concerning the recommendation to set up a European Convention, the CDPC refers to the discussions already in progress on the feasibility of such a convention. If such a convention is brought about, the CDPC is in favour of having a monitoring mechanism incorporated in it.

<sup>110</sup> Recommendation R (2001) 16, of 31 October 2001.

<sup>111</sup> Article 58 of the Recommendation also mentions trafficking in children and the sexual exploitation of children together.

<sup>112</sup> This question of terminology is not directly relevant in practice because the Recommendation will eventually comprise all these categories (under the heading of sexual exploitation), but as an issue in itself the definition problem will continue to exist.

<sup>113</sup> Recommendation 1545 (2002) of 21 January 2002.

<sup>114</sup> The Recommendation refers solely to trafficking in women, but in the broad sense of all forms of exploitation, also stating that 78% of all female victims have been sexually exploited in one form or another. However, the recommendations do not make a distinction between sexual and other exploitation, so that the provisions concern all forms of exploitation.

<sup>115</sup> It is particularly noteworthy in the Recommendation that trafficking in women is first referred to as a modern form of slavery (provision 1). Provision 3 then goes on to say that trafficking in women has a direct relationship with, inter alia, other forms of exploitation and household slavery, and provision 10 (v) mentions again all activities that lead to forms of trafficking, including household slavery. Finally, provision 10 (viii b) groups trafficking and forced prostitution together. These various descriptions would appear not to be entirely consistent.

<sup>116</sup> Report by Decision no. CM(92)0600002 of 6 February 2002, leading to CDPC (Draft) Opinion (2002) 10 of

- Based on a study, the Committee of Ministers commissioned a committee of experts, the Ad hoc Committee on Action against Trafficking in Human Beings (CAHTEH),<sup>117</sup> to prepare a *European Convention on action against trafficking in human beings*.

#### Background

The study into setting up a *Council of Europe Convention on Trafficking in Human Beings*<sup>118</sup> was carried out by the Steering Committee for Equality between Women and Men (CDEG),<sup>119</sup> at the request of the Committee of Ministers in cooperation with an expert in the field of THB. After discussing this study, the CDEG gave a positive opinion on the feasibility of such a convention. After consultation at the CDPC and then among the member states also produced agreement,<sup>120</sup> the CAHTEH was commissioned to carry out this task.

- The reason for such a convention was that it was not considered sufficient merely to rely on a few recommendations and specific actions as far as the effective fight against THB is concerned, but that it is now time for a legally binding instrument. This opinion is partly prompted by the public perception in Europe of the phenomenon of THB and the measures that need to be taken to tackle it effectively. These are, according to the Committee of Ministers, focused largely on protecting the rights of the victims and respect for human rights, whereby a proper balance must be found between human rights aspects and prosecution.<sup>121</sup> The task assigned to the CAHTEH therefore entails drawing up a convention that must devote specific attention to the human rights of the victims of THB and also contain a broad framework for the protection of victims and witnesses, including emancipatory aspects as well as prevention, investigation, prosecution and international cooperation. In addition, the convention must contain a monitoring mechanism in order to guarantee compliance of the convention's provisions by the member states. Naturally, in all of this the existing standards of the CoE need to be included,<sup>122</sup> as well as the existing universal and regional international legal instruments in the field of THB. CAHTEH must take the UN Protocol as the basis of its work, the aim of which is to improve the protection offered and develop further the standards laid down therein.<sup>123</sup> Furthermore, it is the task of CAHTEH to take the definition of THB as contained in the UN Protocol as its starting point. On 29 October 2003 the CAHTEH presented an initial draft to the member states for their comments.<sup>124</sup> Since the document is still in the early drafting phase, a detailed discussion of its contents would not be appropriate here.
- On the initiative of the Social, Health and Family Affairs Committee<sup>125</sup> the Parliamentary Assembly of the CoE drew up the *Recommendation on Trafficking in organs in Europe*.<sup>126</sup> In this

<sup>117</sup> Specific terms of reference CAHTEH, 30 April 2003.

<sup>118</sup> *Feasibility Study on a Council of Europe Convention on Trafficking in Human Beings* (doc. DG-II (2002) 5).

<sup>119</sup> The CDEG is an intergovernmental body, responsible for defining, encouraging and implementing activities of the CoE to promote equality between men and women.

<sup>120</sup> Opinion was initially divided in the Netherlands, as there was a fear of some overlap between the Convention and the UN Protocol. This fear was allayed, however, when the purpose of the Convention was described (prevention and protection of victims) and it became known that the UN definition would be adopted in the Convention.

<sup>121</sup> According to the document *Action undertaken by the Council of Europe in the field of trafficking in human beings*, ([http://www.coe.int/T/E/human\\_rights/trafficking/1\\_Overview/Introduction.asp](http://www.coe.int/T/E/human_rights/trafficking/1_Overview/Introduction.asp)).

<sup>122</sup> This concerns earlier documents on human rights, criminal (procedural) law and judicial cooperation, as well as existing documents on THB.

<sup>123</sup> The Committee of Ministers underlined the added value of the intended CoE Convention, which will be found in a) the recognition of THB as a violation of human rights, b) the guaranteeing of a proper balance between issues of human rights and prosecution, c) the all-embracing scope of the Convention (all forms of THB: national and transnational, whether or not affiliated to organised crime and all trafficked persons: adults and minors), d) setting up a comprehensive legal framework for the protection of and assistance to victims and witnesses, e) the introduction of an efficient and independent monitoring mechanism, f) the promotion of cooperation between European states in tackling THB and g) contributing to the harmonisation of legislation in this area throughout the European continent.

<sup>124</sup> Preliminary draft, Document CAHTEH (2003) 7.

<sup>125</sup> This initiative was based on the *Report on trafficking in organs in Eastern Europe* (Doc. 9822 of 3 June 2003) from the Department of this Committee. It included a report on the Department's findings following a working visit to

document, the Assembly recommends that the Committee of Ministers urges the member states in general and the countries of demand and supply in particular to take specific measures to prevent and combat the trafficking in organs. Furthermore, the CoE should develop a strategy to combat trafficking in organs and to consider including an additional protocol on trafficking in organs as part of the drafting of the above-mentioned Convention on THB.

#### *Other initiatives*

- The definition of violence against women as adopted in the *Recommendation on the Protection of Women against Violence*,<sup>127</sup> includes trafficking in women with the aim of sexual and economic exploitation. The same applies to both these forms of exploitation, as well as sexual slavery, during armed conflicts. In order to protect women, recommendations are being made to the governments of the member states to develop legislation and policy to protect the rights of women and guarantee their implementation, and also to acknowledge that states carry responsibility for preventing, investigating and prosecuting violence against women, as well as providing protection for the victims. Another recommendation is to encourage the collection of information.
- The *Convention on Cybercrime*<sup>128</sup>, drawn up and opened for signing and ratification in 2001, contains a provision that concerns criminal offences in relation to child pornography.<sup>129</sup> Although this article does not deal directly with THB, it does aim to strengthen protective measures for children, including protection against sexual exploitation.<sup>130</sup>
- The CoE is also developing specific projects in countries or regions.

#### *Project-based activities of the Council of Europe*

- The *Programme against Corruption and Organised Crime in South-Eastern Europe* (PACO). Within the framework of this technical cooperation programme to support the countries in South-Eastern Europe in the fight against corruption and organised crime, the CoE organised two regional seminars on the subject of THB and corruption (Slovenia) on the one hand, and THB and the protection of witnesses (Bosnia Herzegovina) on the other hand. The aim was to increase transparency of the problem and encourage cooperation between countries in these areas. The *LARA project on Criminal Law Reform in South-Eastern Europe*. This project, that forms part of a larger joint undertaking between various international organisations,<sup>131</sup> focuses specifically on the subject of THB and is intended to support the countries in South-Eastern Europe in reviewing criminal law to combat and prevent THB, in accordance with the above-mentioned Recommendation R (2002) 11. This is done through expert meetings and regional seminars.

### **2.4.2.5 Organisation for Security and Cooperation in Europe**

The Organisation for Security and Cooperation in Europe (OSCE) is a pan-European intergovernmental security organisation, whose purpose is to promote security and stability by tackling international problems and by averting international conflicts and crises. The underlying principle in this is cooperation. The OSCE's area of work covers a broad spectrum of security-related issues, including conflict prevention, crisis management, economic and environmental safety, post- conflict rehabilitation and human rights. The OSCE carries out its tasks from its offices, but in particular from field missions in 18 countries. It does so by developing a range of activities, varying from drawing up declarations and conventions to programmes on concrete themes. Since THB is interwoven in virtually all areas in which the OSCE is active, it is a subject that has received the attention of the OSCE for many years.

<sup>126</sup> Recommendation (2003) 1611, adopted by the Parliamentary Assembly on 25 June 2003.

<sup>127</sup> Committee of Ministers, R (2002) 5, adopted on 30 April 2002.

<sup>128</sup> Budapest, 23 November 2001, European Treaty Series - No. 185. The Convention has not yet come into force; the necessary five ratifications have not yet been received.

<sup>129</sup> Article 9, which forms part of the title 'Content-related offences'.

<sup>130</sup> Explanatory Report to the Convention, adopted on 8 November 2001.

<sup>131</sup> The Stability Pact Task Force on Trafficking in Human Beings is its main financing part of the Stability Pact initiative.

### *Dutch presidency*

During its presidency of the OSCE,<sup>132</sup> the Netherlands placed ‘trafficking’ in all its manifestations high on the OSCE agenda.<sup>133</sup> At a seminar in Greece devoted specifically to the theme of THB, the economic dimension of THB was the principal issue. The economic effect of THB in the (member) states, the economic perspectives of countries, the underlying causes of THB, financial flows, transport routes and the relationship between the three manifestations of trafficking were central themes. A tangible result of placing THB on the agenda of the Dutch presidency is the *OSCE Action Plan*, which was adopted by the OSCE member states on 24 July 2003. The political and definitive decision-making on the proposals contained in the action plan took place in early December 2003 in the concluding ministerial conference.

### *Trafficking in human beings – documents and initiatives*

- Since 1991, when the OSCE member states undertook to outlaw all forms of trafficking in women, such as by drawing up prohibitory provisions in (criminal) legislation and by taking other appropriate measures,<sup>134</sup> the subject – later changed to THB (primarily trafficking in women) – was put on the OSCE agenda on various occasions. At the end of the 1990s, the OSCE started tackling the problem in more concrete terms, when the Office for Democratic Institutions and Human Rights (ODIHR)<sup>135</sup> presented its *Trafficking in Human Beings: Implications for the OSCE* (OSCE/ODIHR, 1999).<sup>136</sup> This document gave background information on the problem, identified areas where the OSCE could be active and made provisional recommendations towards the OSCE bodies and the member states on actions they could take. In the *Proposed Action Plan 2000 for Activities to Combat Trafficking in Human Beings* (OSCE/ODIHR, 2001)<sup>137</sup> the ODIHR<sup>138</sup> developed these provisional recommendations into concrete proposals.

Other OSCE institutions too were involved by then with the problem of THB. For example, in July 1999 the Parliamentary Assembly passed a resolution condemning trafficking practices, particularly trafficking in women and girls for sexual purposes and calling on states to take legislative and implementation measures.<sup>139</sup> The Council of Ministers responded with a decision to strengthen the OSCE’s efforts to combat THB, in particular prevention, prosecution and protection,<sup>140</sup> followed by a decision in which OSCE states were called upon to ratify the UN Protocol<sup>141</sup>, and finally the comprehensive Oporto Declaration.<sup>142</sup> In this document, the Council of Ministers stress the importance of giving attention to the underlying causes of

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<sup>132</sup> The Netherlands held the presidency from 1 January 2003 to 31 December 2003.

<sup>133</sup> It involved the trafficking of light firearms and handguns, drugs and people.

<sup>134</sup> Provision 40.7 from the document of the *Moscow meeting of the third conference on the human dimension of the OSCE*, Moscow, 10 September-15 October 1991.

<sup>135</sup> ODIHR is the OSCE body that is responsible for the human dimension of the OSCE, in which the recognition of human rights, the principle of the rule of law, democracy and economic and environmental aspects play a crucial role. One of the themes of the ODIHR is the fight against THB. As well as prevention, ensuring a coordinated reaction, giving absolute priority to the rights of the victim, is central.

<sup>136</sup> OSCE Review Conference (September 1999), ODIHR Background Paper 1999/3.

<sup>137</sup> Dated November 1999.

<sup>138</sup> In cooperation with the Advisor on Trafficking Issues appointed by the ODIHR in April 1999.

<sup>139</sup> *Resolution on Trafficking of Women and Children* (PA.GAL/5/00 dated 19 June 2000), part of the *St. Petersburg Declaration of the Parliamentary Assembly*, St. Petersburg, 10 July 1999. During its successive annual meetings, the Parliamentary Assembly made repeated calls and adopted (additional) declarations (Bucharest (2000), Paris (2001), Berlin (2002) and Rotterdam (2003)), each time calling on states to take steps in the fight against THB. These activities vary from drawing up legislation and regulations and tackling trafficking-promoting factors to providing training and encouraging cooperation with NGOs.

<sup>140</sup> Decision No. 1 of 28 November 2000 (MC(8).DEC/1), Ministerial Council, Vienna 2000.

<sup>141</sup> Decision No. 6 of 4 November 2001 (MC(9).DEC/6), Ministerial Council, Bucharest, 2001.

<sup>142</sup> *Ministerial Declaration on Trafficking in Human Beings* (MC.DOC(1/03) of 7 December 2003), Ministerial Council, Vienna 2003.

THB and tackling all the economic aspects relating to the phenomenon. Assistance to and protection of victims of THB are also mentioned as important areas to be considered.

- In July 2003 the OSCE *Action Plan to Combat Trafficking in Human Beings* (hereinafter referred to as the Action Plan) was drawn up.<sup>143</sup> The Action Plan is intended to serve as an all-embracing guide ('toolkit') for the OSCE and the member states in order to help them in their fight against THB. The plan contains provisions in the field of prevention, investigation and prosecution, victim protection and assistance, as well as introductory provisions and follow-up actions.<sup>144</sup> These provisions focus on the member states and the relevant OSCE institutions, bodies and field missions. The Action Plan contains recommendations and is politically, but not legally binding.<sup>145</sup>

The Action Plan adopts the definition of THB as used in the UN Protocol. Member states are called upon to make THB and related criminal activities such as corruption and money-laundering a criminal offence, and also to include provisions in their legislation that facilitate the fight against THB, such as confiscating profits and funds used in committing the crime, protecting victims and witnesses from retaliatory actions and creating the possibility for compensation. In the area of prevention, member states are also recommended to tackle the underlying causes of THB, organise information and awareness campaigns and strengthen their border controls. In addition, member states are encouraged to provide assistance and temporary or permanent accommodation facilities for victims and to help them to integrate or return to the country of origin, with special attention being given to minors.

Important instruments in providing assistance to and protection of victims are the 'National Referral Mechanisms'.<sup>146</sup> The National Referral Mechanism, which should be set up in each member state, will be assigned a coordinating task with the respective activities of the partners in the chain of tackling THB. For this purpose, the Mechanism must create a framework within which the member state can meet its obligations towards victims, but also as regards the investigation and prosecution process, involving cooperation between both the social institutions and the (government) bodies concerned. At OSCE level too, a similar mechanism was aimed for. During the concluding meeting of 1-2 December 2003, the Council of Ministers decided to appoint a Special Representative under the umbrella of the Permanent Council, whose task it would be to assist the member states in their fight against THB.<sup>147</sup> In addition, a special unit will be set up within the OSCE secretariat which together with the Special Representative will form the OSCE mechanism. This mechanism is therefore a political official, with support within the OSCE, whose job it is to ensure the implementation of the Action Plan by the member states and offer them support. This official must also monitor implementation within the OSCE and ensure that the coordination of the approach is strengthened, both within the OSCE and in the member states, as well as between these partners and (also) other international organisations. The existence of such an official will keep politicians' attention focused on the subject and contribute to increasing political and public awareness for the problem.<sup>148</sup>

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<sup>143</sup> PC.DEC/557 of 24 July 2003, PC Journal No. 462.

<sup>144</sup> Largely a repeat of agreements made in earlier documents, now brought together in a single document.

<sup>145</sup> The OSCE is an international political organisation that takes decisions by consensus. The agreements made are not legally binding (and enforceable), but do bind the member states in a moral sense.

<sup>146</sup> In the Action Plan, abbreviated to NRM. Because of the confusion this may cause with the same abbreviation for the National Rapporteur in Trafficking in Human Beings, National Referral Mechanism will not be abbreviated in this report.

<sup>147</sup> Decision No. 2/03 *Combating Trafficking in Human Beings*, MC.DEC/2/03 of 2 December 2003 (MC(11) Journal No. 2, Agenda item 8).

<sup>148</sup> The proposal for these National Referral Mechanisms and the OSCE official is very similar to the recommendations made by the Parliamentary Assembly in its Rotterdam Declaration of 9 July 2003. This recommendation entailed on the one hand the appointment of a Special Representative on THB who was to ensure an effective coordination of the OSCE's work in combating THB, and on the other hand to establish mechanisms that should coordinate

A theme running throughout the Action Plan is the call to the member states to work together closely. Furthermore, there are recommendations to collect (qualitative and quantitative) information in all areas and develop general standards for this purpose. Collected information can be exchanged with other member states on the one hand, and used for study and analysis on the other hand, in order to obtain a better understanding and therefore a better grip on the problem and how to tackle it.

The recommendations contained in the Action Plan towards OSCE institutions and bodies are in line with the recommendations towards the member states. These involve, besides initiating activities in the three main areas mentioned, providing assistance and support in particular to the member states in achieving the intended objectives, collecting and disseminating information and undertaking research, and endeavouring to promote international cooperation in this respect. The ODIHR will play an important role in this respect.

As well as monitoring the agreements made in the Action Plan through existing monitoring mechanisms, in its concluding provisions the Permanent Council recommends that the member states consider appointing national rapporteurs or setting up other mechanisms<sup>149</sup> that could monitor the anti-trafficking activities of government bodies and the implementation of legislative requirements. Member states are also called upon to review the possibilities for setting up task forces that could coordinate the activities of NGOs and governmental organisations within a member state.<sup>150</sup>

#### *Other initiatives*

- A highly practical instrument that was developed by ODIHR and became available in October 2000 is a database with national and international legislation in the area of protection of fundamental rights and reinforcement of the principle of the rule of law. This database<sup>151</sup> contains, inter alia, legislation in the area of THB, concerning both laws in a formal sense and secondary legislation and, if available, draft legislation. The database covers all member states of the OSCE.<sup>152</sup> As well as specific legislation, the database also contains general information on the country and the political system. In addition the system provides an overview of documents by international organisations in the areas concerned. The number of areas on which legislation is available online will also be gradually increased. With this website, ODIHR wants to provide legislators with models and frameworks for their legislative task and in this way to support them in bringing national legislation in line with international obligations and agreements.
- Furthermore, OSCE/ODIHR is developing project-based activities.

#### *Project-based activities of ODIHR*

In the field of combating THB, ODIHR has carried out projects in countries of origin, transit and destination, on subjects such as reviewing trafficking legislation, prevention and awareness, strengthening the position of women, assistance to victims on their return and reintegration, assistance to NGOs, research and data collection.<sup>153</sup>

#### *Stability Pact Task Force on Trafficking in Human Beings*

ODIHR is chairman of the Stability Pact Task Force on Trafficking in Human Beings.<sup>154</sup> This Task Force develops and coordinates anti-trafficking activities in South-Eastern Europe and aims to improve and encourage cooperation

<sup>149</sup> This refers to the earlier-mentioned National Referral Mechanisms.

<sup>150</sup> It is not clear how this recommendation relates to the National Referral Mechanisms.

<sup>151</sup> [www.legislationline.org](http://www.legislationline.org).

<sup>152</sup> In so far as there is relevant legislation in this area, which is available in one of the six official languages of the OSCE. Missing legislation in the database in a specific area therefore does not necessarily mean that there is no legislation on that subject.

<sup>153</sup> A summary of such projects is available on the ODIHR's Internet page.

<sup>154</sup> This Task Force in turn forms part of the larger Stability Pact which was initiated in 1999 by the EU, the aim of which was to encourage economic development, respect for human rights and economic cooperation in order to promote

between these countries on this issue. This is done on the basis of the *Long-Term Action Plan for South-Eastern Europe*, which contains a framework for a comprehensive approach to the problem, involving all relevant actors and areas of attention: awareness, training and building capacity, cooperation in the area of law enforcement, victim protection, return and reintegration, and prevention and the review of legislation. The Task Force is a joint venture of (international) organisations, whereby not only the interests of the receiving country play a role, but also those of the donor country. The Task Force's activities are based on the priorities and needs of the countries in the region.

### 2.4.3 Two other international initiatives and achievements

In other international contexts, initiatives are also being developed in the area of or relevant to the theme of THB. Two are described below.

#### *SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.*

This Convention was signed on 5 January 2002 by the member states<sup>155</sup> of the South Asian Association for Regional Cooperation (SAARC) and is being put forward as the first regional instrument in the world that endeavours to tackle the problem of THB at a sub-regional level (Sanghera, 2002). The aim of the Convention is to promote cooperation between the member states in preventing, combating and prohibiting trafficking in women and children. In order to achieve this, it contains provisions that call upon the member states to make THB a criminal offence, stimulate international legal assistance and improve extradition and prosecution procedures. In addition the member states are called upon to take measures in the area of prevention, relief to and (legal) assistance for victims, as well as to develop modalities for repatriating victims.

#### *Scope of the SAARC Convention*

The Convention is not very far-reaching on all points. Firstly, it only deals with trafficking for prostitution purposes, whereby it is not clear whether prostitution itself is regarded as sexual exploitation, or whether only forced prostitution and prostitution of minors is meant. Secondly, it is unclear whether the consent of the person working in prostitution plays a crucial role in the question as to whether she can be regarded as a victim of trafficking. Moreover, the Convention only covers women and girls, not (possible) male victims. (Partly) for these reasons, the Convention does not fully correspond with international conventions, so that it is doubtful whether it actually adds anything, apart from the intention expressed in the fact that it has been shown possible to reach certain agreements.

#### *International Criminal Offences Act*

Since the Netherlands is party to and host of the International Criminal Court (ICC), the new Rome Statute of the International Criminal Court<sup>156</sup> compels the Netherlands to amend its legislation in a number of areas. On the one hand, this concerns provisions on legal aid and other forms of cooperation which the Netherlands is obliged to lend to the International Criminal Court.<sup>157</sup> On the other hand, it contains necessary amendments to Dutch criminal legislation in order to enable crimes that come under the jurisdiction of this supranational criminal court to be investigated and tried in (and by) the Netherlands too. This is the purpose of the Bill entitled *Rules concerning Serious Violations of International Humanitarian Law*, otherwise known as the *International Criminal Offences Act* (Wet Internationale Misdrijven - WIM).<sup>158</sup> The WIM makes 'the serious crimes that concern the entire international community' punishable. In concrete terms this means: genocide, crimes against humanity, torture and war crimes. Crimes against humanity also include slavery, sexual slavery, forced prostitution and other forms of sexual violence of similar gravity. Slavery also covers THB, especially in women and children. The removal of tissues and organs

<sup>155</sup> Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

<sup>156</sup> 17 July 1998, Treaty Series 2000, no. 120, entry into force 1 July 2002.

<sup>157</sup> The proposal for the *Implementation Act for the Statute of the International Criminal Court in respect of cooperation with and assistance to the International Criminal Court and the enforcement of its judgments* (International Criminal Court Implementation Act, Lower House 2002-2002, 28 098 (R 1704), no. 1). At the time of writing this



for transplantation has also been brought within the scope of the WIM. The WIM establishes wide-ranging extraterritorial jurisdiction for the Netherlands for all these crimes, partly based on the principle of universality, but only when these have been committed under specifically described circumstances, such as a widespread or systematic attack against a civilian population or during an international armed conflict. The starting point in this is that these crimes are regarded as crimes against international law. The WIM provides for the punishability of such crimes under the specific circumstances referred to, due to the ‘principle of complementarity’ that underlines the Statute of the Criminal Court. This means that the Criminal Court may only exercise jurisdiction if no state is willing or able to carry out the investigation or the prosecution. This therefore means that national criminal courts must also have this jurisdiction if they want to be able to exercise it as and when the situation may arise.

## **2.5 Points of attention and problem areas**

### *Extending the provision on trafficking in human beings.*

- The Bill on THB has been long awaited. The debate on the Bill has already taken considerable time. However, there are various reasons that justify a swift debate on the Bill.
- The scope of the future article on THB is insufficiently defined. Because of the wording used in the Bill, its scope of application is insufficiently defined, leaving the risk that (too) many offences will come within the scope of the article, which could lead to inflation of the penal provision and the concept of THB.
- The specific character and seriousness of exploitation for sexual purposes compared to other forms of exploitation is not expressed in the future level of punishment;
- The slave trade provision (fallen into disuse) in the Criminal Code overlaps with the future article on THB. This could lead to questions during investigations and prosecutions concerning the exact definition of both terms.

### *Other Dutch legislation and regulations*

- The existing B-9 regulation contains points of indistinctness and imperfection which, however, have not led as yet to any textual modifications to the regulation.
- It is not clear whether and, if so, how the consequences of the forthcoming broadening of the definition of THB for the applicability of the B-9 regulation are being anticipated.
- It is insufficiently clear whether and, if so, which modifications have been prompted by the EU Framework Decision on the status of victims in criminal proceedings in Dutch legislation and regulations. Clarity needs to be obtained on this point in order to establish whether the Netherlands has complied with the obligations it has taken upon itself.
- There is still confusion on the future of the prohibitory provision contained in the Aliens Employment Act Implementation Decree on the issue of work permits for work in the sex industry.
- Although conditions may be set in accordance with European jurisprudence on subjects of Association countries who wish to work as a self employed in the Dutch sex industry, the flip side may be that this increases the position of dependence of those persons involved. The latter is usually not conducive to preventing THB.
- There are still a great many questions in the field on whether or not to open the Dutch labour market (under certain conditions) for sexual services to subjects of countries acceding to the EU.
- The option (yet to be created) for victims of THB to work during their B-9 will lead to an insufficient supply of suitable work if the policy remains unchanged.

### *International*

- The definitions of THB used at an international level are not always consistent. In some cases they overlap, deviate from each other or are mutually conflicting. This can lead to problems of interpretation.
- Internationally too, the scope of the term 'exploitation' is insufficiently defined for practical purposes. The definition of 'trafficking' on this point is insufficiently precise and requires further specification, certainly where labour exploitation is concerned. As a result, differences of interpretation and differences in categorising and dealing with crimes that could possibly be qualified as THB could arise.
- The differing view as to whether the definition of THB in the UN Protocol only covers cross-border forms of THB or also intra-national forms leads to confusion about the scope of the protocol and is not conducive to tackling the problem.
- The term 'exploitation' in international documents refers to exploitation in the negative sense, but sometimes in the neutral sense too, which can produce inconsistencies with the Dutch policy on prostitution and THB.
- In general there is an excess of codification at an international level, whereas attention for implementation lags behind.
- The large number of 'opt-out' clauses in the codified international agreements in the area of victim support and assistance has a negative effect on the development of a harmonised policy on the subject. As a result, it also hampers the fight against THB.

## 3 Victims

### 3.1 Introduction

The First Report discussed in detail the victims of THB. The general characteristics of victims described therein and the ways in which they are recruited, exploited and held under duress still entirely hold true. This chapter therefore does not repeat this information, but a number of specific groups of (possible) victims are dealt with: minors, victims of loverboys, unaccompanied underage asylum seekers, supervised unaccompanied underage asylum seekers, women in asylum centres, women with a dependent residence status and victims recruited in Africa. This is followed by statistical data on the victims.

### 3.2 Specific groups of victims

#### 3.2.1 Minors

A report by UNICEF (2003) on THB (particularly in women and children) in Africa emphasises that the causes of THB are complex, often mutually related and can vary from country to country. The reasons given why underage persons fall prey to THB are: poverty in the country of origin, the low status and discrimination of (women and) girls<sup>159</sup> and family problems (see also Ayotte, 2000; Hopkins & Nijboer, no date).<sup>160</sup> Because of family problems, children may become homeless or placed in poorly equipped children's homes. This makes them vulnerable to falling victim to exploitation in the sex industry in their own country, or to be recruited for prostitution abroad. Also children who become separated from their parents or carers due to armed conflict are vulnerable in this respect. When there is no registration of births, this increases the chance of falling prey to traffickers and it is more difficult to track down victims (UNICEF, 2003). A study into the sexual exploitation of minors in Central America and Mexico<sup>161</sup> (Leal, 2002) shows clearly that adolescent single motherhood is an important risk factor. This also applies to underperformance at school or attending school briefly or not at all, certainly in combination with unemployment. Incidentally, a good education does not necessarily protect minors from becoming victims.<sup>162</sup>

Trafficking in children, however, is not a phenomenon that only occurs 'far away', as is made clear from the practices described by Schauer (2003) on the German-Czech border.<sup>163</sup> It is also

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<sup>159</sup> The extent to which violence against women is used and certain traditions, such as marrying or being given in marriage at a young age may also play a role in this (UNICEF, 2003).

<sup>160</sup> Di Martino, Unicef worker in Moldova, informed the European Conference *Trafficking in unaccompanied minors in the European Union* (Paris, 25-26 September, 2003) about the background situation of trafficking victims who had returned to Moldova. Poverty, abuse, incest, rape and absent parents and/or parents with a drinking problem were cited, and 10% of the victims had grown up in children's homes. Hopkins and Nijboer collected information on 80 victims in the Netherlands through studying dossiers and conducting interviews. They identified many problems with the parents, quite a number of fathers who were no longer on the scene and concluded that a problematic family situation is more conducive to offers from traffickers. This applies, incidentally, not only to minors.

<sup>161</sup> The research report contains information on the situation in Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala and Mexico.

<sup>162</sup> Victims from Eastern Europe in particular are often well educated. However, they see little opportunity to support themselves (see also Vocks & Nijboer, 1999). Hopkins and Nijboer arrive at the same conclusion and state that African victims are usually less well educated.

<sup>163</sup> As a social worker, Schauer observed in this region from 1996 onwards roughly 500 children and young people, talked with many of them, and since 2000 has interviewed some 100 adult prostitutes, as well as residents, police and welfare workers from the region. She describes how (very small) children are offered by their mothers for sexual

evident from a study into trafficking in children for sexual abuse in eight Western European countries<sup>164</sup> that the ECPAT Europe Law Enforcement Group completed in 2001 (Wolthuis & Blaakman, 2001). Although information on the number of trafficked children was scarce, it emerged that 15 to 18 year olds originating from East European countries were found in prostitution. One of the conclusions of the study was that more knowledge was required on the countries of origin. The study was therefore followed up by a *Joined East West Research project in trafficking in children for sexual purposes in Europe: the sending countries*.<sup>165</sup> The West European countries were each linked with an East European partner.<sup>166</sup> In these countries, the situation concerning trafficking in children for sexual purposes was analysed. The report, which will also contain an update on the first part of the study, was still being worked on at the time of writing this report. The project partners have already met to discuss the initial results of the study, and have considered ways in which they could tackle the problems identified.<sup>167</sup> It appeared a) that it is difficult to obtain reliable information on the number of minors that are trafficked,<sup>168</sup> but that these numbers are not very great and b) that the study provides a wealth of largely qualitative information on specific risk groups, recruitment and transportation methods and the lot of trafficked children from a number of these countries.

*A few results from the ECPAT report*

*Recruitment methods.* Minors are partly recruited in the same way as adults, but there are also methods specific to minors. Recruitment is carried out by both individuals (offering work, entering into relationships) and bureaus (travel, modelling, employment and marriage agencies). Another way is for parents to sell their children or allow them to go abroad, e.g. to beg or as part of an (alleged) education and exchange programme. Only a few minors were already working in the prostitution in the country of origin. The study also reports recruitment through adoption, substitute motherhood (a woman gives birth abroad and leaves her child behind there) and marriage to women with the aim of abusing their children.

*Crossing borders and transportation.* Borders are usually crossed legally, but the use of fake or forged documents and bribes to customs officers also occurs.

*Destination.* The minors are recruited not only with the aim of sexual exploitation, including the porno industry. Using them to beg, sell drugs and in a few cases to carry out other kinds of work may also be the intention. Incidentally, those who are recruited for begging and other types of work are often sexually exploited too. The Netherlands was named as one of the destination countries. For more information, see the study report that was published in April 2004 (O'Brian et al, 2004).

It is difficult to obtain reliable information, not only on trafficking in children, but also on the phenomenon of minors in prostitution. This is evident, for example, from the quick scan that ECPAT carried out in 2002 (ECPAT, 2003)<sup>169</sup> and from evaluating the lifting of the general ban on brothels (Daalder, 2002). The reasons for this are that minors cannot be easily recognised as such, sometimes use fake documents and work in the less visible circuits. According to some welfare workers, as a consequence of the stricter controls since the lifting of the general ban on brothels, there has been a shift towards the illegal sector. Previously, minors would have been tolerated in clubs and brothels, but are now put to work in private homes and via mobile phones. Subsequently some girls, when they reach the age of 18 years and therefore may work legally, end up in red light districts. However, other welfare workers as well as the police say that even before 1 October 2000 minors were not permitted to work in prostitution and even then were difficult to trace (ECPAT, 2003).

<sup>164</sup> Belgium, Finland, France, Germany, Italy, the Netherlands, England and Norway.

<sup>165</sup> The project was subsidised by the STOP programme of the European Commission and the *Oak Foundation*.

<sup>166</sup> Belarus, Estonia, Romania, the Czech Republic, Moldova, Ukraine, Albania and the Russian Federation.

<sup>167</sup> This expert meeting took place in St. Petersburg, from 8-10 October 2003.

<sup>168</sup> This conclusion is repeatedly made with regard to THB in general, and with regard to trafficking in children in particular (see also Spangenberg, 2002, who tried to map out trafficking in children for sexual purposes to the city of

The BNRM study among victim support services shows that the organisations interviewed had come into contact with 85 underage victims of THB in the year 2002. A total of 41 were reported to the Dutch Foundation against Trafficking in Women (*Stichting tegen Vrouwenhandel* - STV) in 2002, while in the same year 51 minors were registered in the police's victim tracing system, which includes possible victims.<sup>170</sup>

The number of underage victims that come to the knowledge of victim support services and/or the police is therefore limited, certainly if one takes account of possible double counts. On the other hand, one in ten prostitutes and 17% of the proprietors of sex establishments were interviewed as part of the evaluation of the lifting of the general ban on brothels know of minors working in prostitution in establishments known to them (Vanwesenbeeck et al, 2002). It is also known that many (adult) women, at the moment they come into contact with victim support services, state that they started working in prostitution as a minor.

19% of the victims in the study by Hopkins and Nijboer were underage when they left their country of origin. It is therefore generally assumed that the problem of minors in prostitution is greater than one would assume from the figures. Conversely, it is unlikely that the police and welfare services find it very difficult or are unable to find underage victims – but clients can – and recently the question has been regularly raised whether the (limited) figures do actually come close to the real situation.

Incidentally, not all minors who work in prostitution are exploited or coerced into it by others. Homeless young people, for example, sometimes offer sexual services in exchange for a roof over their heads, money or other material things.

Boy prostitutes would appear to work independently and have their own income at their disposal more often than girls. On a website about boy prostitution, Van Gelder describes the enormous diversity among boys 'on the game', certainly among those working for themselves.<sup>171</sup> Whatever the case may be, the client of an underage prostitute is liable to prosecution, even if the latter offers these services without being exploited or coerced by third parties.

### 3.2.2 Victims of loverboys

Loverboys are pimps who win over girls through seduction tactics, with the ultimate aim of exploiting them in prostitution.

#### *The loverboy method*

The loverboy method is often associated with underage victims living in the Netherlands. The seduction method, however, is also used with adult women and as part of cross-border THB. The method is not new, but is receiving a great deal of attention at present. Incidentally, loverboys do not only exploit their victims in prostitution. There are examples of loverboys who get their victims to act as drugs couriers, take out loans or engage in shoplifting.

In its prevention leaflet *Beware of loverboys*, the Scarlet Cord (*Scharlaken Koord*; an organisation that provides help and advice to prostitutes) describes how a loverboy sets to work. Generally speaking, he goes in search of a girl<sup>172</sup> and impresses her with his car and gifts. He begins a relationship with her which quickly turns into a sexual one. The boundaries of the girl's own experience are gradually pushed back by getting her to have sex with his friends and/or through us-

<sup>170</sup> There may certainly have been double counts in the BNRM study among victim support services. In the STV data and the police victim tracing system, double counts have been avoided as much as possible but cannot be ruled out.

<sup>171</sup> Some do the work as a quick way of making some extra money, while others really want to 'make something of it'. Some say they are hetero, others homo, there are teenagers among them, but also those in their thirties. Some have a lot of money, others can hardly manage to make a living because of drug use.

<sup>172</sup> (Specialised) networks, communities, centres and stations are often described as 'skinning grounds' (BNRM study among

ing alcohol and drugs. He then pushes her into prostitution through some kind of emotional story or through force and violence and then exploits her, keeping a close eye on her and often maltreating and threatening her.

All girls risk becoming victim of a loverboy, but some girls more than others. The most vulnerable girls are those who have experienced little love and safety at home and have been maltreated, abused or neglected. They often come from broken homes and usually demonstrate the inclination to run away. Moreover, the families are often affected by unemployment and the illness of the parents, and cultural problems also play a role (Bullens & Van Horn, 2000). Their self-image is negative or diffuse and they yearn for love and a sense of security (*Stichting Blijf van m'n Lijf*, 2003); they are also susceptible to the attention of boys. Loverboys offer their victims welcome attention (love, adoration, money and an exciting, glamorous lifestyle) at a moment that girls are especially impressionable to this. Victims therefore do not always realise that they are being exploited.

*Pretty Woman* distinguishes four categories within its target group, namely:

- girls passing through a 'phase', who get into conflict with their parents during puberty;
- 'multiproblem' girls with a problematic family and welfare background;
- girls who have been overly strictly brought up or protected and have been given too little space to develop. *Pretty Woman* refers in this area to 'strictly religious' and 'second-generation problems',<sup>173</sup>
- mentally disabled girls and young women.

Girls in the latter category are highly vulnerable to the activities of loverboys, often have prolonged contact with welfare services and are sceptical about them. Girls in the first category come into contact with loverboys and/or prostitution more or less by chance and hardly have any experience with welfare services, according to *Pretty Woman*.

### 3.2.3 Unaccompanied underage asylum seekers

#### *A risk group*

Unaccompanied underage asylum seekers (*Alleenstaande minderjarige asielzoeker - AMAs*) also risk becoming victims of THB.<sup>174</sup> Some AMAs are brought to the Netherlands under false pretences, where it becomes apparent that they are expected to start working in prostitution, while others are recruited at a later stage from a reception centre, whether or not via the loverboy method.

#### *AMAs: also a vulnerable group in other countries*

The problem is not confined to the Netherlands. During a working visit of the NRM to Sweden in 2002, a few discussion partners expressed their concern about the fact that so-called family members tried to take away AMAs from reception centres, as well as their concern about the comings and goings of AMAs. They feared sexual exploitation. A study at the request of the Migration Board showed that 550 AMAs entered Sweden in 2002. While their asylum application was being dealt with, 45% lived in reception facilities and 55% with family, friends or acquaintances. In the same year, 103 disappeared, of which 20% returned, some sought and were granted asylum in another EU country and some left to return to the country of origin or family in another country. There is no information about 20 AMAs and in 11 cases (more than 10% of those missing) there is reason to fear that they have become victims of THB. All these AMAs lived with family members (Wessel, 2003). A study by Save the Children in Denmark (2003) brought four cases to light of cross-border trafficking for sexual exploitation and 20 with the aim of committing economic offences, such as theft. Wolthuis and Blaakman (2001) report AMAs who – from asylum reception centres in various West-European countries – depart for an unknown destination and sometimes are found in prostitution. In Belgium, Child Focus analysed 255 dossiers of 'unaccompanied children' who went missing in the period from April

<sup>173</sup> The victims of loverboys that were reported to the STV in 2002 were mostly second and third generation Turkish and Moroccan women (STV Annual Report 2002).

<sup>174</sup> The influx of AMAs has declined markedly in the last few years: from 6705 in 2000 to 5051 in 2001 and 2002 in

1998 to the end of 2001. 64 missing youngsters (25%) are known to be linked with a form of THB, three-quarters in the sex industry (De Pauw, 2003). IOM's REAB newsletter (March 2003) also reports – in relation to Belgium – trafficked AMAs. At a conference in Paris (25-26 September 2003) on trafficking in unaccompanied underage persons (AMAs and unaccompanied underage persons who enter the country of destination illegally or otherwise, but do not submit an application for asylum) it emerged that they are being exploited in petty crime, begging, forced prostitution and other illegal work in various European countries, including France, Italy, the United Kingdom and Ireland (Proceedings European Conference *Trafficking in unaccompanied minors in the European Union*; Vaz Cabral, 2003). A report by Unicef UK (2003) also reports the exploitation of AMAs in the United Kingdom, in and outside the sex industry. See also in this respect PICUM (2003).

Welfare workers and the police also come across (former) AMAs in prostitution, whether or not as victims of loverboys. In addition, there are signs of sexual exploitation of girls who are still living in reception centres: men hanging around, girls who spend nights away, undesired sexual contacts, pregnancies and abortions.

Following a motion in the Lower House on incidents in asylum centres, a study was set up into the safety of women and girls in the central asylum centres. The study concerned a) objectively observable situations of danger (incidents), b) the perception of safety by women and girls in asylum centres and c) an evaluation of existing policy in this area.<sup>175</sup> The study showed that women and single underage girls are the most vulnerable.

*Study results: the safety of AMAs in asylum centres*

43 locations participated in the AMA study.<sup>176</sup> Of the coordinators interviewed, 55% stated that they have only a (very) limited idea of any incidents. The same applies to 79% of the other staff. The number of actual incidents will therefore be higher than the number of incidents reported. Concerning AMA girls, 16% reported that prostitution was occurring, 21% observed recruitment for prostitution within the location and 21% observed recruitment for prostitution outside the location (8, 9 and 9 incidents respectively). It is difficult to obtain any firm evidence of recruitment for prostitution, but there are signs (cars with foreign registration numbers near the centres and expensively or provocatively dressed girls getting into strangers' cars). The estimated percentage of victims among girl AMAs for 'recruitment for) prostitution within the location' is 3.5%, i.e. 1 in 29, and 8% for 'recruitment and approaches with sexual intentions outside the location', i.e. 1 in 13. In addition, 14 AMA workers report 38 unwanted pregnancies and 12 of them report 26 suspicious disappearances of AMAs (Brouns et al, 2003; Van Burik & Van Vianen, 2003).<sup>177</sup>

Brouns et al (2003) conclude that no firm evidence has been found that asylum centres are hubs in the trafficking network, but they also conclude that the current reception of AMA girls does not provide a safe haven for them and does not protect them against the risks of trafficking, prostitution and forced sex.

An additional problem is that many of the AMAs lose their right to remain in the Netherlands as soon as they reach the age of 18 years.<sup>178</sup>

*(Almost) 18 years, and then ... ?*

Since all rights and facilities lapse for some of the AMAs as soon as they reach 18 years, they find themselves in an extremely vulnerable position at that moment. Most of the AMAs display a

<sup>175</sup> The parts of the study concerning incidents and the perception of safety were carried out during the period from September 2002 to April 2003 and concerned the preceding six months.

<sup>176</sup> This is 62% of the 69 locations where more than six AMAs were staying at the time of the study. On 1 November 2002 there were an estimated 1431 AMAs staying here, most of them 16 years and older. Among them, according to a statement by the Central Agency for the Reception of Asylum Seekers, were 473 girls; the locations themselves estimate a smaller number, namely 340 (Van Burik & Van Vianen, 2003).

<sup>177</sup> A total of 156 AMAs were thought to have left for an unknown destination in 2002 (ECPAT, 2003).

<sup>178</sup> The AMA residence permit is terminated when the person reaches the age of 18 years, and if the duration of the stay under the AMA residence permit was shorter than three years, return is imperative. The former AMA is then responsible for leaving the country and has 28 days in which to arrange his/her departure. IOM must be called upon to

range of psychosomatic, psychological, behavioural and developmental problems.<sup>179</sup> The perspective of returning to the country of origin can cause or increase tension (Willigen, 2003). The danger, lack of future prospects and the lack of a family and friends are important reasons they cite for not wanting to return.

At an expert meeting in 2003 organised by the Advisory Committee on Aliens Affairs (*Adviescommissie Vreemdelingenzaken - ACVZ*) on the subject of *Children in and after the asylum procedure*, the increased psychological burden caused by the AMA policy was also discussed. It was observed that some former AMAs actually choose illegality in preference to returning to the country of origin. This is due to the distressing conditions there, but also because those who still have family in the country of origin want to improve their own economic situation and that of their family. Often they are sent away precisely for this reason and do not want to return without any money, partly because there are still debts to be paid (ECPAT, 2003).

### 3.2.4 ‘Supervised unaccompanied underage asylum seekers’

The vulnerable position of ‘supervised AMAs’, or ‘BAMAs’ (*Begeleide alleenstaande minderjarige asielzoeker*), was also brought up at the above-mentioned ACVZ meeting. BAMAs are minors who have someone in the Netherlands who can or is expected to take care of them. These children are therefore not regarded as single and cannot claim the protection of the AMA policy (*Kinderrechtencollectief* (Children’s Rights Collective), 2002). When the BAMA arrives alone in the Netherlands and his or her request for asylum is rejected at the application centre he or she will not be given a residence permit for unaccompanied underage asylum seekers (AMA residence permit) but will be entrusted to the care of the member of family, who is then expected to ensure that the BAMA leaves the Netherlands.<sup>180</sup> This responsibility is assumed in any case with family (by marriage) to the fourth degree, but in practice it may also be a friend or ~~the~~ ~~family~~ ~~member~~ ~~of~~ ~~the~~ ~~family~~ ~~who~~ ~~has~~ ~~been~~ ~~obliged~~ ~~to~~ ~~take~~ ~~them~~ ~~in~~. Court rulings in 2003 make clear that it will be difficult for the government to stick to current BAMA policy as regards the automatic passing on of responsibility to (distant) relations.

### 3.2.5 Women in asylum centres

Part of that stated above in relation to AMAs in asylum centres also applies to adult women in these centres. The study by Brouns et al (2003)<sup>181</sup>, already referred to above, shows that workers have even less idea of what incidents occur in relation to the female residents in general. It therefore means to an even greater extent that the number of actual incidents is probably (much) higher than the number of incidents reported.

*Study results: the safety of women in asylum centres*

Prostitution is reported by 40% of the locations, often without coercion: “Prostitution occurs, regularly in fact (...) a number of women are already on the game before they come here, and for others it means the opportunity to increase

<sup>179</sup> This is not surprising: they live far from their family, have a limited social network and are often traumatised (Adriani & Smit, 1998). The ACVZ report (2003) quotes a study that shows that the AMAs in question have experienced an average of six traumatic incidents in the country of origin, varying from the death of a family member to maltreatment or sexual abuse.

<sup>180</sup> The minister regards an underage asylum seeker as single if there is no possibility for supervision or care in the Netherlands by an adult who has or can be expected to have responsibility for this. Such a person need not necessarily be a legal representative. A supervisor or carer is expected to travel with the minor to the country of origin or another country that he/she could reasonably go to, in order to provide shelter and supervision there, or to arrange shelter in another form outside the Netherlands.

<sup>181</sup> As regards the rest of the study that concerned incidents, 121 locations participated (i.e. 62% of the locations on



their prosperity, and for others again it is a form of attention from men”, according to a quote from the study, even though there are usually coercive material circumstances. ‘Recruitment for prostitution within the location’ is identified by 20% of the locations. It involves 31 incidents (an average of 1.4 per location) and the estimated percentage of victims is 0.33 or 1 in 297. ‘Recruitment for prostitution outside the location’ had been identified by 19% of the locations, involving 35 incidents (an average of 3.6 per location) and a victim percentage of 0.95 or 1 in 87. A total of 51 locations also report 92 ‘suspicious disappearances’: women who leave for an unknown destination unannounced and without any direct reason, such as imminent deportation, and whereby workers have indications that the women have ended up in prostitution (Van Burik & Van Vianen, 2003). The figures relating to incidents involving women in asylum centres also partly involve AMAs.<sup>182</sup>

### 3.2.6 Women with a dependent residence status

Not only persons living or working illegally in the Netherlands are vulnerable to exploitation. This applies also to women who possess a dependent residence status through a (bogus) marriage or relationship with a man residing legally in the Netherlands and for this reason may work in the Netherlands, also in prostitution. They can be put to such work or forced to by their partner (see also Wijers & Lap Chew, 1999). Checks on these women do not readily identify them as victims: after all, they live and work legally and are reluctant to come forward with their story for fear of losing their partner and their associated residence status. The police increasingly come across prostitutes with a partner-dependent residence status who may be victims of THB. South American women in particular are thought to be exploited in this way, but concrete information is lacking.

It also occurs that victims of THB in the Netherlands seek a partner in order to be allowed to remain in the Netherlands after the B-9 permit has expired. This is even sometimes advised by welfare workers. The fact that the need is great is shown in the uncritical way in which victims set about this.

A bogus marriage may subsequently serve as a means to place pressure on victims. One of the police investigations into THB that was completed in 2002 showed that a threat was made to inform the authorities of a bogus marriage that the victim had with an older Turkish man.

### 3.2.7 African victims

As regards the recruitment of victims in Africa<sup>183</sup> - particularly Nigeria – the abuse of rituals is regularly used in order to get and keep victims under control. Traffickers come to an agreement with women or girls, usually in consultation with parents, to bring them to Europe for payment (Van Dijk et al, 2000).<sup>184</sup> The oral agreements are sealed by rituals, which often take place in the presence of a local priest in a holy place or a churchyard. At such rituals the victims promise to repay their ‘debt’, never to reveal their name, where they come from or the name of the traffickers, certainly not to the police, and to obey their ‘madame’ (Thijs & de T’Serclaes, 2000), otherwise something ugly will happen to them or their parents: they will go mad or become ill, or even die.<sup>185</sup> Bodily substances such as nails, (pubic) hair or (menstrual) blood will be taken from them and kept, increasing the pressure and ensuring that the intimidation persists even when the victims have reached Europe. The voodoo spell makes the women do what they are told to do. With two of the three Nigerian victims that were interviewed as part of the study by Hopkins and Ni-

<sup>182</sup> There is therefore some overlap between these figures<sup>183</sup> and those concerning the AMAs that were presented earlier in this chapter.

<sup>183</sup> This may also concern AMAs.

<sup>184</sup> Van Dijk works for the Africa Study Centre, which carried out a study at the request of the Trafficking in Human Beings Information Unit of the North-East Netherlands Interregional Investigation Team into the phenomenon of

jboer such voodoo rituals had taken place before they were transported to the Netherlands. Van Dijk et al are convinced “that the traffickers are effectively able to create a reality for the girls that appears highly realistic to them and instils them with much fear” (p.52).

### 3.3 Victim registration kept by the Dutch Foundation against Trafficking in Women

The Helpdesk of the STV, the national registration centre for (possible) victims of THB, receives reports from the police, reception centres, private individuals, institutions for refugees and asylum seekers, (youth) welfare organisations and victims themselves. All these reports are registered. Until recently this was done by hand, but since 2003 a computerised registration system has been used.<sup>186</sup>

The registration does not give a full picture of the nature or extent of THB in the Netherlands. This is because the STV depends on third parties for reports and these do not report all victims. Furthermore, not all victims are brought to the attention of organisations nor are recognised as such by them. What’s more, although double counts are avoided as much as possible, they cannot be ruled out.

This paragraph gives an overview of information from the STV registration system.

#### 3.3.1 Regions and countries of origin

Table 3.1 gives an overview of the regions of origin of the (possible) victims of trafficking that have been registered by the STV.

*Table 3.1 Origin of (possible) victims registered by the STV, per annum*

Region / Country	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Central and Eastern Europe	131	57%	123	43%	134	39%	142	50%	170	50%	700	47%
Africa	45	20%	79	28%	101	30%	45	16%	105	31%	375	26%
Asia	15	7%	26	9%	26	8%	11	4%	13	4%	91	6%
Netherlands	13	6%	13	5%	25	7%	11	4%	18	5%	80	5%
Latin America + Caribbean	24	11%	15	5%	7	2%	3	1%	11	3%	60	4%
Western Europe (excl. The Netherlands)	-	-	6	2%	1	0%	2	1%	3	1%	12	1%
Middle East	-	-	3	1%	2	1%	-	-	6	2%	11	1%
Unknown	-	-	22	8%	45	13%	70	25%	17	5%	154	10%
<b>Total</b>	<b>228</b>	<b>100%</b>	<b>287</b>	<b>100%</b>	<b>341</b>	<b>100%</b>	<b>284</b>	<b>100%</b>	<b>343</b>	<b>100%</b>	<b>1483</b>	<b>100%</b>

Source: STV (2002; 2003).

Table 3.2 shows, in alphabetical order, the most important countries of origin.<sup>187</sup> Appendix 4 (Table B3.2) contains a complete overview of all countries of origin.

*Table 3.2 Most important countries of origin of (possible) victims registered with the STV, per annum*

Country	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Albania	4	2%	-	-	5	1%	4	1%	8	2%	21	1%
Belarus	3	1%	-	-	2	1%	1	0%	8	2%	14	1%

<sup>186</sup> The information shown here is still processed manually.

<sup>187</sup> These countries are included from which at least 15 victims came during the period from 1998 to 2002 inclusive.

Bulgaria	20	9%	7	2%	19	6%	40	14%	59	17%	145	10%
Cameroon	1	0%	1	0%	4	1%	2	1%	10	3%	18	1%
China	11	5%	21	7%	19	6%	10	4%	8	2%	69	5%
Czech Republic	25	11%	12	4%	14	4%	8	3%	6	2%	65	4%
Dominican Republic	11	5%	3	1%	4	1%	-	-	3	1%	21	1%
Hungary	3	1%	2	1%	6	2%	4	1%	1	0%	16	1%
Latvia	4	2%	-	-	9	3%	1	0%	1	0%	15	1%
Liberia	7	3%	2	1%	4	1%	4	1%	-	-	17	1%
Lithuania	7	3%	7	2%	10	3%	10	4%	13	4%	47	3%
Malawi	-	-	4	1%	11	3%	-	-	-	-	15	1%
Moldova	6	3%	4	1%	6	2%	9	3%	14	4%	39	3%
Netherlands	13	6%	13	5%	25	7%	11	4%	18	5%	80	5%
Nigeria	19	8%	41	14%	41	12%	15	5%	45	13%	161	11%
Poland	11	5%	17	6%	12	4%	4	1%	9	3%	53	4%
Romania	11	5%	10	3%	10	3%	4	1%	22	6%	57	4%
Russian Federation	12	5%	26	9%	19	6%	27	10%	16	5%	100	7%
Sierra Leone	3	1%	8	3%	10	3%	6	2%	12	3%	39	3%
Slovakia	-	-	7	2%	5	1%	1	0%	2	1%	15	1%
Sudan	11	5%	10	3%	4	1%	1	0%	1	0%	27	2%
Turkey	-	-	3	1%	1	0%	-	-	5	1%	9	1%
Ukraine	9	4%	24	8%	12	4%	18	6%	5	1%	68	5%
Unknown	14	6%	26	9%	49	14%	72	25%	21	6%	182	12%
Other	23	10%	39	14%	40	12%	32	11%	56	16%	190	13%
Total	228	100%	287	100%	341	100%	284	100%	343	100%	1483	100%

(Source: STV, 2002; 2003).

The STV data for the year 2001 deviate from that of previous years, probably because the STV was poorly accessible at that time. The total number of victims reported in that year is low, and the percentage of unknown countries of origin is high. The impression that the year 2001 gives an anomalous picture on which no conclusions about an interruption in the trend can be based, is reinforced by the fact that the total number of victims reported to the STV in the year 2002 increased once again and the percentage of unknown countries of origin dropped substantially (from 25% in 2001 to 6% in 2002). For this reason, hereafter the data on 2002 is compared with the years before 2001.

In 2002 again most victims originated from the region of Central and Eastern Europe. The number of reports from this region increased compared to the period from 1998 to 2000, to 50%. The number of reports on victims from Africa was also considerable in 2002 (31%). In the same period the number of reports of victims from Asia declined somewhat (to 4%). 5% came from the Netherlands and the other regions each account for 1 to 3%.

There are also shifts at an individual country level. In the Central and Eastern European region, countries such as Hungary, Latvia, the Ukraine, Poland, the Russian Federation, Slovakia and the Czech Republic seemed to decline in significance as countries of origin, whereas countries such as Albania, Belarus, but especially Bulgaria, Moldova and Romania would appear to be on the increase.<sup>188</sup>

<sup>188</sup> A caveat: because although a large number of countries are involved, the number of victims from each country is

In Africa, Nigeria has been the major country of origin for many years: a total of 11% of all victims who were reported in the period from 1998 to 2002 inclusive come from that country. Malawi would appear, after a short ‘peak’, to be hardly significant any more as a country of origin, as is the Sudan, whereas – taking the complete table in Appendix 4 into consideration – Angola, Guinea, the Ivory Coast and especially Cameroon and Togo are on the increase.

The declining significance of the role of Asia as a region of origin is related to the position of China. At the end of the 1990s a growing number of victims (especially AMAs) came from there, but this has fallen during the last few years.

Furthermore, it is noteworthy that 2002 saw the first victims being reported from Cuba, and that the number of victims from Turkey would appear to be on the increase.

Table 3.3 contains a list of the five major countries of origin ranked in order of importance for each year.

*Table 3.3 Major countries of origin of victims showing annual rankings<sup>189</sup>*

Country	1998	1999	2000	2001	2002	Total ranking (1998 to 2002)
Bulgaria	2		3'	1	1	2
China		4	3'			5
Czech Republic	1					
Netherlands	4		2	5	4	4
Nigeria	3	1	1	4	2	1
Poland		5				
Romania					3	
Russian Federation	5	2	3'	2	5	3
Ukraine		3		3		

This summary also shows the shifts over time. Nigeria and the Russian Federation have been among the five most important countries of origin each year; Bulgaria and the Netherlands almost every year. The Czech Republic, Poland and China were among the most important countries in the past. The position of the Ukraine is not completely clear in this respect, whereas Romania is possibly emerging.<sup>190</sup>

### 3.3.2 Age and gender

Table 3.4 contains data on the age distribution of victims reported to the STV in 2001 and 2002.

*Table 3.4 Age distribution of victims reported to the STV in 2001 and 2002*

Age category	2001		2002		Total	
	N	%	N	%	N	%
10 to 13 years	2	1%	-	-	2	0%
14 to 17 years	25	9%	41	12%	66	10%
18 to 23 years	86	30%	130	38%	216	35%
24 to 29 years	39	14%	56	16%	95	15%
30 to 39 years	12	4%	19	6%	31	5%

<sup>189</sup> An accent shows a shared ranking.

<sup>190</sup> According the first annual report of the Regional Clearing Point (RCP, 2003), Bulgaria and Romania are also important countries of origin in South Eastern Europe. This also applies to Albania, Moldova and Kosovo, from where

40 years and older	1	0%	5	1%	6	1%
Unknown	119	42%	92	27%	211	34%
Total	284	100%	343	100%	627	100%

(Source: STV, 2002; 2003).

Most victims are in the age categories from 18 to 23 and 24 to 30 years old. Of the victims whose age is known, 41 are underage. This is 16% of the 251 reports where the age is known, the same percentage as in 2001.<sup>191</sup> The number of underage victims that were reported to the STV therefore increased, but their percentage of the total number of victims remained the same.

The STV does not report on the gender of the victims reported; each year it concerns only a very few men or boys.

### 3.4 (Possible) victims in the police victim tracing system

Traffickers in human beings regularly move their victims to other locations, municipalities and regions. In the past it therefore occurred that victims came to the attention of various police forces, without these police forces being aware that the other forces knew about them, or that a problem appeared to be solved whereas a victim had in fact been put to work elsewhere. In order to improve its information position, the police have developed the victim registration system entitled *IKP-S*. Possible victims who score 10 points or more on a certain points system linked to a list of signals that point to THB<sup>192</sup>, are registered in this system. According to the *Prostitutie en mensenhandel Korpsmonitor 2002* (Police Monitor on Prostitution and Trafficking in Human Beings) (PPM/dNP, 2003), twenty of the twenty-five regional police forces enter data on (possible) victims in the *IKP-S*. Even so, it is difficult to register and trace victims and prevent duplication in the system: victims often work under different names and the names of the foreign victims are not always unambiguously spelt.

#### 3.4.1 Countries of birth

Table 3.5 shows, in alphabetical order, a summary of the most important countries of origin (in this case the countries of birth) of the (possible) victims in the *IKP-S*,<sup>193</sup> the right-hand column showing the rankings of the five most important countries of birth (in descending order of frequency). A full summary can be found in Appendix 4 (Table B3.5).

Table 3.5 Country of birth of (possible) victims in *IKP-S* (2002)

Country of birth	N	%	Rank
Albania	8	2%	
Bulgaria	106	29%	1
Czech Republic	5	1%	
Dominican Republic	5	1%	
Liberia	7	2%	
Lithuania	8	2%	
Morocco	5	1%	

<sup>191</sup> 27 of the 165 reports in 2001 where the age was known referred to minors, which also works out at 16%.

<sup>192</sup> The list forms part of the *Aanwijzing aanpak mensenhandel* of the Association of Procurators General and was developed by PPM/dNP. It uses a system whereby each signal is assigned a number of points (maximum 10 per signal). For example, the signals 'working for a noticeably low wage' and 'working in different places' have a low score (2 points each) and 'illegal residence' and 'debt accumulation' a high score (10 points each). The total number of points gives an indication of the likelihood that the police are dealing with a victim of THB.

Netherlands	16	4%	
Nigeria	23	6%	4
Poland	22	6%	5
Romania	38	10%	2
Russia	18	5%	
Sierra Leone	25	7%	3
Slovakia	5	1%	
Sudan	11	3%	
Ukraine	9	2%	
Other	60	16%	
Total	371	100%	

In 2002 there were 371 (possible) victims registered in IKP-S. The information on countries of origin is comparable with that from the STV registration system. IKP-S also shows for 2002 that Bulgaria – almost a third of (possible) victims registered originate from here – Romania and Nigeria are in the ‘top 5’. In addition, even though not within the top 5, Russia and the Netherlands also have a high score. But there are differences too: unlike the STV registration, the police have relatively more (possible) victims registered from Sierra Leone<sup>194</sup> and Poland.

### 3.4.2 Ages

At the moment of registration, 51 (possible) victims were younger than 18 years (i.e. 14%)

## 3.5 Victims in the B-9 regulation

### 3.5.1 The B-9 regulation

The B-9 regulation (Section B-9 of the Aliens Act Implementation Guidelines) allows aliens who are or may be victims or witnesses of THB to remain legally in the Netherlands temporarily during the investigation and prosecution process, thus remaining available to the police and the Public Prosecution Service (PPS). The police are required to inform an alien who may be a victim of THB, even in the case of a minor indication of THB, of her rights under the B-9 regulation and to offer her a period of reflection. This reflection period gives victims the time to decide *whether* they will file a report, and may be for up to three months, during which the deportation of the victim from the Netherlands is temporarily suspended.<sup>195</sup> If the alien decides not to report the offence, she must leave the Netherlands straight away. If she decides to report, this is regarded as an application for a temporary residence permit, or regular residence permit (*Verblijfsvergunning Regulier* - VVR). The permit is issued for the duration of the investigation and prosecution and is cancelled as soon as this is halted or completed.<sup>196</sup>

The B-9 regulation provides for reception and accommodation facilities, medical and legal assistance<sup>197</sup> and provisions relating to maintenance.

<sup>194</sup> African victims sometimes remain for a prolonged period in neighbouring African countries, e.g. when fleeing from war, before coming to the Netherlands, so that it is not always clear what the country of origin is (the country from which the person travels to the Netherlands may be Nigeria, whereas the country of birth is Sierra Leone). It also occurs that a country is mentioned as the country of birth which the (possible) victim believes will increase her chances of being allowed to remain in the Netherlands.

<sup>195</sup> This regulation for allowing a reflection period does not apply to witness-informants and for victims who have not (yet) worked in the prostitution sector in the Netherlands.

<sup>196</sup> The IND may decide – on the advice of the PPS – to withdraw a witness’s residence permit earlier or not extend it. In principle, victims of THB whose B-9 permit expires may apply for a permanent residence permit (for

BNRM examined how many (possible) victims and witnesses of THB during the period from 1998 to 2002 appealed to the B-9 regulation according to the IND registration (*Immigratie- en Naturalisatiedienst* - Immigration and Naturalisation Service), and on this basis were granted a temporary residence permit. For an explanation of the way in which the information was obtained, as well as a few cautionary notes accompanying the data, you are referred to Appendix 2. Suffice it to say that a) the B-9 data only concerns victims (and witnesses) of THB that are illegally in the Netherlands and who want to cooperate with the police and the PPS and b) the way in which the data is analysed differs from the previous report, producing small variations in the figures.

### 3.5.2 Applications for and granting of a B-9 permit

Attempts to find out through the Aliens Administration System (*Vreemdelingen Administratie Systeem* - VAS) how many victims make use of the reflection period drew a blank. It is known, however, that 143 victims who had made a report were registered by the STV in 2002, and in 47 cases a reflection period had been granted before a report had been made (STV 2002 Annual Report).

Table 3.6 shows for how many persons an application for a temporary residence permit under the B-9 regulation (hereinafter referred to for convenience as the B-9 permit) was submitted to the IND during the period from 1998 to 2002, and how often these were granted. The figures represent only 'first' applications and issues; applications for and issues of extensions are not included. The table also shows how large the rise and fall is compared to 1998 (using indices).<sup>198</sup>

Table 3.6 Applications for and granting of a B-9 permit, per annum

Year	B-9 permit applications		B-9 permit issue	
	N	Index (1998=100)	N	Index (1998=100)
1998	52	100	41	100
1999	100	192	66	161
2000	77	148	55	134
2001	145	279	122	298
2002	160	308	127	310
Total	534	n/a	411	n/a

The number of applications and issues of B-9 permits increased sharply in 2001 and remained high in 2002 compared to previous years. From 1998 to 2002, some 534 applications were submitted and 411 B-9 permits were granted. Since applications and issues in a given year do not necessarily concern (exactly) the same persons (after all, decisions on applications submitted in one year may be made in the following year), there is little point in allocating percentages. This can be done, however, using a cohort analysis.<sup>199</sup>

Table 3.7 contains the results of such a cohort analysis, examining how many of the applicants in a particular year were eventually granted a B-9 permit (in the same year or later). The percentage of permits granted may increase somewhat for the most recent years<sup>200</sup>. However, in view of the percentages for 1998 and 1999, these will not end up much higher.

<sup>198</sup> For an explanation of the indices, see Appendix 3.

<sup>199</sup> For an explanation of the cohort analysis, see Appendix 3.

Table 3.7 Cohort analysis of applications for and granting of B-9 permits, per annum

Year	B-9 permit applications (cohorts)	% First contact with IND (within cohort)	% Extensions (within cohort)
	N	%	%
1998	52	69%	75%
1999	100	65%	73%
2000	77	57%	69%
2001	145	58%	83%
2002	160	58%	78%
Total	534	60%	77%

The percentage of applicants to whom a B-9 permit was granted in 2001 and 2002 is about 80% which is somewhat higher than in earlier years. This therefore means that a B-9 permit was not granted to a substantial proportion (approx. 20%) of the applications. This can have various causes. Applications are sometimes cancelled, for example if the investigation or prosecution is not started or halted. It may also be that victims/witnesses who have appealed to the B-9 regulation withdraw their application or ‘disappear’. They may have returned to the country of origin, or return to working in prostitution, either for themselves or under the pressure of the traffickers.

Table 3.7 (second column) shows the percentage of applicants that come into contact with the IND for the first time. Viewed over the entire period from 1998 to 2002, roughly 40% of the applicants have already had contact with the IND in the past. This could be, for example, due to a request for asylum or an arrest, such as on the grounds of staying in the Netherlands illegally.

### 3.5.3 (Background) characteristics of persons with a B-9 permit (application)

#### Gender

Of the victims/witnesses of THB for whom a B-9 permit was applied for in the period from 1998 to 2002 and the gender is known,<sup>201</sup> 92% are female and 8% male.<sup>202</sup> Most of the applicants by far are therefore women. The percentage of men among the applicants fluctuates somewhat each year and was 7% in 2002.<sup>203</sup>

Not all these persons are granted a B-9 permit. Of those who have actually been granted a B-9 permit and whose gender is known,<sup>204</sup> 96% are female and 4% male,<sup>205</sup> so relatively speaking fewer B-9 permits are granted to men than to women.<sup>206</sup>

#### Age

Table 3.8 shows the age of the victims/witnesses with a B-9 permit.

Table 3.8 Age of persons with B-9 permit, per annum

Age	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
0 to 10 years	-	-	-	-	1	2%	2	2%	1	1%	4	1%
11 to 17 years	3	7%	7	11%	6	11%	9	7%	12	10%	37	9%

<sup>201</sup> This was known for 450 of the 534 persons.

<sup>202</sup> N=416 and N=34 respectively.

<sup>203</sup> Percentage of men per annum: 8% (1998), 16% (1999), 1% (2000), 4% (2001) en 7% (2002).

<sup>204</sup> This characteristic was known for 337 of the 411 persons.

<sup>205</sup> N= 225 and N= 12 respectively.



18 to 25 years	29	71%	47	71%	34	62%	75	62%	86	68%	271	66%
26 to 30 years	8	20%	6	9%	12	22%	20	16%	18	14%	64	16%
31 to 40 years	1	2%	4	6%	2	4%	14	12%	7	6%	28	7%
41 years and older	-	-	2	3%	-	-	2	2%	2	2%	6	2%
Total	41	100%	66	100%	55	100%	122	100%	126	100%	410	100%

Two-thirds of all victims/witnesses of THB to whom a B-9 permit was granted fall within the 18-25 years age category. About 10% are underage. Among the minors who received a B-9 permit there are also very young children, namely four in the age category of 0 to 10 years. These are probably children of victims.

By far most of the B-9 permits granted are to women. Men are relatively more strongly represented in the lowest and highest age categories, and significantly less in the 18-25 years category. Probably there are relatively more children of victims, and witnesses of THB among the male group (who are not victims themselves).

### Nationality

Table 3.9 shows the nationality of victims of THB to whom a B-9 permit has been granted. This table only lists the most common nationalities.<sup>207</sup> A table with all nationalities is contained in Appendix 4 (Table B3.9).

Table 3.9 Nationality of persons with B-9 permit, per annum

Nationality	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Bulgarian	7	17%	7	11%	7	13%	33	27%	35	28%	89	22%
Czech	6	15%	6	9%	4	7%	7	6%	3	2%	27	7%
Moldavian	-	-	2	3%	1	2%	5	4%	12	9%	20	5%
Nigerian	2	5%	7	11%	9	16%	9	7%	14	11%	41	10%
Romanian	3	7%	3	5%	6	11%	4	3%	15	12%	31	8%
Russian	1	2%	4	6%	6	11%	16	13%	5	4%	32	8%
Ukrainian	4	10%	8	12%	3	6%	16	13%	4	3%	34	8%
Other/unknown	18	44%	29	44%	19	35%	32	26%	39	31%	137	33%
Total	41	100%	66	100%	55	100%	122	100%	127	100%	411	100%

In 2002, more than a quarter of the victims/witnesses of THB who obtained a B-9 permit had the Bulgarian nationality. This percentage was just as high in 2001, but (slightly) lower in earlier years. In addition, a relatively large number of persons with a B-9 permit had another Central or Eastern European nationality, or Nigerian nationality. Trends over time cannot be detected here: the percentage of victims/witnesses from these countries fluctuates from year to year.

Table 3.10 shows the nationalities of the victims/witnesses with a B-9 permit according to region of origin. Central and Eastern Europe has been divided into Central Europe (Poland, the Czech Republic, Slovakia and Hungary), Eastern Europe (Russian Federation, Ukraine, Moldova, Belarus and Azerbaijan), the Baltic States (Estonia, Latvia and Lithuania) and the Balkans (countries of the former Yugoslavia,<sup>208</sup> Romania, Bulgaria, Albania and Slovenia).

<sup>207</sup> A nationality is included in the table if a total of more than 20 victims/witnesses held the nationality concerned.

Table 3.10 Region of origin of persons with B-9 permits, per annum

Region of origin	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Western Europe <sup>209</sup>	-	-	3	5%	2	4%	3	3%	-	-	8	2%
Central Europe	9	24%	18	28%	7	13%	14	12%	6	5%	54	13%
Eastern Europe	5	14%	12	19%	10	19%	34	28%	13	10%	74	18%
Baltic states	4	11%	3	5%	5	9%	3	3%	5	4%	20	5%
Balkans	11	30%	13	20%	16	30%	46	38%	68	54%	154	38%
Africa	3	8%	12	19%	14	26%	16	13%	31	25%	76	19%
Latin America/ Caribbean	4	11%	4	6%	-	-	-	-	-	-	8	2%
Asia	1	3%	-	-	-	-	5	4%	3	2%	9	2%
Total	37	100%	65	100%	54	100%	121	100%	126	100%	403	100%

The total number of victims/witnesses with B-9 permits from the Balkans rose relatively sharply in 2002, while the number of victims/witnesses from Central Europe declined significantly. For the other regions of origin, the percentage of victims/witnesses fluctuates from year to year or is generally quite low.

### 3.6 Points of attention and problem areas

#### *Obtaining a picture of the victims*

- It is difficult for the police, welfare workers and researchers to identify victims of THB. This goes for adults, but certainly also for underage victims. Victims are often not recognised as such, as they are reluctant to come forward to relate their experiences. They do not always realise that they are being exploited, certainly not if they are in love with their pimp/loverboy or if, in spite of the exploitation, they still earn more than they could in their country of origin. Victims who do realise this often keep their experiences to themselves because they are physically prevented from going to the police or welfare services, or they lack the courage to do so. This may be through fear of the police, because their family or they themselves are being threatened, but also because they are in the Netherlands illegally and are afraid of being deported (such as former AMAs, BAMAs and persons with a dependent residence position, including former victims whose B-9 status has expired). For some African victims, the voodoo spell also plays a role which prevents them from reporting their traffickers.
- In order to get victims of THB to tell their real story it is important, for the police too, to create a bond with them and win their trust. This will not succeed through 'street-clearing' campaigns using surveillance and identity checks which are aimed exclusively (or mainly) at illegal persons.

#### *Victims and their roles*

- Victims of THB have a variety of roles. They are victims of a serious crime, they are witnesses and can therefore play an important role in the investigation and prosecution of sus-

<sup>209</sup> 'Aliens' with a B-9 permit also include subjects of EU member states. EU subjects derive their right of residence in the Netherlands in the first place from the EU Treaty and therefore do not come under the regime of the Aliens Act. If a subject from an EU member state, however, does not come within the terms of the EU Treaty, for example because he does not possess sufficient means to remain in the Netherlands, he is regarded as an alien and therefore comes under the regime of the Aliens Act when he does not actually establish residence in the Netherlands. If in these

pects, but they are also often aliens remaining illegally in the Netherlands. Although possible victims of THB are entitled under the B-9 regulation to a period of time to reflect on whether or not to make a report, this is not always offered, or is offered for less than three months. Sometimes victims would appear to be regarded above all as illegal aliens and deported from the country as quickly as possible. This prevents an effective prosecution of THB.

#### *Information and support*

- Victims who want to make a report often experience problems in practice. They are often sent away, referred to another police station or have to make a considerable effort to reach the right official.
- For victims in the B-9 process, the legal assistance that is available is very limited in time, and in practice is not always sufficient to support them in the criminal proceedings and the process relating to aliens law, as well as in aspects concerning their social security.
- Victims are not always informed, at least not fully and promptly, of the progress and completion of criminal proceedings and the proceedings relating to aliens law. It may be, for example, that they are unaware of the fact that the case against 'their trafficker' has been dropped. Another problem is that it often takes a great deal of effort on their part to reach the right official(s).

#### *Asylum and asylum procedure*

- Victims of THB who end up in the asylum procedure are often not recognised or acknowledged as such. A person cannot be in the asylum procedure and B-9 procedure at the same time. A victim of THB will not readily exchange an asylum procedure with a good chance of success with a B-9 status.
- There is not enough known about incidents that occur with the reception of female asylum seekers, and particularly AMAs, and asylum facilities are not safe enough for AMAs and women.
- The current AMA policy - focused on repatriation - worsens the safety situation, because: a) it becomes more difficult to build a relationship with those concerned (COA workers are identified with the repatriation policy) and b) the tensions lead to more conflicts and more truancy from school and c) there are more 'destinations unknown,' and safety declines after a person has left the asylum centre (more risk of disappearing into the illegal and criminal circuit, and falling victim to trafficking).
- BAMAs are too readily placed under the responsibility of (distant) family members.

#### *Other problem areas*

- The fees that victims have to pay, such as for an extension to their B-9 permit, an application for a permanent residence permit and an application for family reunification, form a problem. It is understood, however, that these may be abolished in the foreseeable future for victims of trafficking.
- There is not enough known about victims who have returned to their country of origin.

## 4 Victim support and representation of victims' interests

### 4.1 Introduction

The First Report of the NRM contained information on the reception, supervision and representation of the interests of victims of THB. Some of this information is still up to date, but there have been a number of changes and developments which will be dealt with in this chapter.

### 4.2 The nature of victim support

#### 4.2.1 Victim support: from prevention to assisting repatriation

Victim support has a broad meaning in this report. It comprises prevention (usually in the form of information), reception, supervision and all kinds of support to victims during their stay in the Netherlands, but also preparation for and supervision of their return to their country of origin. Each of the organisations and projects discussed in this chapter are engaged in one or more of these forms of victim support. Attention will be given first in a more general sense to two of these forms: reception and repatriation.

#### 4.2.2 Reception

##### *Shortage of places*

Both victim support workers and the police point to a shortage of reception places in general, as well as those for victims of THB. Often a request for a place is greeted with a 'no' and the number of refusals due to a lack of space is thought to have increased over the past few years. Usually it is eventually possible to find shelter for victims, but this often takes a great deal of time and victims do not always end up in the most suitable accommodation (see also Knaapen, 2003). Funds will be made available in 2004 to expand reception capacity. It is doubtful, however, whether the problem is purely one of capacity. The Trimbos Institute carried out a study into the influx into women's reception centres. This study showed that 45% of the applications registered in the past few years were not followed by an intake, and 60% of the intakes did not result in women actually being received in these centres. Furthermore, it was noted that it does indeed take a great deal of time (sometimes days) to find a place for a woman.

The study also showed that a) unnecessary telephone calls are often made because old printouts from the Register of Available Places (*Meldpunt Open Plaatsen - MOP*)<sup>210</sup> are used, and b) the system used to register applications does not distinguish between unique persons. A number of telephone calls for the same victim, sometimes also at the same facility, and calls relating to relocations, are registered as separate applications. Furthermore, a refusal is often made for reasons other than a shortage of places. For example, 15% of the facilities surveyed stated that a condition for acceptance was that a woman must be from the region, whereas the legal requirement is national accessibility to a reception facility. Moreover, a vicious circle would appear to be created whereby reception facilities are tightening up selection criteria at their gates, while those making the referrals are adjusting their story in order to get a woman accommodated in such a facility. The researchers therefore recommend that capacity should not be expanded automatically, but that there should be investment in a fast introduction of a new registration system that can distinguish between unique persons and create more clarity on admission criteria within the reception facilities (Wolf et al, 2003).

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<sup>210</sup> MOP is a registration system that provides an overview of available places at reception facilities. It has been in

The Federation of Reception Centres (*Federatie Opvang* - FO) is currently working on these problem areas.

### *Difficult target group*

It is likely that victims of THB (and those referring them) are confronted with placement problems relatively more frequently. Possible causes of this are, apart from the lack of persons moving on from the reception facilities, the strict admission criteria that some centres adopt and the fact that not all centres take in victims of THB, or only in limited numbers. The latter has also to do with the fact that victims of THB are regarded as a difficult target group.

They do not often come from the region, speak little Dutch, (partly for this reason) cannot participate in standard group activities and usually have an uncertain residence status. These women require intensive support, partly because of the language barrier, cultural differences, a lack of trust in victim support workers and a lack of future prospects (Knaapen, 2002). These are all factors that may play a role in getting these women admitted, according to the above-mentioned study among the reception facilities.

Another problem is that whereas the financing of this target group's stay is well organised on paper, in practice problems do tend to arise.<sup>211</sup> Furthermore, victims of THB are sometimes seriously traumatised, which demands special care (see also Knaapen, 2003). In various sectors of victim support and mental health care, however, there is a problem with waiting lists. Referrals from women's reception centres to other facilities, such as youth care or mental health care centres is difficult as a result. Furthermore, alcoholism often plays a role and the reception centres are worried that victims will go back to prostitution. This causes nuisance and can lead to other women in reception centres being recruited for prostitution.

There is also a fear of the criminal networks behind the victims. It is thought that the reception facility address, which is generally secret, could become known and other clients and workers could experience nuisance as a result. This fear is not unfounded. It is regularly brought to BNRM's notice that victims are still frequently approached (or harassed) by their traffickers/pimps, even after they have been placed in a reception facility.

### *Contacts between victims and their traffickers/pimps*

Studies by BNRM into the police and victim support services have shown that a) in 24 of the 55 police investigations<sup>212</sup> (44%) one or more of the victims from the reception facility still had contact with one or more suspects and b) more than half of the victim support organisations and interest groups have experience of victims who have contact with the person exploiting them even when they are staying in a reception facility. It is extremely difficult to say with any certainty how these persons find out where the victim can be reached, but the GSM undoubtedly plays a role. The purpose of the contacts is usually to persuade the victim to withdraw her report or – to a lesser extent – get her back into prostitution or to offer help. It also regularly occurs, however, that the victim initiates the contact, because she is in love, asks for help (money, for instance) or because the victim has a child or is expecting the suspect's child, but also in order to find out where the suspect is staying so that the victim knows whether her family or friends could be in danger. Sometimes the contact comes about indirectly, because the victim makes contact with a friend or acquaintance who then warns the suspect, or the reverse may also be the case, where the (arrested) suspect asks a friend or acquaintance to contact the victim.

A number of reception facilities which are now hesitant to take in victims of THB would however be willing to do so if they are supported in this by the STV.

### *Training and education*

A study of needs carried out by Bonded Labour in the Netherlands (BLinN)<sup>213</sup> shows that both victim support workers and victims know little about the opportunities for training and education

<sup>211</sup> Financing often takes a long time to come through.

<sup>212</sup> Completed in 2002.

<sup>213</sup> Questionnaire was sent to more than 100 organisations in November 2002 for this purpose. 22 of these organi-

while they are in the reception facility. There is a considerable need for Dutch language courses, but it should also be noted that being permitted to participate in such courses could create the wrong expectations about future residence in the Netherlands. Furthermore, the policy for Dutch languages courses is not uniform: in one municipality a woman with B-9 status is allowed to participate in the courses it offers, whereas in another municipality she is not. There are some opportunities, however, to attend courses in other languages, but it is unclear how great the need is for these and to what extent the provision of such courses is sufficient. Among the target group there is a great need for practical vocational courses, but in order to follow these the participant must have a command of the Dutch language. There is a need for other courses too (e.g. computer skills, budgeting). The supply is limited, but it is not clear why (high costs, limited information or other factors). In spite of the language problem there are many opportunities for voluntary work. Experiences of this are positive, but there is only a limited need for it: victims want to do paid work.

#### *Victims disappear from reception facilities*

Victims disappear relatively often from reception facilities. They want to earn money and leave to work (for themselves), whether or not in prostitution. It may also be that they return to their traffickers, or are forced by the latter to go back to them (often under threats to themselves or their children). In addition, many women perceive the reception facility as imprisonment. They cannot cope with the strict rules that apply in them and/or miss their children.

#### *Children of victims*

Victims of THB are allowed to have their children who are still in the country of origin brought to the Netherlands during the B-9 period only if this is in the context of family reunification. In order for this to happen, the victim must have sufficient means in the Netherlands to support the family members. This is seldom the case, though: after all, victims may not work during the B-9 period. It is fair to assume that many of the victims have children in the country of origin.<sup>214</sup> Although this does not mean that all victims want to have their children brought over, the impossibility of doing so is identified by victim support workers as a problem. After all, victims often spend a long time in the B-9 procedure and often family members in the country of origin, including children, are subjected to threats. It is therefore conceivable that some of the disappearances from reception facilities have to do with this. For a pilot period of one year (from the beginning of August 2003) the IND will not impose the requirement of means in distressing cases for persons with a B-9 permit. Based on the findings, a decision will be made as to whether the B-9 should be modified in this area. Questions still unanswered concern the extent of the need for family reunification in this respect, as well as whether the situation of victims of THB is to be labelled by definition as distressing and whether there are other admission criteria that could have a hampering effect, such as the requirement that children who come to the Netherlands as part of the family reunification programme must possess an authorisation for temporary stay.

Frequent disappearances from the reception facilities are also related, according to the victim support workers, to the fact that victims are not permitted to work, the long duration of investigation and prosecution, and the subsequent uncertain position of the victim (see also Knaapen, 2002). BLinN points out that victims have high expectations once they have made a report, which often are not fulfilled (Study of Needs by BLinN).

#### *Reception by category or not?*

Partly in view of the problems identified by victim support workers relating to this target group, the question arises in the field as to what type of reception is to be preferred: by category (putting victims of THB together) or integral (as one of the target groups in regular women's reception facilities)?

The advantages of reception by category are that more expertise can be developed, the supply can be tailored better to the needs of the woman concerned and the victims can find support from each other, possibly later too back in the country of origin. In making this choice, it is also im-

<sup>214</sup> Studies of possible victims of THB in Amsterdam's streetwalker's districts show, for example, that 45% of the women from the former Eastern Block prostitution and 27% of the remaining women have one or more children in the

portant to consider where it is easiest to protect victims from those exploiting them. On the one hand it is easier to take strict security measures at a few locations, while on the other hand it will be less easy to keep these locations secret. Experiences in Belgium, where reception of victims by category has been chosen for, could be taken into consideration in the discussion.

The degree of stigmatisation that this type of facility could cause<sup>215</sup> as well as the options available for day-to-day activities also need to be taken into account. Reception and further assistance, incidentally, do not need by definition to be organised in the same way. A number of options could be:

- crisis reception places for a short time (there is the risk here, though, that the problem of finding shelter is merely postponed, not solved);
- arrange not so much reception by category, but rather (specialised) expertise in various areas (e.g. legal, psychological/psychiatric). This could be a mobile service made available centrally, to be used when and where required;
- combinations of reception by category and general reception. Victims (e.g. from various countries and regions) differ and may therefore have differing (reception) needs. The choice for the type of reception can then be determined partly based on the situation and needs of the victim, which may possibly become clear during a temporary crisis reception period.

### 4.2.3 Repatriation

Although victims of THB generally come to the Netherlands with the idea of working here temporarily and then returning to their own country with the money they have earned (STV, 2003b), many of them with whom the victim support services have contact would prefer to remain in the Netherlands for all kinds of reasons (Hopkins & Nijboer, no date). This often makes it difficult for victim support workers to initiate a repatriation process, as a study of needs carried out by BlinN shows. The theme of repatriation, however, is important, because there are victims who are deported and victims who do indeed want to return to their country of origin. The reasons for the latter could be: lack of future prospects in the Netherlands as country of destination, family ties in the country of origin and the desire to leave behind all the negative experiences. Victim support workers therefore focus increasingly on repatriation and reintegration. The above-mentioned study of needs also mentions a number of experiences concerning the repatriation of victims to countries in Central and Eastern Europe and Africa. Important factors, according to the study, are:

- in the Netherlands: good information about repatriation options (preferably in good time, so that preparation is possible and any training and education can be dovetailed with the opportunities in the country of origin), the safety of the women, support with formalities (e.g. obtaining travel documents)<sup>216</sup> and a regular contact person;
- as far as the journey is concerned: supervision upon departure, reception upon arrival and financial means for initial day-to-day living expenses;
- in the country of origin: protection of the women, their family and privacy, a safe place, opportunities for psychosocial help and assistance in finding work in order to prevent the woman from becoming dependent again.

It is also very important to be aware of stigmatisation and to prevent this as much as possible. In certain countries and regions, stigmatisation can lead to former victims being ostracised.

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<sup>215</sup> It is known that victims, once they have returned to the country of origin, do not like staying (often even only for a short time) in facilities which are generally known to be for victims of THB, because of the stigmatising effect this can have.

<sup>216</sup> Auerbach and Cleaver (2001) report a preference for repatriation through IOM in order to avoid the stigmatising effect

The fact that reintegration in the country of origin is not easy, is evident from a report as part of the project *Good practices in the (re)integration of victims of trafficking in human beings from an empowerment perspective* (Talens & Landman, 2003):

- In many countries of origin, the government provides no support for returning victims, or these victims may even be prosecuted under the prevailing (im)migration and/or prostitution laws there. Sometimes recruiters are aware of the fact that victims are being deported and wait for them on their return.
- The victims' economic situation on their return is sometimes the same, but often worse than when they left their country of origin.
- Sometimes family members are involved in recruiting victims. When they return, these victims run a substantial risk of being re trafficked. Even when family members were not involved in the trafficking, they do not always support returning victims. Victims are often ostracised by their family, which they may well not have seen for many years. That is why many victims keep their experiences to themselves.
- Reintegration in society is often even more difficult than in their own social network, particularly due to stigmatisation.
- The extent to which a victim succeeds as an individual in adjusting to a particular lifestyle and living environment varies and partly depends on the location (town or village) and her physical and mental health. There are often problems in this area, ranging from HIV and other STDs to complications following abortions and psychological problems. The necessary medical care is often expensive and, if there is no state support in this area, unavailable to women who have insufficient means.

The report also provides a summary of services and activities available to support victims who return to certain countries of origin.

*Services and activities to support returning victims*

- *Information provision.* IOM provides 'country information sheets on reintegration' for a large number of countries,<sup>217</sup> including a few countries of origin that are important from the Dutch perspective. The sheets contain information on assistance available to victims and may be of importance to victim support workers who help victims with (preparing) their repatriation, but possibly also with the decision-making process relating to the granting of (permanent) residence permits;
- *Preparation for repatriation.* This involves *case assessments*: estimating the safety risks, assessing the family situation and sometimes mediating between the victim and her family. Sometimes concrete assistance is provided in preparing for repatriation (arranging travel documents and transport) and/or a victim will be met on arrival and informed of the support that is available;
- *Health care.* This is very important and concerns aspects such as STDs, HIV and AIDS, but also psychological counselling or psychotherapy. Specific forms are *support groups* (including those for women working in prostitution), *ethnocultural therapy* (in order to overcome the power of voodoo-like rites) and *family support* (to help family members to deal with victims, especially if they are traumatised).
- *Shelter.* In many countries of origin, NGOs run reception facilities for returning victims who cannot or do not want to return home immediately. In Albania also host families are used.
- *Financial support.* This could be money for initial living expenses immediately following repatriation, but could also involve funding or loans to start up a small business.
- *Vocational education or training.* Examples are courses in general skills, careers guidance, training for more specific skills necessary for certain occupations (such as courses in business, computer skills, tourist guides or manual skills) and support in finding work.
- *Access to work.* In some countries, NGOs provide information on the labour market and local employment offices. They help women to draw up a CV and train them for job interviews. They also assist them in drawing up business plans and starting up their own business.
- *Follow-up.* Generally speaking NGOs have follow-up contacts only with victims to whom they have given concrete support with repatriation or reintegration. Hotlines also fulfil a role in this respect.<sup>218</sup>

<sup>217</sup> Albania, Bulgaria, Ecuador, Lithuania, Moldova, Nigeria, Ukraine, Romania and Sri Lanka.

<sup>218</sup> Hotlines provide information on TIP, support victims and also collect a range of information on work matters...



- *Training professionals*. Important area of attention, apart from training in specific areas relevant to victim support (psychological, legal, work-related matters), is training victims in 'empowerment'. (Source: Talens & Landman, 2003).

#### **4.2.4 Support for underage victims**

Youth prostitution (whether or not forced and exploited by others) is not always identified (in good time). As part of the project *The Beauty and the Beast*, a list of signs has been drawn up that can facilitate such recognition. These signs concern:

- behaviour/attitude towards others (such as suddenly having differing standards, few ties with home);
- behaviour/attitude towards circumstances (such as rapidly fluctuating emotions);
- external and physical well-being (such as looking tired, or different use of make-up);
- attitude towards oneself (low self-esteem, depression) and
- behaviour in general (such as drinking, smoking joints, eating poorly and having a lot of money or expensive things).

*Pretty Woman*, a project set up in 1997, also identifies signs such as an unclear use of leisure time and involvement in a relationship with the 'lover' as well as social isolation. The list of signs of sexual abuse drawn up by the National Working Group on Child Pornography and Child Prostitution may also be useful in detecting signs. Besides the underage person's own story, it also contains information on behavioural signs such as sexual behaviour, stomach pains, STDs and pregnancy. There is also a list of signs on this subject on the website of Prostitution Social Work (*Prostitutie Maatschappelijk Werk - PMW*) Humanitas in Rotterdam: frequent truancy, tendency to run away, frequent sleepiness, possession of inexplicably large amounts of money or new things, and hypersensitivity to others.

The problems with signs are also related to the fact that it is difficult for victim support workers to bring up the subject of sexuality, let alone (forced) prostitution (PMW & Humanitas Rotterdam, 2003). It is important to realise with these signs that boys who work in prostitution, and other minors too where possible, generally do not use the word 'prostitution'. When field workers and victim support workers do use this term, this creates a communication gap (ECPAT, 2003). Underage victims who are indeed identified, according to those involved there are too few victim support facilities, both as regards reception centres and ambulatory facilities. In a number of cities there are projects where minors may seek help, but in others these are lacking. This makes it difficult to find shelter for young victims.

### **4.3 Victim support organisations and interest groups in the Netherlands**

#### **4.3.1 Foundation Against Trafficking in Women and La Strada**

*Foundation against Trafficking in Women (STV)*<sup>219</sup>

The STV is the national centre to which (possible) victims of trafficking in women are reported and through which they are placed in reception facilities and registered. STV is therefore an important source of information for BNRM. The reports are received through the Helpdesk, which was difficult to reach for some time. This was awkward for chain partners, as the police and partner organisations within the victim support services found. The police in particular had difficulty in finding shelter for the victims they were confronted with. After a subsidy had been obtained from the Ministry of Justice at the end of 2002, the Helpdesk was expanded in 2003 and accessibility improved. Now it is important for the police to fulfil their obligation to report victims (STV, 2003).

The STV organises and coordinates the initial reception of victims of THB, both those victims who report THB as well as those who are still considering whether or not to do so. It does this by working together with various chain partners and also coordinates the regional networks (see following paragraph).

At the end of 2001 the STV started up a project to computerise the central registration system, for which the Ministry of Justice granted a subsidy. Data from 1 January 2003 are contained in the database. Up to that date, the information supplied by the STV to BNRM was manually registered. This concerns data that is also contained in the STV's annual report, supplemented by more detailed information on the countries of origin.<sup>220</sup> This data will be discussed in the chapter on victims.

In 2002 the STV initiated a consultation platform in which various chain partners such as the police, PPS, the IND and BNRM discuss problem areas and solutions relating to such aspects as the B-9 procedure.<sup>221</sup>

In March 2003 STV and its merger partner the Federation of Reception Shelters (*Federatie Opvang* - FO) started up the Knowledge Net (*Kennisnet*), a website with a public section and a section for members of the FO. The site<sup>222</sup> provides information (to every visitor) on both organisations as well as on certain themes, including THB. The Register of Available Places (*Meldpunt Open Plaatsen* - MOP), a registration system that provides a summary of available places at reception facilities) will also be included on the Knowledge Net (FO/STV newsletter, 3, 2003).

Furthermore, STV is a partner in a number of joint projects on themes such as reintegration after repatriation (with the Interchurch Organisation for Development Cooperation - ICCO), victims in alien detention centres (with BLinN, IOM and BNRM) and integral assistance to minors and adolescent victims of THB in the Rotterdam region (with PMW Rotterdam). STV also coordinates La Strada.

### *La Strada*

La Strada is an international network that focuses on the prevention of trafficking in women in Central and Eastern Europe. It does so by trying to raise awareness of the phenomenon and to encourage the authorities, media and public opinion to concern themselves with this violation of human rights. Another of La Strada's aims is to refer victims to 'support networks' and to provide women and girls with information on the dangers of THB.

In early 2002 La Strada started up a three-year project in which the existing La Strada organisations in Poland, the Czech Republic, Ukraine and Bulgaria will each share their experiences with one partner country, namely Belarus, Bosnia-Herzegovina, Moldova and Macedonia. The partner countries have been chosen because of their problems in the area of THB, the presence of reliable partner organisations, earlier collaboration and geographical proximity. At a meeting in March 2003 of all La Strada partners and a number of invited parties, it was announced that the new partners will very quickly function at the same level of expertise as the 'old' partners.

In the period from 1 January 2002 to 1 July 2003, La Strada partners appeared in the media 171 times, held 200 lectures, were called 4530 times by (possible) victims of THB and offered immediate help 194 times to victims.
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<sup>220</sup> The STV report itself only mentions regions of origin and the five most important countries of origin.

<sup>221</sup> The platform participants had met twice up to mid-November 2002.

### 4.3.2 The regional networks of trafficking in women<sup>223</sup>

In 2002 the *National Integration Project on Trafficking in Women*, which was coordinated by the STV, was completed. This project set up 15 regional and/or local networks in ten regions in the Netherlands, in which various institutions worked together to provide reception and assistance for victims of THB.

The intention was for the networks to operate independently after the project period, coordinated by a care coordinator who would be financed by the municipalities. However, financial support proved to be a problem, as a result of which it was not possible to keep all the networks functioning. In a new project, called *Networks of Trafficking in Women 2003-2005 (Netwerken Vrouwenhandel 2003 – 2005)*, the STV is supporting the local networks and bringing them into contact with each other.

The coordinators acknowledge the importance of the networks, because they ensure that people know and can find each other, and they contribute to greater expertise and professionalisation, continuity of care and better harmonisation of the assistance given, as well as local registration of victims that have been placed in reception facilities. However, they do experience some problems:

- maintaining the networks costs time and energy (partners frequently change and there is confusion between the partners about responsibilities);
- collaboration with the partners is not always optimal (especially with the police who appear not always to offer victims a reflection period, and sometimes appear above all to be aiming for deportation);<sup>224</sup>
- the difficult situation within the reception centres (complex problems of the victims and insufficient expertise among the victim support workers, having to offer help while there are no future prospects, prostitution from within the reception facility, the B-9 problem, too little reception capacity and little throughput).

In order to function as a network, the following are regarded as important: finance, a care coordinator, collaboration partners, contact persons within the institutions, consensus, clear protocols and joint agreements, and contact moments/meetings.

#### *Network meeting*

On 28 May 2003 BNRM, in cooperation with the STV, organised a national meeting for the regional THB networks. It became clear at this meeting that there are considerable differences between the networks themselves. Some have a care coordinator and regular meetings; others may not have regular meetings, but the members do know where to find each other should the need arise. Other networks again do not actually function at all, partly because workers have left without passing on information on the network. Another factor is the number of victims a network has to deal with each year. It is a dilemma; on the one hand the question is whether it is worth maintaining a THB network in a region where victims only sporadically turn up, whereas on the other hand such a network and the consultative processes in it are important in order to maintain in-house expertise and provide proper assistance when a case does arise. Furthermore, attention to the phenomenon of THB affects the extent to which it is actually identified as such. The lack of a network could lead to fewer victims being identified.

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<sup>223</sup> The information in this subparagraph is derived from the STV's 2002 annual report (2003) and a meeting for integration networks (28 May 2003). Because the STV and the networks use the term 'trafficking in women' and focus (virtually) exclusively on women victims, this term is also used in the this paragraph (in addition to the term THB).

<sup>224</sup> The BNRM study into victim support services, a report on which follows further in this chapter, shows that the

A variety of problem areas were brought up by the participants, many of which were to do with the B-9 procedure.

#### *The B-9 procedure*

In by no means all cases is a reflection period offered where THB is suspected. Victims are deported straight away (through street-clearing campaigns, for example) or the victim is merely asked whether she wants to report an offence, without informing her of the reflection period. According to victim support workers, the number of reports would be much higher if this reflection period was indeed given. In relation to the B-9 procedure, there is confusion in some regions about the role that the various chain partners involved should fulfil and the tasks which they have. In addition, the B-9 is a temporary facility, the starting point being repatriation to the country of origin. The long duration of the process, however, merely paves the way to integration. Participants at the meeting almost unanimously agreed that it is unethical to keep victims of THB for a prolonged period in the Netherlands as part of the investigation and prosecution process without offering them any real future prospects. This is particularly so the longer they remain in the Netherlands, otherwise there is an increased risk of them disappearing into the illegal circuit. As part of this, it was urged not only to allow victims to work during the B-9 procedure<sup>225</sup> and to provide greater opportunities to follow a training course, but also that there should be a maximum period within which a judgement on a THB case should be made. In addition, the possibility was suggested of working on investigation and prosecution from the country of origin itself, which would allow victims to begin rebuilding their lives in the meantime. Experience has shown, however, that it is not easy to find victims again at the right moment and to get them to appear as witnesses.

### **4.3.3 Organisations and projects**

#### *Atalantas*<sup>226</sup>

At the start of 2004 two former victims of THB set up *Atalantas*, a self-help organisation for victims. Its aims are:

- to improve the situation of women in the B-9 procedure through political lobbying, to change the image connected with the ‘passive victim’ and to provide information to organisations;
- to strengthen ties between victims themselves through meetings and activities, and
- to assist members in legal proceedings.

Furthermore, *Atalantas* aims to maintain contact with victims who return to their country of origin and to mediate in finding work or a training course.

#### *Bonded Labour in the Netherlands*

*BLinN*<sup>227</sup> supports migrants in the Netherlands who have become the victims of THB. In 2002, 65 victims received individual support from *BLinN*. They have 28 different nationalities, but originate mostly from Africa (29%), Eastern Europe (29%) and the former Soviet Union (17%). In its 2002 annual report, *BLinN* identified an increase in the number of Eastern European women and points to the abolition of the visa requirement for some Eastern European countries as one of the possible causes. Individual support is *emergency support* (a temporary contribution towards day-to-day living costs or medical expenses, for example) or *support for future prospects* focusing on the future here or in the country of origin (training, voluntary work or assistance in repatriation).

Furthermore, *BLinN* initiated a ‘buddy’ project to bring about contacts between voluntary ‘buddies’ and victims of THB. The project started up in July 2002 in Amsterdam, and preparations are currently underway to expand it to Utrecht, Leeuwarden and Rotterdam. *BLinN* was also involved with a Daphne (re)integration project for victims. Within this framework, two (international) studies were carried out into legislation relating to THB, support for victims and ‘good practices’ relating to the (re)integration of victims. *BLinN* is also involved in two of the joint projects that will be discussed later in this chapter.

<sup>225</sup> It is now known that there will be opportunities for this.

<sup>226</sup> The information is derived from the press release *Oprichting Vereniging van slachtoffers van mensenhandel* (foundation of association of victims of THB) dated 6 January 2004, the website [www.atalantas.org](http://www.atalantas.org) and an interview with the founder and a member of the board.

### *International Organization for Migration – The Netherlands*<sup>228</sup>

The International Organization for Migration (IOM) is an international organisation with more than 90 member states and offices in many countries. Within its mandate to encourage orderly migration, IOM offers assistance with voluntary repatriation. In the Netherlands, IOM implements the *Return and Emigration of Aliens from the Netherlands* (REAN) programme, in addition to country-specific repatriation programmes. REAN is a general repatriation programme within which IOM-Netherlands also helps victims of THB in returning to their country of origin.

#### *The assistance provided to victims of THB:*

- information on help with repatriation;
- counselling by IOM district workers (assisting victims of THB who are considering leaving the Netherlands by providing them with information which will help them to make independent choices);
- assistance at Schiphol;
- ticket, a contribution towards their support and payment of the costs of any replacement travel documents;
- reception upon arrival in the country of origin;
- where possible and desired, help in reintegration by calling on the services of contacts within the IOM network.

IOM has been registering victims of THB since 1 May 2003. These are victims who are referred to them as such by the police or victim support organisations for assistance with voluntary repatriation, or who themselves state that they are victims.<sup>229</sup> The second, four-monthly report in 2003 of IOM-Netherlands states that ten victims were registered in the period reported, originating from Central and Eastern Europe (9 victims) and China (1 victim). Of these victims, eight made use of the REAN repatriation programme alone. One person left for a reception place in a local IOM programme, while no reception place had yet been found for a second person.

#### *The JOS project*

*JOS (Juridische Opvang Slachtoffers seksueel geweld - Legal Assistance for Victims of Sexual Violence)* is a joint project involving the police, judiciary (PPS) and the Bar. It provides a defender picket service for victims of sex crimes, including THB. The aim of the project, which was set up in 1995 in Alkmaar but which now also operates in Rotterdam, is to provide legal assistance to victims as early as possible. In its first contact with a victim, the police informs her of the legal assistance and representation available to her in the criminal case against the suspect. If the victim makes a report, she may be assigned a lawyer through the emergency defender service who will explain the criminal proceedings and their implications for the victim, assist her in all aspects of the investigation such as accompanying her to witness interviews, but also inform her of the possibility for compensation and submitting a claim for this purpose.

#### *Dutch Foundation of the Religious against Trafficking in Women*

The Dutch Foundation of the Religious against Trafficking in Women (*Stichting Religieuzen Tegen Vrouwenhandel - SRTV*) is a voluntary organisation of religious and lay persons who support the fight against trafficking in women in the Netherlands and abroad. Its main aim is prevention. The STRV warns women in their own country and language about trafficking in women through leaflets (distributed in 45 languages in about 70 countries). SRTV also forms part of various religious and secular Dutch, European and international networks against trafficking in women. These contacts can be called upon when victims of trafficking in women are repatriated. The SRTV tackles THB from an ecumenical Christian viewpoint and was active in a number of ways in 2002 in bringing the phenomenon of trafficking in women to public attention (prevention and information). It also supported several foreign projects (in Malawi, Uganda and Ghana) and the

<sup>228</sup> Source: various, including the Covenant of SRTV, Humanitas and Novib (BLinN) and IOM, version 3 July 2003.

<sup>229</sup> It cannot be ruled out that there are many victims among those persons whom IOM assists in repatriation in non

names and addresses of women who are forced into prostitution have been passed on to local organisations which try to help these women.

### *Uitzicht*

In January 2003 the project *Uitzicht* (loosely translated as 'Prospects' or 'Outlook') was set up, its aim being to seek safe shelter for young women and girls who have "left the trafficking circuit, where they can settle down and look forward, with the help of their counsellor(s), to a better future". These are women who do not report THB for one reason or another. The intention is to accommodate them until an alternative is in prospect: a temporary residence permit or repatriation to the victim's country of origin.

### *TAMPEP*

*TAMPEP (Transnational STD/AIDS prevention amongst Migrant Prostitutes in Europe Project)* started as a project in 1993. In 1997 the project partners set up a federation: the *TAMPEP International Foundation*. NGOs in 23 countries within the EU and in Central and Eastern Europe form part of the federation. It is coordinated through the *Stichting TAMPEP Nederland* (Amsterdam).

One of the federation's aims is to champion the rights and health care of immigrant sex workers. Victims of THB form a separate group of attention. Another of TAMPEP's objectives is to develop a network of European NGOs and governmental organisations for the protection of women who are victims of THB. Its activities include a range of projects, including those focusing on vocational training and increasing the employability of victims of THB.

TAMPEP's work is based on direct contact with sex workers.

### *Association of Sex Club Owners*

The Association of Sex Club Owners (*Vereniging van Exploitanten van Relaxbedrijven - VER*) developed in consultation with the OSCE office in Vienna a Code of Conduct on THB for the sector. The code was presented to members of the VER in November 2003 and endorsed by all affiliated enterprises. VER members declare that they condemn all forms of THB, coercion and working by minors in their establishments, that they will report any suspicion of such activity to the authorities and will inform (possible) victims about and/or introduce them to NGOs who would be able to help them. VER members who cooperate actively or passively with the above-mentioned reprehensible activities will be expelled from the association. The code will be hung up in sex club premises, personnel and prostitutes and clients present in such premises will be informed of the code and the conduct that is expected of them. The VER also calls on other legal entrepreneurs in the sector to sign the Code of Conduct and to act accordingly.

### *Joint projects*

A range of national and international joint projects have been set up recently, such as:

- *Gender Street*, a joint project to support and protect foreign sex workers and victims of THB. One of the project's aims is to increase the target group's access to the labour market in the countries of origin and destination, and to improve the situation as regards dependence, exploitation and discrimination against those who do not work voluntarily, as well as improving the working conditions for sex workers who indeed do so. Furthermore, the project aims to create a European network to disseminate and implement good practices and to influence policy. The project participants include, as well as BLinN and TAMPEP (Netherlands), organisations from Italy and Austria.
- The project *Traffic in women*, a joint project of the ICCO and the STV, whose central theme is the reintegration of victims of trafficking in women. The project, which runs from June 2003 to November 2004 inclusive, takes human rights as its starting point (the promotion of the human rights of women) which means in this specific situation that victims of trafficking

in women are not regarded as objects or passive victims, but as subjects that must be empowered to stand up for their own rights. The project aims to obtain a clearer idea of the problems encountered with reintegration. Activities as part of this project are an international consultation with experts from Asia, Eastern Europe and the Netherlands, a pilot project to identify the problem areas relating to integration, and a concluding workshop;

- A collaboration agreement of BLinN, SRTV and IOM<sup>230</sup> in facilitating the return of victims of THB to their country of origin. The agreement, laid down in a covenant, entails: mutual exchange of information on the voluntary repatriation of victims, the development of joint project initiatives and the use of each other's networks in preparing for the reintegration of individual victims. Aims: a) to use the existing capabilities of the three organisations to support the returning victims; b) to coordinate the individual assistance given to victims of THB; c) to exchange information and set up a common statistical database of the numbers and origin of victims of THB who approach one of the organisations to ask them for help in repatriation, and d) to improve reintegration opportunities for returning victims of THB in the Netherlands and the country of origin. It was also agreed that the collected data would be passed on to BNRM as a common product of these three organisations;
- The project 'Detention of Aliens' (*Vreemdelingenbewaring*), an initiative of BLinN-Humanitas (in collaboration with STV, IOM and BNRM) that aims to obtain a clearer picture of victims of THB held in alien detention centres.
- In 2003, PMW Rotterdam carried out a project in collaboration with the STV, providing assistance to underage and adolescent victims of THB in the Rotterdam region. STV and PMW are pooling their resources to promote cooperation with other organisations in the field, as an extension of the existing THB network of which PMW is the care coordinator. Institutions for (youth) welfare are approached in order to increase their expertise on youth prostitution and/or THB. They can contact PMW for advice and information on prevention and an appropriate assistance strategy. The STV, which as the national centre coordinates the initial reception of victims of trafficking in women, can be contacted for the reception of victims and referrals to other regions. The aim is to achieve successful cooperation regarding minors and young people who are or risk becoming victims of THB. The project has also resulted in a booklet with practical information on all kinds of subjects for both domestic and international THB.
- The working group *Trafficking in women* is one of the four working groups within the *Network for European Women's Rights* (NEWR). NEWR started up in October 2002 and aims to develop themed networks in the area of 'women's rights as human rights'<sup>231</sup>. The working groups exchange expertise from a range of disciplines and from various European countries. The findings are used to draw up an agenda for future research and policy development. The three-year project is being financed by the European Commission and coordinated by the Centre for the Study of Global Ethics (University of Birmingham). The Institute for Migration and Ethnic Studies (IMES) of the University of Amsterdam and the Department of Economics of the University of Sienna are responsible for the working group 'Trafficking in women'.

#### **4.3.4 Organisations that focus specifically on underage victims**

*Asja*

*Asja*, the national reception project<sup>232</sup> for young prostitutes from 15 to 23 years, increased the number of beds from four to ten in the second half of 2002.

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<sup>230</sup> STV also became part of this joint project.

<sup>231</sup> See <http://www.globoethics.bham.ac.uk/NEWR>.

<sup>232</sup> The Final Report of Asja, covering the period from 1 March 1999 to 1 March 2002, states that 26% of the 52

#### *Admissions to Asja*

A total of 26 'girls' were admitted in 2002, 15 from the Netherlands, 11 from other countries (Bulgaria, Nigeria, Cameroon and Sierra Leone). Nine of them were minors. The duration of their stay is usually shorter than one month (10 cases),<sup>233</sup> but sometimes longer than six months (5 cases). 87 requests for admission were refused, usually because *Asja* was full up (48 cases) or because a girl had not been in prostitution (16 cases) (2002 Annual Report *Blijf van m'n Lijf en Asja*).

#### *ECPAT/Defence for Children International*

*ECPAT International* is a network of more than 70 organisations in over 60 countries that conduct campaigns against the commercial sexual exploitation of children. The international secretariat is in Bangkok.

*Defence for Children International* (DCI) is an international children's rights organisation and was set up in 1979, the International Year of the Child. DCI has national branches in more than 60 countries, and its international secretariat is in Geneva. Worldwide DCI promotes and protects the rights of the child by a) providing information on the subject (to children and adults); b) investigating and exposing violations of children's rights; c) conducting campaigns against such violations and d) setting up children assistance projects in developing countries.

ECPAT-NL and DCI-NL merged in 2003; its office is in Amsterdam. Both organisations contributed to the National Action Plan for Combating the Sexual Abuse of Children (*Nederlandse Nationaal Actieplan Aanpak Seksueel misbruik van kinderen* - NAPS) and took part in the NAPS project team that supervised the implementation of the plan. In November 2002 the final report of NAPS was presented to the Lower House, and concluded with the remark that it is vital that attention continues to be given to the phenomenon of 'sexual abuse', a message that also comes across clearly in the report following the second world conference against the commercial sexual exploitation of children in Yokohama (December 2001) (Muntarbhorn, 2001). ECPAT and DCI are therefore urging for a follow-up to NAPS.

The ECPAT-Europe Law Enforcement Group concluded a study in 2001 into the trafficking in children for sexual abuse, for which purpose the situation concerning trafficking in children was analysed in eight Western European countries (Wolthuis & Blaakman, 2001). The study was followed up by the *Joint East West Research project in trafficking in children for sexual purposes in Europe: the sending countries* (see Chapter 3).

#### *Expertise Centre for Youth Prostitution*

Not much is known of the exact extent of prostitution among minors, but the problem does occur in many places in the Netherlands. Institutions have become more aware of the problem and there is a considerable need for information on the subject. Executive organisations are confronted with a great many questions, which regularly places their normal work under pressure. For this reason, one of these organisations, *Vrouwenopvang Fryslân* (reception centre for women in the province of Friesland) of which the *Asja* reception facility forms a part, asked the Bureau Terpstra & Van Dijke to study the feasibility of an Expertise Centre for Youth Prostitution. There appeared to be general support for such a centre, which should link up with existing initiatives and organisations. Consultations were held with all relevant partners at the end of 2003 about creating the expertise centre<sup>234</sup> and it looks as if the centre will indeed be set up.

#### *Zwolle Loverboy project*

<sup>233</sup> This is partly due to the fact that *Asja* offers crisis shelter (for a maximum of one week). The Leeuwarden police use this facility intensively for victims from Leeuwarden who are willing to make a report (*Asja* Final Report).

<sup>234</sup> Consultations were held with the NRM in November 2003. One of her recommendations was to focus the centre's activities on a) youth prostitution in a broad sense and not only in a exploitative form, and b) adults (see also about 22



The project focuses on girls of 13 years and older from risk groups who are known to be or suspected of being in prostitution. The aim is to remove the victims from the circuit, give them information and to deal with suspects. Multidisciplinary working groups exchange information on (possible) victims and suspects of loverboy practices, and also coordinate the assistance to victims. In addition, a central hotline has been set up where victims and suspects can be reported. (Possible) victims and organisations involved in this are also informed about the phenomenon through advertisements, the distribution of informative leaflets and a website.<sup>235</sup>

#### *Pretty Woman*

*Pretty Woman* was set up in 1997 and since 2002 has received a ‘relaunch’ subsidy for a period of two years. The project focuses on ‘girls at risk’ and (ex-) prostitutes aged from 12 to 25 years. The two-pronged approach is a) to prevent girls from ending up in high-risk (abusive) relationships or prostitution and b) to offer help to girls and young women who are or have been working in prostitution. It does this by giving information, advice and educational support to target groups, individuals and professionals. *Pretty Woman* is also involved in observation and problem analysis. It also encourages parties to report offences, provides supervision, support and (group) assistance and refers cases on.

#### *Prostitution Social Work Rotterdam*

Prostitution Social Work Rotterdam (*Prostitutie Maatschappelijk Werk – PMW Rotterdam*) has been providing help to (ex-) prostitutes - men and women, adults and minors, including victims of THB - since 1989. PMW visits, among others, locations where there is prostitution among boys. It is also engaged in a resocialisation process for prostitutes who want to get out of the business. As part of preventing youth prostitution, the brochure entitled ‘*Gevaarlijke liefde*’ (Dangerous Love) was reprinted (again) and a modified edition was produced for the above-mentioned Loverboy project in Zwolle. Furthermore, PMW organised two afternoon sessions on specific themes, one on prostitution among boys (Stichting Humanitas, 2002 Annual Report) and one on underage victims of THB.

#### *Scarlet Cord*

The mission of the Scarlet Cord (*Scharlaken Koord*) is to help women, both adults and minors, to release themselves from the grip of prostitution by preaching the gospel of Jesus Christ in words and deeds. The four main objectives of this mission are: street evangelisation of prostitutes, pastoral discussions with and support for prostitutes and/or family, preventive activities and propagating the biblical vision of prostitution to the (church-going) people of the Netherlands. Specifically in relation to minors, the Scarlet Cord undertakes preventive work among risk groups. In 2002 it revised its existing *Beware of loverboys!* prevention pack for the target group of unaccompanied underage asylum seekers. In addition, the website of the same name was modified and a booklet was published on this subject (Catherina, 2003).

#### *Nigerian Women Association Netherlands*

The *Nigerian Women Association Netherlands* (NWAN) was founded in 2002<sup>236</sup> and focuses on the welfare, integration and emancipation of Nigerian women living in the Netherlands. One of its aims is to conduct a campaign against Nigerian child prostitution in the Netherlands. NWAN has a Helpdesk that victims may contact, and tries to provide them with shelter as well as appropriate education and training.

## **4.4 The BNRM study of victim support services**

In order to obtain a greater insight into the victims of THB and the way they are received and accommodated, BNRM approached and sent a questionnaire to all (victim support) organisations in the Netherlands that may possibly come into contact with victims of THB. For more information on the approach and explanation of the study, please refer to Appendix 2. Suffice it to say here that although the respondents form a representative sample of victim support services in the field, only some of the victims come in contact with the victim support services, while double counts may arise in the information gathered by the victim support services. This means that more significance can be attached to the qualitative rather than the quantitative data from this study.

More than three-quarters of the organisations that returned the questionnaire provide reception facilities.

#### 4.4.1 Experience with prostitutes and victims of THB

Of the 132 organisations, 70 (53%) had dealt with prostitutes in 2002.<sup>237</sup> These 70 organisations were asked whether they could identify any changes in the year 2002 in the number of prostitutes compared to the preceding year. Table 4.1 provides a summary.

Table 4.1 Developments in the number of prostitutes<sup>238</sup>

'Type' of prostitutes	Decrease		No change		Increase	
	N	%	N	%	N	%
Foreign prostitutes (N=48)	7	15%	23	48%	18	38%
Dutch prostitutes (N=39)	3	8%	25	64%	11	28%
Underage prostitutes (N=27)	-	-	22	81%	5	19%
Male prostitutes (N=20)	1	5%	15	75%	4	20%

Most organisations observe no change in the number of prostitutes, but if there is indeed any change, it is more often an increase rather than a decrease. More than a third observe an increase in foreign prostitutes, and almost a third an increase in Dutch prostitutes. As regards underage prostitutes, where incidentally only a limited number of respondents expressed an opinion,<sup>239</sup> the majority observed no change. None of them observed a decrease, and almost a fifth observed an increase. Even fewer organisations gave any information on male prostitutes. Most observe no change, some an increase and only a very few a decrease.

A total of 56 institutions (42%) stated that they had dealt with victims of THB in 2002. These organisations offer victims all kinds of concrete assistance, advice and supervision in finding concrete help and/or advice or educational support.

All these organisations have some form of registration system for their clients. This includes matters such as gender and age of clients, country of origin and in 60%, cases of being victim of THB too.

Table 4.2 provides an overview of the number of victims of THB with whom the organisations came into contact in 2002 (based on a combination of registration and estimated figures).

<sup>237</sup> For the sake of brevity, the term 'prostitute' is used in this context to cover a wide group of people working in prostitution. However, this may include persons who have been put to work and/or exploited in prostitution and who should in fact be referred to as victims of THB.

<sup>238</sup> The number of organisations that gave information on this is shown in parentheses.

<sup>239</sup> Doubtless because the other organisations do not, or only occasionally, come across underage prostitutes in any

Table 4.2 Number of victims of THB in 2002<sup>240</sup>

Type of victim	N
Foreign women (N=51)	431
<i>of which underage (N=49)</i>	62
Foreign men (N=50)	2
<i>of which underage (N=48)</i>	-
Foreign transvestites (N=49)	12
<i>of which underage (N=48)</i>	-
Dutch women (N=51)	169
<i>of which underage (N=50)</i>	22
Dutch men (N=51)	6
<i>of which underage (N=51)</i>	1
Dutch transvestites (N=51)	5
<i>of which underage (N=51)</i>	-
Total	625
<i>of which underage</i>	85

The great majority of the victims with whom the organisations came into contact in 2002 were foreign women and Dutch women. Some 14% and 13% of them respectively are underage. Transvestite victims were only found sporadically, and men very seldom. There was contact with one underage male victim. Not all organisations report their victims to the STV.

#### 4.4.2 Problem areas according to victim support workers

The respondents were presented with a large number of possible problem areas in the questionnaire, and were asked to give their opinion on a scale from 1 to 5, from 'strongly disagree' (1) to 'strongly agree' (5). The problems concerned reception and support, victims of THB in general, foreign (illegal) victims, Dutch victims and the follow-up process for foreign and Dutch victims. Table 4.3 sets out the findings listed according to the percentage of respondents who agreed (strongly) with each problem area (score 4 or 5).<sup>241</sup>

Table 4.3 Problem areas experienced by many organisations in the assistance provided to victims<sup>242</sup>

Problem area	(Strongly disagree)		Neutral		(Strongly agree)	
	N	%	N	%	N	%
Inadequate assistance/help in country of origin for returning victims (N=40)	2	5%	2	5%	30	90%
Shortage of reception places in general (N=49)	1	2%	5	10%	43	88%
Shortage of reception places for victims (N=46)	1	2%	6	13%	39	85%
Compensation for damages/loss of income for victims not a priority (N=36)	3	8%	5	14%	28	78%
Insufficient projects/facilities for assisting repatriation to country of origin (N=39)	3	8%	7	18%	29	74%
Foreign victims form a particularly difficult category of clients (N=43)	5	12%	6	14%	32	74%
Because of limited throughput, victims remain longer than necessary in reception facilities (N=41)	5	12%	9	22%	27	66%
Difficult to arrange follow-up help for Dutch victims (N=37)	4	11%	9	24%	24	65%
Victims disappear regularly from reception facilities (N=42)	3	7%	13	31%	26	62%
There are too few projects that assist those Dutch victims (who want to) in finding other work (N=38)	9	24%	6	16%	23	61%

<sup>240</sup> The number of organisations that gave information in this is shown in parentheses.

<sup>241</sup> All problem areas that were given a score of 4 or 5 from at least 50% of the respondents are included in the table.

Victims demand more of workers than other clients do (N=49)	8	16%	12	23%	31	61%
It takes too much time to arrange benefit for victims (N=48)	9	19%	10	21%	29	60%
Too few foreign victims are offered a reflection period (N=32)	5	16%	8	25%	19	59%
It is often not possible to obtain professional psychological or psychiatric care for victims (N=44)	10	23%	8	18%	26	59%
It takes too much time and effort to arrange or extend the B-9 permit (N=34)	5	15%	10	29%	19	56%
Many victims do not feel exploited (N=49)	12	25%	10	20%	27	55%
Too little attention is given to discussing the situation after repatriation (N=38)	11	29%	6	16%	21	55%
While the victim is in the reception facility there are inadequate opportunities for meaningful day-to-day activities (N=48)	9	19%	13	27%	26	54%
Many victims state they are not working under coercion (N=46)	3	7%	19	41%	24	52%
It is often unclear who is responsible for what concerning the reception and assistance of victims (N=50)	11	22%	14	28%	25	50%

Opinions were divided on a number of problem areas, in the sense that 25-50% of the respondents perceived it as a problem (score 4 or 5), but at least a quarter not (at all) (score 1 or 2). These were the following points:

- it is often difficult to establish who is a victim;
- many victims continue to work in prostitution after they have been taken in at a reception facility;
- victims remaining in the Netherlands illegally who do not want a reflection period cannot in fact be helped.

There are also problem areas that were experienced as such by more than a quarter of the respondents (score 4 or 5), but were not by a (much) larger number of respondents (score 1 or 2). These were:

- it is often not possible to obtain legal assistance for clients;
- many victims use alcohol or drugs;
- there are too few interpreters available;
- there is too little attention given by the welfare services to discussing the possibility of getting out of prostitution.

Furthermore, a few of the problem areas presented were experienced as such only by a very few, but not by the vast majority. These were the availability of medical help and confusion about what actually constitutes a victim of THB.

The fact that opinions are divided on a number of problem areas has probably also to do with regional differences, as well as differences in the expertise of the respondents as far as assistance to victims of THB is concerned.

#### 4.5 Points of attention and problem areas

*Summary of problem areas that were brought up:*

- Possible victims are not always offered a reflection period.
- There is confusion in some regions about the role of chain partners in the B-9 procedure.
- Without proof of forced prostitution, it is difficult to offer assistance to victims of THB, certainly to adults among them, and particularly if they do not state that they are victims.
- It is difficult to accommodate victims of THB (shortage of places, too strict placement criteria, too few facilities for underage victims).
- Reception facilities usually find the target group to be (too) difficult.

- This also gives rise to the question which is to be preferred, reception by category or integrated reception?
- Dilemma: is it worth maintaining networks in all regions?
- Little is known among victim support workers and victims about opportunities for training and education while in reception facilities.
- Victims disappear from reception facilities. The police finds this a problem: as a result, victims cannot cooperate in the investigation and prosecution of the perpetrators.
- Repatriation to the country of origin is not usually the wish of the victims, but is ultimately what has to occur, so assistance should focus more on that.
- Reintegration in the country of origin is not always easy for a variety of reasons.
- Prostitution among minors (whether or not organised by others) is not always identified.

*Additional points*

- Financing is virtually a structural problem for many of the organisations involved in receiving, assisting and promoting the interests of victims of THB. These organisations are always uncertain of the continuity of their funding, which endangers the continuity, professionalism and quality of their work.
- The broadening of the definition of THB is likely to mean that that new categories of victims will be identified and recognised. The expertise of the existing shelters, however, concerns mostly women, particularly women who are victims of exploitation in the sex industry. The question remains as to what victims of exploitation in sectors of work other than the sex industry will and can be offered as regards reception, assistance and support, and who will do this.

## **5 Administrative enforcement of prostitution policy**

### **5.1 Introduction**

The lifting of the general ban on brothels in October 2000 made it possible to subject the prostitution business to municipal regulations. This administrative enforcement is relevant to the fight against THB, because in principle these municipal regulations contain the rule that no victims of THB may be employed.

This chapter discusses the administrative enforcement of the prostitution sector, in so far as relevant for tackling THB. Aspects that are not directly related to THB, such as the position of prostitutes (under labour law),<sup>243</sup> the image of the prostitution sector and relations between prostitutes and service organisations, will not be dealt with. Other aspects, such as differences in prostitution policy between the municipalities, will only be discussed in so far as they (may) have consequences in preventing and combating THB.

### **5.2 Supervision of the prostitution sector**

#### **5.2.1 Supervision in practice**

Although municipalities are not obliged to do so, most of them have developed a prostitution policy since the ban on brothels was lifted (Daalder, 2002). Besides regulating the number of prostitution establishments and the planning of their location, a licence obligation is nearly always enforced for running (certain types of) sex establishments. For example, in virtually all municipalities, brothels and - if present - window prostitution must be licensed. In most municipalities this also applies to escort services, and in half of the municipalities for home workers too. Conditions are attached to the issue of a licence regarding such matters as fire safety, hygiene and working conditions, as well as the proprietor's criminal past. A ban on the employment of illegal and (underage) victims of THB is virtually always included as a condition for a licence. The municipalities still had a considerable backlog of licence applications in 2001 (Daalder, 2002).

Creating a compulsory licensing system for sex establishments clears the way for exercising supervision in the (licensed) parts of the sex industry. Supervision is carried out through inspections to check that the sex establishments (still) meet the licensing conditions. This is an administrative inspection, the mandate for which - in so far as it concerns the possession of a licence and the employment of illegal prostitutes and victims of THB - is virtually always given to the police. This chapter therefore deals almost entirely with the tasks and efforts of the police in this area. As part of its tasks relating to criminal law, however, the police also carry out investigations into criminal offences (including THB). Since conduct prohibited under criminal law is now also included in the administrative sphere, confusion may arise as to the legal nature of and basis for police action. There are currently discussions about the question as to which organisation should carry out the administrative inspections (in the future). Some forums argue for some of the police's inspection tasks to be transferred to the municipality, which will enable the police to concentrate more on criminal enforcement (in and above all outside the regulated sector).

(Administrative) prostitution enforcement teams are active in most municipalities, where they are responsible for inspecting the (legalised) prostitution sector. Inspections are made both announced and unannounced (Daalder, 2002). A code of conduct has been drawn up at a national

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<sup>243</sup> The position of the prostitute under labour law. THB can in fact be regarded as a violation of the minimum

level for the police officers who carry out these inspections. The code is both a guarantee for the integrity of police activities as well as for the protection of the individual police officer.

The *Handbook on Prostitution and Trafficking in Human Beings* (Police, 1999) recommends drawing up a report for each inspection, which should also include information on the number of illegal and underage prostitutes and the number of victims of THB that are found. As far as is known, this does not happen in most police regions. At any rate no national figures are available, which means that there is no general understanding of the nature and extent of the problem in the regulated sector at a national level.

The proprietor and/or manager of a sex establishment is responsible for everything that goes on in it. He must ensure that the licensing conditions are complied with, which means, amongst other things, that no criminal offences are being committed. The proprietor must therefore also satisfy himself that the sex workers in his establishment possess a valid right of residence that allows them to work, that they are of full age and are not working under coercion or deception. Proprietors and/or managers are obliged to allow investigation officers and inspectors access to the sex establishment.

### 5.2.2 Projects for improving enforcement of the prostitution policy

Two projects have been started up that aim (amongst other things) to optimise (part of) the enforcement of the prostitution policy: the National Police Project on Prostitution and Trafficking in Human Beings (*project Prostitutie Mensenhandel van de Nederlandse Politie - PPM/dNP*) and the Quality Enforcement Project (*Handhaven op Niveau - HON*).

#### *National Police Project on Prostitution and Trafficking in Human Beings*

On 1 June 1999, in anticipation of the legalisation of the sex industry and on the initiative of the Council of the Chiefs of Police, the National Police Project on Prostitution and Trafficking in Human Beings was started up. This project focuses on the (uniform) enforcement of the prostitution policy and on improving the way the Dutch police tackle THB. PPM/dNP therefore focuses on both the administrative as well as the criminal side of (the approach to) prostitution and THB. During the period from 1 January 2002 to 1 January 2004, PPM/dNP carried out the following activities and delivered the following products in relation to administrative enforcement, or was closely involved with them.<sup>244</sup>

- Development of a system for inspecting the escort sector, namely the ‘hotel room procedure’, i.e. inspection through appointment: an appointment is made with an escort prostitute to check whether her employer complies with the licensing conditions.
- Development – on the initiative of PPM/dNP, by the National Police Selection and Education Centre (*Landelijk Selectie- en Opleidingscentrum Politie - LSOP*) – of the THB course,<sup>245</sup> which forms part of the detective training curriculum. The course was held for the first time in April 2004, together with thematic days on THB for participants within and outside the police world.
- Publication *Prostitution and Trafficking in Human Beings. Korpsmonitor 2002*,<sup>246</sup> which presents the efforts and products of PPM/dNP. The results are included in section 6.2.3.1.

In addition, experiences are exchanged within PPM/dNP and proposals for (improving the methods of) tackling THB are formulated and presented to the police, the PPS and the administration (municipalities and ministries).

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<sup>244</sup> Activities relating to the criminal approach are described in Chapter 6.

<sup>245</sup> The courses given earlier, namely *Prostitution and inspections* and *Document Recognition* are developed further and integrated in this course.

<sup>246</sup> The *Korpsmonitor 2002* was published in May 2004. Its contents – in view of the publication date of the original

The project will end on 1 January 2005, by which time the tasks of PPM/dNP should have been incorporated in the regular tasks of the police. The intention is that PPM/dNP will subsequently meet regularly as an 'expert group', but this still needs to be arranged from both an organisational and budgetary standpoint.

#### *Quality Enforcement Project*

Six pilots are being carried out under the auspices of the HON project<sup>247</sup> in the policy area of prostitution; one at a national level (focusing on the escort sector) and five at a local or regional level. The purpose of the pilots is to improve compliance with legislation and regulation relating to prostitution policy. One of the ways of doing this is by developing best practices. The pilots should have been carried out between the end of 2001 and the end of 2003, but some were not yet completed at the start of 2004. The six pilots are:

- *Enforcement in the escort sector.* One of the aims of this pilot is to improve the quality of inspections of the escort sector and the development of effective enforcement systems and sanction tools. The pilot has already produced results, which are discussed in section 5.4.2.
- *Administrative enforcement and combating of THB.* This pilot focuses specifically on THB in relation to the problem of national borders.
- *Programmed enforcement.* An enforcement programme is being developed in this pilot, in which all services related to the prostitution sector work collaborate.
- *A single point of contact.* In this pilot a single point of contact is set up for the prostitution sector, with a front office for prostitutes and a back office for related services.
- *Enforcement Plan.* This pilot is developing a plan which will contain all enforcement activities in the prostitution sector.
- *Educational information to prostitutes.* This pilot seeks ways of educating prostitutes and sex employers about their rights and obligations, opportunities and limitations.

### **5.3 THB in illegal, non-regulated and difficult-to-control sectors of prostitution**

The lifting of the general ban on brothels has led to a legal and regulated market segment of sex establishments that possess licences and meet licensing conditions. In addition there is an illegal prostitution circuit of sex establishments that should possess a licence in accordance with the policy of the municipality in which they are located, but do not have one. There is also a non-regulated prostitution sector of sex establishments which have not had a licence obligation imposed on them in the municipality where they are located. A separate category consists of sex establishments that do come under the licensing obligation but which are difficult to regulate: the escort sector and home prostitution. It is conceivable that banned forms of prostitution - which includes THB - may switch to these illegal, non-regulated and difficult-to-control sectors of prostitution after the lifting of the general ban on brothels; reason enough to devote specific attention to this issue. For the sake of readability, the illegal, non-regulated and difficult-to-control sectors of prostitution will be referred to as the 'secret' prostitution sector.

In 2002 the Scientific Research and Documentation Centre (*Wetenschappelijk Onderzoek- en Documentatiecentrum* - WODC) presented a report (Daalder, 2002), summarising the results of seven part-studies which together evaluate different aspects of the lifting of the ban on brothels. Particularly relevant to this report are the results relating to criminal forms of (exploitation of) prostitution. The conclusion drawn is that the lifting of the ban on brothels has led to two types of relocation of prostitution. Firstly, there has been a shift from locations and municipalities where

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<sup>247</sup> In May 2000 the Minister of Justice set up the HON Steering Group, the purpose of which was further professionalisation of administrative enforcement and improvement of collaboration between the enforcement agencies. In an



there is strong enforcement to locations and municipalities where this is not the case (to such an extent). Secondly, there has been a shift from regulated to 'secret' prostitution sectors, such as street prostitution and the escort sector (prostitution via mobile phone numbers). This effect is also acknowledged in other studies and by other organisations. However, so far it has not been possible to establish empirically (i.e. reliably) the extent to which these shifts are actually occurring. Goderie et al (2002), though, found no evidence of an often-assumed significant shift of prostitutes to such activities as street prostitution and the escort sector. Averdijk (2002), however, who carried out a study in Twente into the shifts towards an 'illegal and invisible' prostitution circuit, only observed shifts after 2001<sup>248</sup> and after administrative action.<sup>249</sup> It may therefore be that the study by Goderie et al was carried out too early to give any clarity on the matter. In any case, it underlines the importance of proper administrative action, also for the combating of THB. In many municipalities, the prostitution policy and/or administrative enforcement is not yet properly up and running. As long as working in the legal sector in areas without a prostitution policy and/or enforcement is an option, there is no need in any case to move illegal and underage prostitutes and victims of THB to the non-regulated, illegal circuit.

Many proprietors of sex establishments and prostitutes in the Averdijk study stated that traffickers continue to offer prostitutes. Since these proprietors have become less interested in these prostitutes because of administrative action, Averdijk assumes that such prostitutes will gravitate towards a secret circuit (escort, hustling, home work). She bases this assumption partly on interviews with proprietors of sex establishments and prostitutes, who say that the number of advertisements for escorts and home workers has increased. Hüner (2001), who spoke with similar respondents in a number of police regions, also states that there has probably been a shift towards the secret circuit, but also that greater use is being made of fake documents that allow foreign prostitutes to get into the legal prostitution sector after all. Other indications of this can be found too. For example, according to the police, fake, forged or improperly used identity documents are increasingly found during police inspections. The BNRM police study also notes the frequent use of forged or fake documents. In a single investigation, the suspect even possessed 'rubbish bags full of fake passports and identity documents'. This phenomenon was mentioned in other reports and investigations too (Van Dijk, 2002; Averdijk, 2002; PPM/dNP, 2002; Van Urk et al, 2003). One problem is that the forgeries are becoming better and better and are increasingly difficult – even for the police – to discover. For this reason the Amsterdam police take along an interpreter at inspections, who can check whether the prostitute speaks the language of the country she comes from according to her identity papers. If there is something wrong here, the police will take it as an indication of identity fraud and check the papers ~~in particular, on other~~ ways can be sought to continue working in the regulated prostitution circuit, such as by entering into a bogus marriage or fake relationship. Various respondents in the study by Hüner say that migrant prostitutes without a work permit receive offers of marriage for a fee of up to €18,000. BNRM receives reports from the field (victim support workers) confirming this. In one case from the BNRM police study, passports for Nigerian victims of THB were rented from 'Dutch' Nigerians.

In addition, prostitutes and clients fleeing abroad could be one of the other possibilities. In her Twente study, however, Averdijk (2002) found no indications that (independent) 'illegal' prostitutes are leaving to go abroad. She concludes that this is because there are still enough opportunities to continue working in prostitution in the Netherlands.

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<sup>248</sup> Only since the end of 2001 have the police actually arrested fewer migrant prostitutes working illegally in the regulated sector.

<sup>249</sup> Averdijk states that administrative action is extremely important: proprietors sit up and take notice after just one club has had to close down in a municipality. Many proprietors no longer want to take the risk of losing their licence. In the BNRM police study too, those interviewed state that proprietors in municipalities where the licensing system is properly enforced are afraid of losing their licence and are therefore reluctant to take an illegal and underage

#### *Increase in THB after lifting the general ban on brothels?*

It is often said in the media that the lifting of the general ban on brothels has *led* to more THB. This is not a correct conclusion. Before the lifting of the general ban on brothels, THB and other (criminal) abuses were taking place in *all* sectors of prostitution. Some of these sectors are now under control and can be assumed to have rid themselves of their former criminal excesses, or are doing so. This, however, does not apply to the entire sector. It is possible that THB is increasing in the illegal, non-regulated or non-controlled sectors. If this were to be the case, it still cannot be assumed that the extent of THB is now at the same or even above the ‘old’ level it was at before the ban on brothels was lifted. It is in fact likely that this is not the case, merely because not every client is keen to get involved in the ‘secret’ prostitution sector.

## **5.4 Developments in specific prostitution sectors**

Two forms of prostitution in particular are associated with illegal prostitution and victims of THB. Firstly, the streetwalkers’ districts, because these were initially less intensively inspected than the club circuit and because no licences are involved, so that the above-mentioned administrative measures cannot be used.<sup>250</sup> Secondly, the escort sector, because this sector is difficult to monitor and is not subject to licensing regulations everywhere. There are currently important developments in progress relating to both of these sectors.

### **5.4.1 Street prostitution: streetwalkers’ districts**

In many municipalities, street prostitution is a subject of considerable discussion. In most cases this is because of increased levels of nuisance in and around the streetwalkers’ districts, often arising from an increase in the number of illegal prostitutes in these districts, sometimes well above the maximum capacity. Before the lifting of the ban on brothels, these prostitutes were still able to work in brothels and in window prostitution where they were tolerated, but with the lifting of the ban on brothels and the increased inspections in these sectors, they moved away to other areas such as the streetwalkers’ districts, where they oust each other as well as drug-addict prostitutes (originally the target group of the streetwalkers’ districts). Competition between these women is cutthroat, according to insiders, which leads to rock-bottom prices, tensions between the women, arguments and fights.

This was the reason why some municipalities closed their streetwalkers’ districts or are planning or considering doing that. Alternatives are being sought, such as in Rotterdam where – at the time of writing this report – ‘indoor window prostitution’ is being considered following the German example (Frankfurt).

Victim support organisations are concerned about the closure of streetwalkers’ districts and the associated drop-in centres. One of the reasons is that the drop-in centre can maintain some level of control on matters such as exploitation/THB and this form of reception can sometimes offer victims an opportunity to escape. Furthermore, victim support workers predict that prostitutes will disperse again (even more than is sometimes already the case) throughout towns and cities where they will ply their trade in areas not designated for such activity, as a result of which they will cause more nuisance again. Moreover, municipalities with streetwalkers’ districts that are not (initially) thinking of closing them down fear that street prostitutes from other areas will move to their municipality, with all the problems that this will bring.

#### *‘Street-clearing campaigns’*

A fairly new approach to nuisance and crime caused by illegal persons involves ‘street-clearing campaigns’, whereby persons staying illegally in the Netherlands are arrested and deported straight away (where possible). These campaigns are also carried out in streetwalkers’ districts

<sup>250</sup> The possibility of a general prohibition of THB would be discussed if the document were to be revised.

and other locations where prostitution is pursued in a number of large cities, with illegal prostitutes and other illegal persons in the vicinity being arrested under the Aliens Act and deported immediately from the Netherlands. Where illegal prostitution is concerned, these campaigns have led to protests or questions from a number of organisations. These responses are partly prompted by the fact that the illegal prostitutes arrested may also include victims of THB, who are then deported from the Netherlands, often together with their pimps and/or traffickers, without any (adequate) investigation being carried out into their case. There are also indications that women who may be victims of THB are not given a reflection period, whereas this should indeed be offered under the B-9 regulation. Furthermore, police officers who are experts in this area - usually in the police 'vice squad' - are not (always) involved in these campaigns.

This approach does not do justice to the fact that victims of THB may be caught up in such action. They must be given the opportunity to make or consider making a report of the offence and be given support. This is laid down too in the B-9 regulation, which has been drawn up specifically for aliens who are (possible) victims of THB. Moreover, the traffickers who have been caught are just as likely to come to the Netherlands (again) with the same or new victims. That is why the organisations referred to above believe that such campaigns have very little effect. Another objection is that the campaigns are often associated with a great deal of media attention, which compromises the privacy and anonymity of the women.

#### **5.4.2 Escort sector**

The escort sector is characterised by the presence of an intermediary between the prostitute and the client, and by the fact that the prostitute does not work in a sex establishment, but in the client's home or in a hotel.

Escort businesses in particular that engage solely in escort services do not require a fixed address and are therefore difficult to control. After all, contacts between clients and prostitutes can be arranged through advertisements, mobile phone and the Internet and can in principle take place anywhere. An inspection visit to an escort agency, to check administration and prostitutes present, for example, is therefore usually not possible. However, there are more problems in relation to escort prostitution. Firstly, an escort service must be licensed in the municipality where it is established.<sup>251</sup> For escort services that do not have a fixed business address, but only advertise, for example, using a mobile phone number or the Internet, it can be difficult to establish in which municipality the business has its address, and therefore where it is obliged to be licensed. Where the sexual activities take place is not important in this respect. Secondly, it is very complicated in practice to check whether the business makes use of underage or illegal prostitutes, or victims of THB. Although the escort service is obliged to have copies of the identity documents of its escort workers, it will never include them in its administration in practice if underage, illegal or 'involuntary' prostitutes are involved. Furthermore, the proprietor of the escort service can argue that the escort workers are freelancers, which means that there is no registration of the THB project, an experiment is being carried out with enforcement scenarios for inspections of both licensed and unlicensed businesses, whereby the inspector acts as a client. The enforcement scenarios may possibly lead to proceedings and court decisions. It is particularly important in this respect to find out which procedure will be accepted by the court. It will also be assessed whether the escort sector can indeed be regulated and inspected effectively at a municipal level.

### **5.5 (Other) developments relevant to enforcement in the prostitution sector**

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<sup>251</sup> Only escort businesses may be obliged to be licensed, escort workers not (however they are required to ...)

A number of recent developments in legislation and implementation are important for administrative enforcement in the prostitution sector. Some of these developments have already been discussed in Chapter 2. Firstly, developments on the issue of the obligation to provide identity. Prostitutes who cannot identify themselves will be taken to the police station, which creates opportunities for the police to carry out an investigation into THB that has a greater chance of success, because a possible victim has been removed from the sphere of influence of her trafficker(s). Secondly, the BIBOB Act, which has created extra opportunities to inspect the integrity of proprietors of sex establishments who apply for a licence. Thirdly, the decision of the government not to allow persons from eight of the ten states that acceded to the EU in 2004 to come to work in salaried employment in the Dutch sex industry. However, under certain conditions citizens of these countries may set up business in the sex industry as self-employed persons. In addition, on the basis of the Association agreements, the Netherlands is obliged to permit entry - under certain conditions - to aliens from 'association countries' that have not yet acceded to the EU (Bulgaria and Romania) who want to work in prostitution as self-employed persons. In practice, the police come across foreign prostitutes whose application for a residence permit (*Vergunning Tot Verblijf* - VTV) or permit to set up business as a self-employed person is still being considered, and on this basis believe that they may work in prostitution. This, however, is not permitted. Following up on this, this paragraph discusses briefly the developments in the area of aliens supervision and the administrative approach towards (organised) crime.

#### *Aliens supervision*

The National Framework of the Dutch Police 2003-2006 (*Landelijk Kader Nederlandse Politie 2003-2006*) (Ministry of the Interior and Kingdom Relations et al, 2003) states that the operational supervision of aliens must be intensified, and that this will be measured using the number of (criminal) illegal aliens arrested and held in detention. It is important to remember that *victims* of THB may also be among the illegal aliens arrested. Further investigation<sup>252</sup> and offering a period of reflection (under the B-9 regulation) therefore form part of the policy and regulations relating to illegal aliens. Indications from the field, however, show that this is not always adhered to.

#### *Preventive body searches in the prostitution sector*

Preventive body searches in designated 'safety risk areas' have been permitted since 2002 under certain conditions. The police may search anyone in these areas for weapons and ammunition. As part of this policy, body searches were also carried out at locations where prostitution occurs. It was mostly knives that were found during the campaigns in these areas.

Since research has shown that traffickers frequently use weapons when bringing persons into or keeping them in prostitution, this measure may be expected to make a positive contribution to the fight against THB. After all, pimps will find it less easy to remain in close contact with victims while they are in possession of weapons.

## **5.6 Points of attention and problem areas**

- The secret prostitution circuit is too often left undisturbed in some police regions. In addition, the prostitution sector that is indeed regulated is not inspected (intensively enough) in some police regions or there is inadequate administrative action taken against sex establishments that contravene the rules. This has three negative effects. Firstly, it makes these sectors (partly) attractive to malafide proprietors of sex establishments and traffickers, who can do more or less as they please. Secondly, it does not encourage proprietors of sex establishments

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<sup>252</sup> This measure through prostitution, for which women a questionnaire has been included in the *Yearbook on*

to join the legalised and inspected segment of the prostitution sector. On the contrary, bona fide proprietors of sex establishments are confronted with unfair competition and as a result they may feel tempted to leave the legalised circuit. Thirdly, the information position of the administrative authorities and the police is compromised. The latter also applies to victim support organisations and interest groups, which have difficulty in gaining insight into the 'secret' prostitution sector and find it less easy to reach prostitutes (including victims of THB) working in this sector. The objective of decriminalising the prostitution sector is therefore difficult to achieve in this way.

- It is unclear as to the extent to which administrative measures against a malafide proprietor of a sex establishment in one municipality can or should be used in other municipalities in assessing licence applications. At present, administrative measures in one municipality may or may not lead to a refusal of a licence in another municipality. As a result, a 'warning circus' may sometimes be created: proprietors of sex establishments who contravene the rules and are given a 'warning' (administrative sanction) move on to another municipality to try and start up a brothel there.
- The question then follows as to how information on administrative sanctions imposed on proprietors of sex establishments becomes available. PPM/dNP argues for a central database with information on these proprietors (e.g. whether a person has been in trouble with the police, and to what extent proceedings are being conducted against the proprietor or administrative measures have been taken elsewhere), where municipalities and the police may make inquiries.
- Traffickers in human beings continue to search for ways to enter the legal, regulated segment of the prostitution sector. They have two options, which appear to be used more and more frequently. The first is identity fraud: illegal prostitutes (possible victims of THB) work with fake or forged identity papers that are difficult to recognise. The second is arranging residence status: foreign prostitutes (possible victims of THB) have a residence status based on their residence with a partner (possibly a bogus marriage or relationship) which enables them to work legally in prostitution.
- The fight against illegal immigration sometimes frustrates efforts to tackle THB. For example, for the former an active deportation policy is being pursued. This, however, is not appropriate for victims of THB who, as a consequence of this policy, are sent back to the country of origin - sometimes even together with their traffickers - where they are or can be trafficked yet again. There is a specific regulation for victims of THB (the B-9 regulation) which is not always applied.
- There are no national figures on the results of inspections in the prostitution sector. As a result there is no insight either into the number of inspections carried out and the number of victims of THB found - as well as the number of illegal and underage prostitutes - and with this no insight into the extent to which the regulated prostitution sector is actually becoming decriminalised.

## 6 Investigation

### 6.1 Introduction

This chapter discusses the investigation of THB. Since this task rests primarily with the police, the chapter will primarily concern itself with the police. However, other government institutions engaged in investigating THB (The Royal Military Constabulary (*Koninklijke Marechaussee* - KMar) and the National Intelligence and Security Service (*Algemene Inlichtingen- en Veiligheidsdienst* - AIVD) will also be discussed. International cooperation in tracking down and investigating THB is becoming increasingly important, and attention will also be given to this issue.

### 6.2 National (policy) developments and initiatives

#### 6.2.1 (Policy) developments

##### 6.2.1.1 Police

A number of (policy) developments relating to the police are important for combating THB. The most important are the priority given to combating THB and the setting up of the National and Supraregional Crime Squads.

##### *Attention for THB*

The (governmental) report entitled *Towards a safer society* (the Safety Programme) envisages the creation of extra capacity within the aliens police<sup>253</sup>, which will be used in such areas as THB. The *National Framework Dutch Police 2003-2006* (Ministry of the Interior and Kingdom Relations et al, 2003) states as one of its objectives ‘Tracking down criminal illegal aliens and suspects of related crimes (such as trafficking in human beings and human smuggling)’ (p.12). THB is therefore explicitly mentioned in both reports, but in the same breath as the (investigation of) illegal aliens. In addition, the government is making extra resources available to increase police strength, but this is not linked to specific subjects. Incidentally, the Minister of Justice has repeatedly stated that THB is a priority issue with the police and the PPS.

The Safety Programme also observes that the police are forced to shelve a quarter of cases in which there is a clue for criminal investigation, because of a lack of manpower.<sup>254</sup> This would involve some 80,000 cases a year. It is plausible that THB cases are among them. After all, a study by the National Police Project on Prostitution and Trafficking in Human Beings (PPM/dNP; see section 6.3.1) shows that investigations into THB are shelved. In its Safety Programme, however, the government does say that it wants to achieve a proper response to all reports by 2006 and that all criminal cases in which there is a clue for criminal investigation are properly investigated.

##### *Instructions by the Board of Procurators General for police investigations*

In the 2003 version of the *Instructions for police investigations* by the Board of Procurators General, two criteria are given that should be followed when prioritising crimes, namely the seriousness of the crime and indications that there is a clue for criminal investigation. It also specifies that when a suspect is known to the police, an investigation should always follow (arrest, completing an official report). However, exceptions to this rule are given, relating to the seriousness of the crime and the policy being pursued. For example, with ‘non-serious’ crimes, investigative procedures may be ignored in certain cases, whereas it is precisely with ‘shocking crimes’ that extra efforts should be made in order to track down the perpetrators. Shocking crimes include those where physical integrity has been violated, as is frequently the case with THB.

<sup>253</sup> De Raad aanvaardde zijn administratieve taak relatief tot de admission of aliens to the PPS.

### *National and Supraregional Crime Squads*

The National Crime Squad became a reality on 1 July 2003. The squad is deployed to combat those forms of serious and organised crime that have a national or international character as regards their grouping or nature. It is very likely that THB will come under its remit.

The National Crime Squad is part of the National Police Agency (*Korps Landelijke Politie Diensten - KLPD*), while the National Public Prosecution Service (National PPS) is in command. In its report 'Investigating and preventing organised crime; explanatory document for the National Crime Squad' (*Opsporen en tegenhouden van georganiseerde criminaliteit; Richtinggevend document voor de nationale recherche*) (KLPD, 2003) the police state that creating obstacles to organised crime, through administrative measures, for example, but also within the business community and public organisations, is extremely important for combating it. The report also states that the manifestation of organised crime is by definition local. Cooperation with partners in the investigation process is therefore extremely important to the National Crime Squad. Where it concerns organised crime, it assumes a managerial role and monitors coordination. Furthermore, the international character of organised crime demands international consideration and action. "The National Crime Squad is the organisation which, on behalf of the Netherlands, works together with foreign investigation services in those areas that come under its remit." In July 2003, six *permanent* supraregional crime squads (*Bovenregionaal Rechercheteam - BRT*) were also formed to tackle supraregional (medium-category) crime. *Provisional* BRTs have been in operation since 1998, focusing on such issues as THB and trafficking in women.

#### **6.2.1.2 Royal Military Constabulary**

The KMar can be characterised as a police organisation with a military status (Nelen, 2002), forming part of the Ministry of Defence. Its range of duties are laid down in the Police Act and encompass, as well as 'Enforcement of Aliens Matters', "assistance to and cooperation with the police in combating cross-border crime" (Article 6, paragraph 1, sub d of the Police Act).

Within its police task of 'Enforcement of Aliens Matters', the KMar regards THB and identity fraud as its first priority. If in its cross-border activities it comes across a case of THB, it pursues the case provided there is capacity available to do so. According to information from the KMar, during the years from 2000 to 2002, 155, 168 and 95 cases of human smuggling respectively were passed on to the PPS, and 0, 3 and 0 THB cases respectively for the same period.

In order to provide assistance to the police, 13 Cross-Border Crime Squads (*Grensoverschrijdend Criminaliteitsteam - GOC* squads) are operational, ten of which are expected to devote 50% of their capacity to human smuggling and 50% to other forms of migration crime, including THB. During the years from 2000 to 2002, the GOC squads cooperated in 3, 8 and 17 THB cases respectively.<sup>255</sup> During the same period, the squads pursued 11, 8 and 3 human smuggling cases respectively. There are currently discussions on the administrative embedding and allocation of tasks to the GOC squads. This may have consequences for the available capacity of GOC squads for investigations into THB.

#### **6.2.1.3 National Intelligence and Security Service**

The new Intelligence and Security Services Act has laid the legal basis for a new task of the AIVD, namely intelligence tasks abroad. The AIVD carries out studies into developments in other countries that are considered important for national security. The Dutch Prime Minister decides on the subjects being studied in this context, in agreement with the Ministers of the Interior and Kingdom Affairs and Defence. THB was also mentioned for the second half of 2002 and the

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<sup>255</sup> According to written information from the KMar. Please note: since investigations may take longer than 1 year...

year 2003 as a ‘factor that has or may have a destabilising effect on the international legal order’.<sup>256</sup> In practice, however, the AIVD only collects information on THB if national security is (potentially) threatened by it.

## 6.2.2 Police initiatives and activities

### 6.2.2.1 National Police Project on Prostitution and Trafficking in Human Beings

The PPM/dNP aims to achieve a uniform and coherent implementation by the Dutch Police of the prostitution policy and the fight against THB. During the period from 2002 to 2003, it carried out various activities and delivered certain products and/or was closely involved in them. In relation to the criminal approach to THB these were:<sup>257</sup>

- Study into the number of investigations into THB that were started and stopped at various stages and/or completed;
- Development – on the initiative of PPM/dNP, by the LSOP – of the THB training course, which forms part of the detective course curriculum.
- Study into the reception of victims of THB;
- Publication *Concretising the 1st report of the National Rapporteur on Trafficking in Human Beings* (PPM/dNP, 2003), containing details of what concrete activities must be carried out and by which chain partner;
- Publication *Prostitution and Trafficking in Human Beings. Korpsmonitor 2002*, presenting the efforts and products of PPM/dNP from the 2nd phase of its operations (mid-2001 to mid-2003).

In addition, experiences are exchanged within the PPM/dNP and proposals (for improvement) are formulated and submitted to the police, the PPS and to administrative bodies (municipalities and ministries).

#### *Korpsmonitor 2002*<sup>258</sup>

In its publication ‘*Korpsmonitor*’, the PPM/dNP regularly provides a summary of the situation relating to (tackling) prostitution and THB in all police regions and the problem areas that arise in this respect, as well as an account of the efforts and results of the PPM/dNP. These summaries are based, inter alia, on information collected during the ‘police force meetings’ that are held with all regional police forces.<sup>259</sup> The *Korpsmonitor 2002* tests for the first time the ‘actual situation’ against the ‘desired situation’. According to the PPM/dNP, 15 of the 26<sup>260</sup> police regions achieved the desired situation before 2002, and nine police regions still need to make ‘some’ effort and two police regions ‘considerable’ effort to achieve this.<sup>261</sup> The aspects of process responsibility, the allocation of police capacity and the use of the IGO concept (*Informatie Gestuurde Opsporing* - intelligence led investigation) in particular achieve a relatively low score.

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<sup>256</sup> Other factors, for example, are drugs, weapons and diamond trafficking, human smuggling and money laundering.

<sup>257</sup> Activities and products relating to administrative enforcement are described in Chapter 5.

<sup>258</sup> The *Korpsmonitor 2003* was published in May 2004 (Parliamentary documents 2003-2004, appendix to just040618). This report only includes information up to the year 2003 and therefore does not in principle contain any information from this new *Korpsmonitor* (with one exception, see note 9). It has been checked, however, whether the information presented in this report – given the latest information in the *Korpsmonitor 2003* – is not clearly outdated. This did not appear to be the case anywhere.

<sup>259</sup> The purpose of these interviews is twofold: firstly, to evaluate the status of the project within the regional police force, and secondly to discuss local problems and potential ways of solving them.

<sup>260</sup> Including the KLPD.

<sup>261</sup> The *Korpsmonitor 2003* presents the situation for the year 2003. In that year – for which the bar has been raised compared to the year 2002 – the situation in 13 police regions is ‘at the required level’ and eight police regions still need to make some effort and five police regions a substantial effort to reach this level. There would therefore appear



The *Korpsmonitor 2002* also describes the *ultimate* desired situation regarding enforcement in the prostitution sector and the investigation of THB. Briefly, this is as follows: the police regularly and properly check all forms of prostitution. If abuses are found, proper action is taken. The parties involved (in the chain) are informed in the agreed manner. Project preparation, including the collection of information, is always carried out where there is a chance of conviction in the case. Because of prioritisation and the absolute ban on tolerating the transit of persons,<sup>262</sup> each proposal will be followed up and an investigation will follow. Volume policy in the investigation (establishing a maximum of investigations to be carried out into THB each year) is absolutely forbidden. Confiscation is a standard subsidiary objective of the investigation. The conditions for building up a strong information position have been met. Possible victims are treated in accordance with the guidelines.<sup>263</sup>

### 6.2.2.2 THB Information Unit

Within the National Crime Investigation Agency (*Nationale Recherche Informatie* - NRI) of the KLPD, the THB Information Unit (*Informatie Eenheid Mensenhandel* - IEM) was set up in mid-2001. Its objective is to promote international and national efforts in investigating THB (IEM Annual Report, 2002). The tasks of IEM are: 1) to gain an understanding of the nature and extent of THB in the Netherlands and 2) to encourage the criminal prosecution of THB. For this purpose, IEM is required to register all available (operational) information on THB. This information is also used in drawing up investigation proposals. The Police Information Node System (IKP-S), which registers (possible) victims of THB, is also being provisionally brought into the IEM. In 2002 the IEM's tasks were 'above all in the area of collecting, registering, refining and analysing information, maintaining networks and providing policy advice and information. IEM is a national and international contact point'. Furthermore, IEM has started up the Operational Consultation on THB (*Operationeel Overleg Mensenhandel* - OOM). In 2002 the IEM had not yet generated any written investigation proposals, but interventions by IEM have indeed led to further investigations. IEM also handled 85 foreign requests for information in 2002.<sup>264</sup> The problem areas identified in the annual report concern above all a lack of personnel capacity and a limited authorisation in relation to police information systems.

### 6.2.2.3 Operational Consultation on THB

The OOM was started up in February 2002, and meets every two months to exchange operational information. This allows suspects, for example, who are active in more than one police region to be actively followed. Furthermore, police activities are harmonised with each other so that no activities are carried out twice or unintentionally omitted. The information from the OOM is processed in the IEM Information System. All police regions are represented in the OOM.

## 6.3 The BNRM police study

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<sup>262</sup> This ban means that it is not acceptable to tolerate the transit of persons in cases that have been identified as THB, not even with a view to serious investigation interests. Unlike cases of smuggling of migrants, the ban is absolute with regard to THB. This sometimes leads to (imperative) early or even premature interventions, that may frustrate in-depth investigation into organisers, leaders and the methods used.

<sup>263</sup> The desired situation in relation to the partners in the enforcement and investigation chain is also described. To summarise: the municipality has completed the licensing procedure and applies the sanction regime of the enforcement arrangement in full. The PPS is informed of the situation and focuses attention on the financial component in the investigation process. The STV takes over those victims reported from the police and arranges proper reception and assistance. The Tax and Customs Administration investigates the fiscal obligations of this sector of business.

Investigations into THB usually contain a great deal of information on the perpetrators and the way in which they operate. That is why BNRM carries out a study each year, analysing all successfully completed investigations into THB in that year and comparing them with information from previous years. The way in which this study is carried out is described in Appendix 2. This paragraph presents the results of this study, also referring to results of other studies in this area.

### 6.3.1 Investigations into THB

Table 6.1 contains a summary of the number of investigations each year into THB that are completed and sent to the PPS, showing the extent of the fall/rise in the number of investigations compared to the reference year 1998 (with indices).<sup>265</sup> The results are subdivided into the type of THB: cross-border or domestic. Both cases (also) involve exploitation in prostitution in the Netherlands.<sup>266</sup>

Table 6.1 Investigations into THB completed each year according to THB type

Year	Cross-border THB		Domestic THB		Total	
	N	Index (1998=100)	N	Index (1998=100)	N	Index (1998=100)
1998	12	100	2	100	14	100
1999	10	83	6	300	16	114
2000	17	142	8	400	25	179
2001	36	300	12	600	48	343
2002	42	350	13	650	55	393
Total	117	-	41	-	158	-

The number of completed investigations into THB has risen sharply, particularly since 2000. In the year 2002, 55 investigations into THB were completed and sent to the PPS.

Of the investigations completed in the period from 1998 to 2002, 26% (41) concern domestic and 74% (117) cross-border THB. These percentages vary from year to year.<sup>267</sup> During the last two years studied, the percentage of investigations into THB accounts for about a quarter of the total.

#### *Priority/capacity in practice*

The number of investigations into THB partly depends on the level of priority given to investigating this crime. ‘A closer inspection of the chain’ (*De keten op de keper beschouwd* - LP PPS, 2002) establishes that THB – together with human smuggling – is regarded by virtually all police regions as a priority. In a number of police forces, however, it is noted that ‘too little attention is given to it’ in practice, partly because THB is not so visible and the chance of a successful prosecution is not always very great. Furthermore, there is a lack of capacity, according to other sources too (Hopkins & Nijboer; BNRM police study). The police itself state that the lack of personnel capacity in the police is a cause of concern. This leads to cases being ‘shelved’, but also to less pro-active or intelligence-led investigations and fewer investigations focusing on the non-legalised prostitution sector. There are signs that some police regions seek a solution in ‘volume policy’.

<sup>265</sup> For an explanation, see Appendix 3.

<sup>266</sup> Even if victims have originally been recruited abroad but have been sold (on) or recruited again in the Netherlands (for example, after having worked independently in prostitution for a period of time), their case is categorised as cross-border THB. There was one case of combined cross-border THB and domestic THB in the cases studied (in 2001). This case was an investigation by a regional police force bordering Belgium, where recruiting occurred predominantly in the Netherlands but also occasionally in Belgium. This investigation was categorised as domestic THB.

<sup>267</sup> The percentage of investigations into domestic THB (as a percentage of the total number of investigations into

### Reason for the investigation

The direct reason for the investigation into THB was studied for the period from 1998 to 2002, with the exception of the year 2000,<sup>268</sup>. The result is shown in Table 6.2. The ‘initial’ reason for the investigation was examined.<sup>269</sup>

Table 6.2 Initial reason for investigation, per annum

Reason	1998		1999		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%
Report	8	57%	8	50%	13	36%	13	24%	44	35%
Inspection in prostitution sector	1	7%	7	44%	6	17%	12	22%	29	23%
Other investigation	1	7%	-	-	6	17%	11	20%	19	15%
CIE/tips	2	14%	1	6%	4	11%	5	9%	12	9%
Other	2	14%	-	-	7	19%	14	26%	23	18%
Total	14	100%	16	100%	36	100%	55	100%	127	100%

‘Spontaneous’ reports, inspections and information from other investigations were about just as often the basis for an investigation into THB in 2002. The number of investigations arising from reports, however, has declined in relative terms over the years, whereas the number of investigations for other reasons (‘other’ category) has increased. These are often incidents in the prostitution circuit that compel the police to act, such as arguments or the maltreatment of victims. In addition, reports by witnesses lead to investigations.

The reason to start investigations varies significantly for domestic THB and cross-border THB.<sup>270</sup> With domestic THB, a report is more often the immediate cause for an investigation than with cross-border THB (62% compared to 27%).

#### *Bel M*

THB is also brought to the attention of the police by reports received through the hotline ‘*Bel M*’. This hotline was put into use on 4 September 2002. Individuals can call the *Bel M* anonymously with information on crimes. Information that appears to be relevant is passed on to the police and other organisations concerned. In (almost) the first eleven months, telephone calls received led to 64 reports of useful information in respect of THB and human smuggling,<sup>271</sup> which were passed on to the police regions and other interested parties. This is 1% of the total number of useful tips received. Since the willingness of victims of THB to report an offence is very low, this Hotline could be the ideal solution to such a need in these criminal cases. The hotline was evaluated in 2003, after which it was decided to continue it at a national level.

#### *Indications and reports of THB by clients*

Research (Anderson & O’Connell Davidson, 2002; Anderson & O’Connell Davidson, 2003) and websites for and by clients ([www.dagboekvaneenhoerenloper.nl](http://www.dagboekvaneenhoerenloper.nl); [www.hoekers.nl](http://www.hoekers.nl)) show that by far the majority of clients of prostitutes prefer women who do sex work voluntarily, and seldom seek out specifically victims of THB. Clients would appear

<sup>268</sup> This information was not collected for that year. The question was included again for the year 2001 after its relevance had been observed.

<sup>269</sup> In virtually all completed investigations, victims reported the offence at a certain moment. However, the table only shows ‘report’ as a reason if the victims themselves – with the help of third parties, if relevant – went to the police to make their report. When regular inspections in the prostitution sector lead to the inclusion of possible victims of THB who then report the offence later, the reason is given as ‘Inspection in prostitution sector’. Incidentally, investigations that have been initiated because of a report, according to the table, may also be related to inspections: for example, an inspection may prompt a victim to go to the police or she may find out who she can contact. In addition, investigations may be started up based on information from the Criminal Intelligence Unit (*Criminele Inlichtingen Eenheid* - CIE), tips and (residual) information from other investigations. The latter, for example is the case if an investigation already in progress is taken over by another police region or if (other) suspects from an investigation emerge who justify an independent investigation.

<sup>270</sup> *CSI:2* 12.08.25.4.1-1.05

rather to be averse to prostitutes who work involuntarily in prostitution. Clients of prostitutes could therefore play an important role in identifying cases of THB. This is confirmed by the fact that some victims are able, through the help of their clients, to reach the police and possibly also report the offence, or that the clients themselves report suspected cases of THB to the police. In the study by Anderson and O'Connell Davidson, many clients (percentages range from 36% in India to 76% in Sweden) said that if they were confronted with a prostitute who was working against her will, they would report this to the police. However, trust in the police (or a lack of it) plays a significant role here. Furthermore, there is a difference between what respondents say they would do in a hypothetical situation, and what they actually do in reality. In any case, this does give a picture to some degree of the attitude of clients in relation to THB.

On the other hand, clients may have certain demands which lead them more readily to the group of sexually exploited persons. These demands could be, for example, cheap services, a willingness to perform certain sexual acts (e.g. working without a condom), age and/or a particular ethnicity or nationality.

The first report of the NRM argues for an educational campaign, focusing amongst other things on potential clients. The government's response to this report regards this as being 'less expedient', since it takes the view that it is for the sector itself to focus positive attention on businesses that keep to the prevailing regulations.

### 6.3.2 Suspects

Table 6.3 shows the (annual) number of identified and arrested suspects of THB, as well as the number of suspects that have been 'referred' to the PPS.<sup>272</sup> Developments over the years are shown (using indices) for those suspects identified. The table also shows what proportion of the arrested and prosecuted suspects *identified* were arrested and 'referred' in the year concerned.

Table 6.3 Suspects of THB, per annum

Year	Suspects identified		Suspects arrested		Suspects 'referred'	
	N	Index (1998=100)	N	%*	N	%*
1998	93	100	83	89%	76	82%
1999	82	88	73	89%	69	84%
2000	160	172	140	88%	129	81%
2001	224	241	179	80%	142	63%
2002	207	223	191	92%	180	87%
Total	766	-	666	87%	596	78%

\* Percentage of the number of suspects identified in the year concerned.

In the investigations successfully concluded in 2002, the police identified a total of 207 suspects of THB, arrested 191 (92%) and 'referred' 180 suspects (87%) to the PPS.<sup>273</sup> The percentage of arrested and 'referred' suspects was higher in the year 2002 than in 2001, a year in which these percentages were in fact relatively low. It was studied for 2001 and 2002 why *identified* suspects were not arrested and/or 'referred' to the PPS. For a relatively large number of suspects, a decision still needs to be made on this. In addition, a number of suspects cannot be found (probably gone abroad) or were given a so-called 'police dismissal' because of the marginal role the suspect played in committing the crime or because of a lack of evidence. In addition, a number of suspects remaining illegally in the Netherlands have been deported.

In the rest of this paragraph, *arrested* suspects will be referred to.

Table 6.4 shows the average number of arrested suspects for each investigation. In addition, the average number of arrested suspects for domestic and cross-border trafficking are shown separately. An accompanying table with standard deviations is included in Appendix 4 (Table B6.4).

<sup>272</sup> In fact, *cases* (against a single suspect) are referred to the PPS. For the sake of readability, however, 'referred' *suspects* is the term used.

<sup>273</sup> The actual number of identified and arrested suspects is probably higher, because there may have been suspects

Table 6.4 Average number of suspects in each investigation, per annum and by THB type

Year	Cross-border THB	Domestic THB	Total
	N (average)	N (average)	N (average)
1998	6.8	1.0	5.9
1999	5.9	2.3	4.6
2000	6.8	3.0	5.6
2001	4.2	2.3	3.7
2002	4.0	1.8	3.5
Total	4.9	2.2	4.2

The average number of arrested suspects in each investigation in 2002 and 2001 is lower than in previous years. The fact that traffickers in human beings usually form part of an extensive criminal network is therefore usually not expressed in the number of suspects of THB in each investigation.<sup>274</sup> An explanation is probably that few investigations focus on the *entire* criminal network (see also Van Dijk, 2002).

The average number of suspects arrested in investigations into domestic THB is significantly lower than in investigations into cross-border THB.<sup>275</sup>

### Gender

The vast majority of arrested suspects are male. Almost a quarter (22%) of the suspects arrested in 1998-2002, however, are female.<sup>276</sup> The percentage of women among the suspects increased in the years 200 and 2001, but declined again in 2002.<sup>277</sup> Some female suspects have themselves been victims (Van Dijk, 2002). In their study, Hopkins and Nijboer found that 21% of the victims they studied were (also) recruited by a female recruiter and 27% had (also) been exploited by a female ‘pimp’.<sup>278</sup>

The percentage of female suspects in investigations into domestic THB, incidentally, is clearly lower than in investigations into cross-border THB (8% compared to 25% for the period from 1998 to 2002)).

### Origin

Table 6.5 shows the nationality and country of birth of the arrested suspects. This table includes only the most frequently occurring countries of origin.<sup>279</sup> Tables with all countries of origin (nationality and country of birth) are included in Appendix 4 (Tables B6.5a and B6.5b).

Table 6.5 Countries of origin of suspects (1998 to 2002)

Country	Nationality		Country of birth	
	N	%	N	%
Netherlands	237	36%	161	24%
Albania	59	9%	60	9%
Bulgaria	57	9%	58	9%
(Former) Yugoslavia	53	8%	59	9%

<sup>274</sup> In fact, Hopkins and Nijboer studied how many traffickers in human beings were involved, according to the victims, in their case (as recruiter, transporter and/or ‘pimp’) and found that in 57% of the cases there were one to three, in 36% four to ten, and in 7% more than ten. These results could indicate that extensive criminal networks – of more than ten persons – occur less frequently that is generally assumed, although the extent to which the victims can keep track of the extent of the group of perpetrators is questionable.

<sup>275</sup>  $F=9.08$ ;  $p<.01$ .

<sup>276</sup>  $N=602$  (the gender of 64 suspects could not be ascertained).

<sup>277</sup> Percentage of women among the suspects (1998-2002) was 16%, 18%, 29%, 29% and 17% respectively.

<sup>278</sup> Information from the municipality of Amsterdam too points to the involvement of women in THB (Memorandum 11 October 2002, Administration Department of the Municipality of Amsterdam). Since men may not be present in all investigations, the presence of women is not surprising.

Nigeria	36	5%	41	6%
Turkey	21	3%	43	6%
Morocco	14	2%	20	3%
Germany	13	2%	11	2%
Czech Republic	11	2%	12	2%
Romania	11	2%	12	2%
Netherlands Antilles	-	-	10	2%
Ghana	2	1%	9	1%
Belgium	9	1%	9	1%
Ukraine	8	1%	9	1%
Russian Federation	8	1%	9	1%
Other/unknown	127	19%	143	21%
Total	666	100%	666	100%

Almost half of the suspects have the Dutch nationality, however some of them were born outside the Netherlands. In addition, there are a relatively large number of suspects from Albania, Bulgaria, (former) Yugoslavia and, to a lesser extent, Nigeria and Turkey.

Virtually all suspects born in Morocco and the Netherlands Antilles (90% and 85% respectively) were suspected of domestic THB.

Table 6.6 shows the nationality of suspects, categorised according to the year in which the investigation was completed.<sup>280</sup>

*Table 6.6 Nationality of suspects, per annum*

Nationality	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Dutch	17	23%	23	34%	50	51%	85	50%	62	32%	237	36%
Bulgarian	11	15%	3	4%	-	-	4	2%	39	20%	57	9%
Albanian	7	9%	3	4%	1	1%	13	8%	35	18%	59	9%
Turkish	6	8%	2	3%	2	2%	1	1%	10	5%	21	3%
Belgian	-	-	1	2%	1	1%	-	-	7	4%	9	1%
Nigerian	-	-	7	10%	11	11%	12	7%	6	3%	36	5%
Romanian	1	1%	2	3%	1	1%	2	1%	5	3%	11	2%
Russian	-	-	-	-	3	3%	-	-	5	3%	8	1%
German	5	7%	-	-	1	1%	6	4%	1	1%	13	2%
Ukrainian	-	-	-	-	3	3%	4	2%	1	1%	8	1%
(Former) Yugoslavian	15	20%	16	24%	7	7%	15	9%	-	-	53	8%
Moroccan	2	3%	-	-	10	10%	2	1%	-	-	14	2%
Czech	3	4%	2	3%	2	2%	4	2%	-	-	11	2%
Other/unknown	16	19%	14	20%	48	33%	31	17%	20	11%	129	19%
Total	83	100%	73	100%	140	100%	179	100%	191	100%	666	100%

In 2002, the number of suspects with the Albanian and Bulgarian nationality increased markedly, both in absolute and relative terms, while on the other hand the number of Dutch suspects declined.

#### *Residence status*

The residence status of suspects of non-Dutch nationality has been examined for the years 2000 to 2002. This shows that 59% of the suspects reside legally in the Netherlands (usually based on a residence permit, a visa or a so-called ‘free period’).<sup>281</sup> 41% of suspects holding non-Dutch nationality were therefore residing illegally in the Netherlands at the time of their arrest. The number of foreign suspects who resided illegally in the Netherlands rose sharply in the last two years: from 10% in 2000 to 42% in 2001 and 48% in 2002.

### *Proprietors of sex establishments*

Among the 666 arrested suspects there are 64 proprietors of primarily – partially legal – clubs and brothels. The percentage of proprietors among the suspects remained virtually the same from 1999: about 10%.<sup>282</sup> Many of the arrested proprietors (53, or 83% were ‘referred’ to the PPS.

As well as the criminal prosecution of proprietors of sex establishments, there is also the possibility for an ‘administrative procedure’: imposing administrative measures (sanctions). It has been examined for 2002 how often this occurred. In that year, a total of 140 prostitution establishments were involved in 46 of the successfully completed investigations into THB.<sup>283</sup> Of these 140 establishments, 38 (27%) were unlicensed (partly because some municipalities had not yet properly organised their licensing procedures).<sup>284</sup>

The 140 establishments were owned by 136 proprietors. In so far as known to the police,<sup>285</sup> an administrative procedure has (also) been started up against 13 (10%) of these proprietors, which has led to administrative sanctions against eight of the proprietors. These figures may rise, however, because it is (still) unknown to many team leaders of the completed investigations whether or not an administrative procedure was or will be initiated.

Table 6.7 shows the extent to which the proprietors of sex establishments who were involved in the completed investigations in 2002 (i.e. also the proprietors who were not identified as suspects) are guilty of THB in the view of the police. Three categories of ‘guilt’ are used for this purpose. First: the proprietor is not aware of the exploitative situation in which the victims are working; Second: the proprietor is indeed aware of this, but is not actively involved in the matter. In practice these are usually proprietors who act as if it is no concern of theirs: they profit from the supply of (new) ‘girls’, but often do not earn more from them than from legal prostitutes. Third: the proprietor plays an active role in (parts of) the THB process, such as recruiting or trading victims or using force to keep the victim in prostitution. A characteristic feature is that the income for these brothel proprietors is higher than usual, because they confiscate more of the victims’ earnings than the customary 50%.

*Table 6.7 Level of ‘guilt’ among proprietors of sex establishments (2002)*

Level of guilt	2002	
	N	%
Proprietor ignorant	49	39%
Proprietor aware	75	59%
Proprietor active as trafficker in human beings	3	2%
Total	127*	100%

<sup>281</sup> N=380 (this could not be ascertained for all suspects of non-Dutch nationality).

<sup>282</sup> Percentage of proprietors among the suspects 5% (1998), 11% (1999), 8% (2000), 12% (2001) and 10% (2002).

<sup>283</sup> No prostitution establishments were involved in the remaining nine investigations into THB, but involved street prostitution, for example.

<sup>284</sup> It concerned 69 clubs, of which 16 (23%) were unlicensed, 52 window brothels of which 12 (23%) were unlicensed, 12 escort services of which 6 (50%) were unlicensed and 4 other businesses without licences (Turkish coffee houses in all cases). It is unknown for 9 prostitution establishments (4 clubs, 3 window brothels and 2 escort services) whether they possessed a licence.

<sup>285</sup> Three proprietors could not be traced. For example, a ‘complex structure of BVs and NVs was found’. An ‘owner’ could not even be traced at the Chamber of Commerce. Proprietors who wanted to rent a room in their own

\* Unknown for six proprietors.

According to the team leaders of the completed investigations, many proprietors are indeed aware that the women working for them are in an exploitative situation, but it is to their advantage not to be difficult about it. Many proprietors, however, - according to the impression they give to the police officers – are unaware of the exploitative situation of victims. What may play a role here is that women are not expected to let on to third parties (clients, proprietors of sex establishments), otherwise they run the risk of being ‘punished’.<sup>286</sup>

A few police officers interviewed also state that proprietors of sex establishments from municipalities which have a properly organised licensing system are afraid of losing their licences and therefore are reluctant to involve themselves with illegal and underage prostitutes or victims of THB. In one survey, the proprietor himself reported an illegal prostitute to the police. In two cases, proprietors reported the use of violence of pimps against prostitutes.

#### *Involvement of lawyers in THB?*

There is much confusion among migrant prostitutes without a work permit relating to the new prostitution policy and the policy on combating THB. This makes them vulnerable and dependent on information from third parties (Hüner, 2001). Some lawyers profit from this. For example, they charge high fees to submit applications for a self-employed work status or residence permit, and do not always give honest information about the chance of such an application being approved. Sometimes they also do business with people or traffickers who act on behalf of prostitutes, and fail to check the identity of these possible victims of THB, or do not check to ensure that a woman understands what she is signing. At the request of suspects they sometimes also contact victims of THB who have reported to the police, in order to ensure that they withdraw or amend their incriminating statements against the lawyer’s client.

### **6.3.3 Modus operandi of traffickers in human beings**

#### **6.3.3.1 Recruitment**

The THB process virtually always begins with the recruitment or abduction of victims, either in the Netherlands or abroad (the rest of this paragraph uses the term ‘recruitment’ in all cases).

#### *Modus operandi of recruiters*

Hopkins and Nijboer established that in most cases (81%) victims are approached by recruiters. Ten victims, however (13%), took the initiative themselves and approached a recruiter. Victims do this above all because of the hopelessness of their situation, whether or not combined with trust in the recruiter(s) and a good outcome. Other studies (including that by Van Dijk, 2002) show that many victims (48%) are approached through people they know (partner, family, friends, acquaintances) and, to a lesser extent, through such methods as advertisements or places of entertainment. Hopkins and Nijboer also found that 70% of the victims had already left for the country of destination within a week of having been recruited, possibly a strategy of the perpetrators to give the victims very little time to consider their decision carefully. In 78% of cases, traffickers arranged travel documents (the study does not examine whether these are genuine or fake/forged documents).

#### *Recruitment in the suspect’s country of origin*

Hopkins and Nijboer found in their study that 83% of the victims were recruited by one or more recruiters with the same nationality as the victim. This percentage was slightly lower among the ‘pimps’; 61% of these shared the same nationality as their victim(s). Some of the investigations in the BNRM police study that were completed in 2000 and 2001 were examined to find out to what

<sup>286</sup> In the NRI study into THB (Van Dijk, 2002), 45% of the club owners (who came forward in 45 investigations into THB in the period from 1997-1999) were qualified by the police as traffickers in human beings. This is considerably higher than the 20% in the study in question. It would therefore appear that there are fewer malefide proprietors in the



extent the nationality of arrested traffickers corresponded with the country of origin of their victim(s). It emerged that in 52% of the 42 investigations into cross-border THB, recruiting (also) goes on in the country of origin of one or more of the suspects.

#### *Cross-border THB: recruiters tracked down?*

In the case of cross-border THB, recruiters are tracked down and prosecuted less often than those who bring or keep victims in prostitution. Table 6.8 shows to what extent recruiters have been arrested in investigations into cross-border THB that have now been completed. The table does not consider investigations into domestic THB, because the recruiters are nearly always arrested in these cases. These are in fact often the same persons who bring victims into prostitution and exploit them there.<sup>287</sup>

*Table 6.8 Arrests of recruiters in investigations into cross-border THB, per annum*

Recruiters arrested	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
All	3	25%	2	20%	5	29%	10	28%	24	57%	44	38%
Some	3	25%	4	40%	3	18%	6	17%	8	19%	24	21%
None	6	50%	4	40%	9	53%	20	56%	10	24%	49	42%
Total	12	100%	10	100%	17	100%	36	100%	42	100%	117	100%

In 2002 the percentage of investigations into cross-border THB whereby all recruiters were arrested was much higher than in previous years. All recruiters were arrested in more than half of the investigations, and some were arrested in a fifth of them. The phenomenon where recruiters remain out of reach would appear to be less prevalent in the most recent year studied than in previous years. In cases where recruiters remain out of reach, victims are often bought and sold.

#### *Sale and purchase of victims of THB*

As far as is known, in one-fifth of all cases that were closed in 2002, victims were sold (on), sometimes several times. This percentage fluctuated markedly in the period under study.<sup>288</sup>

Another phenomenon concerns ‘intermediate trafficking’: intermediaries buy and sell victims without bringing them into the sex industry themselves. In 2001, in six (13%) of the investigations, persons came to light that engage exclusively in intermediate trafficking, and in 2002 this number rose to 13 (24%). The phenomenon was not studied in earlier years.

### **6.3.3.2 Travel route and travelling/residence documents**

#### *Travel route and border crossing*

In the case of cross-border THB, travel routes to Netherlands vary considerably (Hopkins and Nijboer; Van Dijk, 2002). Usually the routes followed correspond – geographically – with the most logical travel route. Table 6.9 shows for each year where – according to the BNRM police study – the border is crossed into the Netherlands. Since this can take place in several ways within a single investigation, the columns do not add up to 100%.

*Table 6.9 Border crossings, per annum*<sup>289</sup>

Border	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%

<sup>287</sup> In two of the 41 investigations into domestic THB, some of the recruiters remained out of reach.

<sup>288</sup> 43% (1998), 50% (1999), 8% (2000), 25% (2001), 22% (2002).

<sup>289</sup> The collection of this information was initially not done during the course of the investigation (in order to narrow the investigation down to collecting core information), but was done so later on request. The total numbers per column in this table are therefore lower than in other tables, especially for the year 2000: N: 12 (1998), 10 (1999), 17

Country: Germany	7	58%	4	40%	11	65%	23	64%	28	67%	72	62%
Country: Belgium	3	25%	4	40%	7	41%	10	28%	5	12%	28	24%
Schiphol Airport	2	17%	5	50%	2	1%	7	19%	7	17%	23	20%

In most investigations – in 2002 too – victims were brought to the Netherlands overland (too) through Germany, sometimes being brought into prostitution in Germany as well. The number of investigations whereby victims entered the Netherlands through Belgium fell in 2002. This may be related to the fact that in more and more investigations, victims originate from the Balkans.

### *Travel documents*

Table 6.10 shows for all investigations concerning cross-border THB the extent to which victims were in possession of a valid or fake or forged passport. Since different victims may be carrying various identity documents with them (within a single investigation), the columns do not add up to 100%.

Table 6.10 Victim passports, per annum<sup>290</sup>

Passport	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Genuine/valid	8	64%	9	56%	12	69%	22	56%	25	63%	68	61%
Fake/forged	6	55%	9	89%	11	63%	20	50%	16	40%	58	52%
None	-	-	-	-	2	13%	6	17%	2	5%	10	9%

The percentage of investigations into cross-border THB involving one or more victims with a fake or forged passport has progressively declined in the last few years. However, 40% of cases in 2002 too involved victims with a fake or forged passport. The nationality of the passports was examined for the year 2002. In the 14 cases for which this is known, these were fake or forged Greek (6), Bulgarian (3), Nigerian (2), Lithuanian (2), Italian (1) and Dutch (1) passports.<sup>291</sup> In one investigation, a female Nigerian trafficker recruited girls in particular who resembled her own daughter, so that her passport could be used for the journey. Passports were also hired or borrowed.

### *Identity fraud*

The fact that identity fraud is committed on a large scale is evident from an investigation report by the KMar (Van Urk et al, 2003). In 2001, 131,000 Dutch passports were reported stolen or lost. Reference is made to a study by the IAM, which shows that (over a longer study period)<sup>292</sup> 1027 persons reported four times or more (up to 13 times) the loss or theft of an identity document. Such reports are hardly investigated at all. For some of these persons, IAM examined whether they had a police record and this frequently turned out to be the case. A relatively large number of these persons were also registered as being hard-drug users or alcoholics. The conclusion that can be drawn from this is that these persons probably deliberately made their passports available to third parties. It is also noted that – where identity fraud has been discovered – there is no structural criminal investigation or attention given to the fraud in police interviews with the users, so that patterns in relation to the origin of the falsification or certain persons or groups engaged in identity fraud do not come to light.

Police officers stated in the BNRM police study that many fake or forged documents can hardly be distinguished from the genuine ones. Some of those interviewed therefore sympathised with the problems that proprietors of sex establishments say they have with this. Others believe, however, that these proprietors use the difficulty in recognising identity documents as an excuse for allowing illegal prostitutes to be put to work. It is likely that both variants occur.

### *Biometric features in travel documents*

<sup>290</sup> Total number of investigations per column: 11 (1998), 9 (1999), 16 (2000), 36 (2001), 42 (2002) and 117 (total).

<sup>291</sup> Not all of these passports automatically permit the bearer to work in the legalised prostitution sector, because this is not compatible with EU regulations.

In order to combat the misuse of Dutch passports, the Council of Ministers has agreed to submit a Bill to amend the Passports Act that will allow biometric features to be incorporated in Dutch travel documents.

It was checked to see whether victims that were recruited in countries with a visa requirement possessed a visa when they were arrested or reported an offence to the police, and if so whether these were genuine or fake/forged.<sup>293</sup> The percentage of investigations whereby a valid visa was used for the journey fell from 73% in 2000 to 35% in 2001 and 25% in 2002. The percentage of investigations whereby the victim travelled without a visa from a country with a visa requirement increased from 18% in 2000 to 61% in 2001 and 50% in 2002. Fake or forged visas were used less often in 2000 and 2001, but were used in 25% of the investigations in 2002 (an increase of 15%).<sup>294</sup>

#### *Criminals specialised in producing fake or forged documents*

In the THB process, separate criminal groups may be used to produce and/or supply documents, whether or not fake or forged. According to the police, from 1998 to 2002 there were ‘facilitators’ with this task in 30% of the investigations into cross-border THB.

In their study into organised crime, Kleemans et al (2002) point to the importance of such facilitators, who often offer their services to several criminal groups. They state that until recently these facilitators were wrongly given little priority in investigations.

### **6.3.3.3 Being put to work in prostitution**

#### *Prostitution sectors*

Victims of THB may be put to work in various sectors of prostitution. Table 6.11 shows which prostitution sectors related to the THB cases that were investigated. Since victims in an investigation may be put to work in several sectors, the percentages do not add up to 100%.

Table 6.11 Prostitution sectors involved, per annum<sup>295</sup>

Prostitution sector	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Window prostitution	9	64%	13	81%	15	60%	22	46%	26	47%	85	54%
Clubs/brothels	6	43%	6	38%	11	44%	28	58%	30	55%	81	51%
Escort	3	21%	2	13%	1	4%	10	21%	10	18%	26	17%
Street prostitution	2	14%	2	13%	5	20%	7	15%	12	22%	28	18%

There was hardly any change in 2002 compared to 2001: most investigations in both years concerned window and club prostitution. However, the percentage of investigations focusing on street prostitution did increase slightly in 2002, reaching again the same level as the year 2000. In 2001 the number of investigations focusing on the escort sector increased relatively strongly. Viewed as a whole, this increase was continued into 2002.

Two investigations in 2002 concerned victims that were put to work in Turkish cafes and one concerned prostitution in massage salons.<sup>296</sup>

#### *Means of coercion*

<sup>293</sup> For the years 2000 to 2002.

<sup>294</sup> Associated numbers: valid visa (2000: 9; 2001: 8; 2002: 3), no visa (2000: 2; 2001: 15; 2002: 8), fake or forged visa (2000: 1; 2001: 3; 2002: 3).

<sup>295</sup> Total number of investigations per annum see table 6.1

Traffickers in human beings use different means of coercion to bring women into prostitution, to keep them there and/or to confiscate their earnings. Table 6.12 gives a summary. Since traffickers may use several means, the columns do not add up to 100%.

Table 6.12 Means of coercion, per annum<sup>297</sup>

Means of coercion	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Confiscation of passports	9	69%	9	56%	12	52%	25	52%	29	53%	84	53%
Threat of (physical) violence	11	85%	16	100%	19	79%	37	77%	45	82%	128	81%
Threat of disclosing prostitution	2	15%	5	31%	6	25%	17	35%	22	42%	52	33%
(Threat of) violence towards	4	31%	6	38%	11	48%	20	42%	23	42%	64	41%
Violence (physical)	9	69%	15	94%	18	75%	32	67%	35	64%	109	69%
Feigned love	6	46%	7	44%	9	38%	14	29%	38	69%	65	41%
Voodoo	-	-	2	13%	4	17%	4	8%	3	6%	13	8%
(Fictitious) debt	7	54%	10	63%	14	58%	23	48%	28	51%	82	53%
Watch/lock victim up	11	92%	13	87%	17	71%	32	67%	36	66%	109	69%

Particularly striking is the rise in the number of investigations in 2002 concerning victims forced into prostitution through 'feigned love' (by 'lover boys'). This increase can be accounted for almost entirely by the fact that foreign victims too were brought more frequently into prostitution through 'lover boy' techniques.<sup>298</sup>

In addition, victims are often threatened with violence and/or violence is actually used against them.

Hopkins and Nijboer too examined forms of coercion and force exerted on women to work in prostitution. Violence was used against 49% of the 80 victims whose case they analysed, in order to force them to work in prostitution. A quarter received none of the money they had earned, while 75% did receive some.<sup>299</sup> A quarter of the victims had debts that had to be repaid, 15% had their family threatened, and 11% had their identity documents taken from them.

### *Drugging victims*

For some time BNRM has been receiving signs that victims of THB are drugged, prompting an examination of the cases that had been successfully concluded in 2002 to assess the extent of the problem. In nine of the 55 investigations (16%), victims used drugs, voluntarily or otherwise. Eight of them related to cross-border THB, and one to domestic THB. In four of the nine cases, the suspects were also involved in drug-dealing and could therefore obtain drugs relatively easily.

<sup>297</sup> Total number of investigations per column: see table 6.1.

<sup>298</sup> In 2002, victims were put into prostitution in this way in 53% of police cases into cross-border THB, whereas this percentage was still at 14% in 2001. Various statements from these foreign victims also show that they have a 'love relationship' with their pimp. With domestic THB, however, this phenomenon still occurs more frequently than with cross-border THB (71% with domestic THB, compared to 32% with cross-border THB. The difference is significant ( $\chi^2=18.64$ ,  $df=1$ ,  $p<.00$ )).

<sup>299</sup> Sometimes the victims do receive money, but have to use it straight away for accommodation, clothes and food and are ultimately left with nothing (Van Dijk, 2002). It is not clear how this type of victim is categorized in the

## Mobility

Victims of THB are usually put to work in a number of places, often outside the Netherlands too. Table 6.13 shows where the victims have worked in prostitution. The numbers in the table refer to the number of investigations and not the number of victims. Only the most frequently occurring countries are included in the table.<sup>300</sup>

Table 6.13 Countries where victims are put to work, per annum<sup>301</sup>

Working abroad	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Not elsewhere in prostitution	7	50%	10	63%	12	48%	22	47%	30	59%	81	53%
Elsewhere in prostitution:	7	50%	6	38%	13	52%	25	53%	21	41%	72	47%
<i>Germany</i>	4	29%	3	19%	8	32%	11	23%	8	35%	34	31%
<i>Belgium</i>	2	14%	3	19%	3	12%	8	17%	8	35%	24	22%
<i>Italy</i>	-	-	3	19%	4	16%	7	15%	3	13%	17	15%
<i>Spain</i>	1	7%	1	6%	5	20%	6	13%	1	4%	14	13%
<i>France</i>	-	-	-	-	4	16%	2	4%	-	-	6	5%
<i>Switzerland</i>	-	-	-	-	1	4%	1	2%	2	9%	4	4%
<i>Other</i> <sup>302</sup>	1	7%	2	13%	1	0%	7	15%	1	0%	12	8%

The percentage of investigations whereby victims were brought into prostitution outside the Netherlands too fell slightly in 2002. Victims who were also brought into prostitution elsewhere were most frequently put to work in Germany. Another country that has a relatively high 'score' is Belgium, particularly in 2002. In the study by Hopkins and Nijboer, 30% of the victims were brought into prostitution in another country as well as the Netherlands.

In the period under study from 1998 to 2002, victims of cross-border THB were brought into prostitution outside the Netherlands (and outside the country of origin) more often than victims of domestic THB.<sup>303</sup> Victims of domestic THB, however, are also put to work outside the Netherlands, although this is mostly (only) in the neighbouring countries of Germany and Belgium, whereas victims of cross-border THB are put to work in a range of other countries.

In 2002, as far as is known victims were put to work in a number of different municipalities in the Netherlands in nearly two-thirds (60%) of all investigations. This percentage hardly varies at all from year to year.<sup>304</sup> In 54% of the investigations concluded in 2002, victims were put to work in various police regions.<sup>305</sup> This would mean that half of the THB cases would qualify in principle for handling by the BRT or even the National Crime Squad.

### 6.3.3.4 Criminal collaboration

<sup>300</sup> i.e. countries that – in this context – appear in four or more investigations.

<sup>301</sup> Total number of investigations per column: N= 14 (1998), 16 (1999), 25 (2000), 47 (2001), 51 (2002) and 153 (total).

<sup>302</sup> The other countries are: Aruba, Turkey, United Kingdom, Surinam, Poland, Ghana, Albania, Austria and Bosnia-Herzegovina.

<sup>303</sup> In 56% of the investigations into cross-border THB in 1998 to 2002, as far as is known victims were brought into prostitution elsewhere and in 22% of investigations into domestic THB. This difference is significant:  $\chi^2=14.17$ ;  $df=1$ ;  $p<.01$ .

<sup>304</sup> Percentages per annum: 64% (1998), 75% (1999), 64% (2000), 61% (2001), 54% (2002) and 66% (total). The differences are not significant.

<sup>305</sup> Percentages per annum: 64% (1998), 75% (1999), 64% (2000), 61% (2001), 54% (2002) and 66% (total). The dif-

THB is often committed in groups. This subparagraph discusses the forms of criminal organisation that are found with THB and the division of tasks that is used.

*Type of collaboration*

Three forms of criminal organisation can be distinguished in relation to THB. First, the *solo operator*: one person exploits one or more girls. This often occurs, for example, with ‘lover boy’ cases and other forms of domestic THB, although victims are also brought in from abroad. Although many pimps know each other and discuss things together, these are all ‘one-man businesses’. Sometimes the pimp is helped by an assistant with a marginal role. For example, a pimp may ask someone to keep an eye on the victim while he goes out briefly.

Second: the *isolated criminal group*: a group with at least two<sup>306</sup> and a maximum of five members, who organise the entire THB process – from recruitment to bringing victims into prostitution – and with no demonstrable contact with other (groups of) persons engaged in THB. In the case of cross-border THB, group members themselves collect victims from abroad, for example through a member of the family of the prime suspect or his partner who lives abroad.

Third, the *criminal network*: the number of persons involved in the THB is at least six, but often much higher. Such a group often fulfils the description of *criminal macro networks*, as described in the study by Klerks (2000, p.75): “In this undifferentiated criminal infrastructure, in principle everyone is linked to everyone else through one or more intermediaries. However, there are clear clusters based on geographical proximity, family ties, friendships, trafficking chains and other related activities”. In the case of THB, clusters are created around recruitment in specific countries, transport to the Netherlands (i.e. ‘distribution’ trafficking) and the prostitution of victims in one or more countries or cities. Victims are bought and sold on, and often recruited and/or put to work in several countries.

Table 6.14 shows the organisational forms as identified from the investigations that have been concluded and ‘referred’.<sup>307</sup>

Table 6.14 Criminal organisations of THB, per annum

Organisational form	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Solo	3	21%	5	31%	4	16%	12	25%	17	32%	41	26%
Isolated group	-	-	3	19%	6	24%	8	17%	18	34%	35	22%
Network	11	79%	8	50%	15	60%	28	58%	18	34%	80	51%
Total	14	100%	16	100%	25	100%	48	100%	53*	100%	156	100%

\* In two investigations, the organisational form could not be ascertained.

The investigations concluded in 2002 concern relatively more isolated groups than in previous years. The number of investigations focusing on solo operators also increased in 2002. However, the number of investigations focusing on (parts of) networks declined in relative terms.

The above concerned an analysis of *investigations* into THB. If one looks at *suspects* in these investigations, 74% of the arrested suspects form part of a network, 16% an isolated group, and 10% are solo operators. Although a greater proportion of suspects form part of criminal networks in all the years under study, suspects in 2002 were more often part of an isolated group than in previous years.<sup>308</sup>

<sup>306</sup> Whereby it should concern two *principal* perpetrators. Where there is a single perpetrator and an assistant with a very marginal role, this is referred to as a solo operator.

<sup>307</sup> This categorisation does not concern the number of *suspects* arrested, but the number of persons *involved*.

<sup>308</sup> 20% (20%), 40% (100%), 75% (100%), 80% (100%), 75% (100%), 70% (2000), 75% (12%), 11% (2001) -- 100%, 25%, 15%

Most (71%) of the solo operators and 31% of the isolated groups are involved in domestic THB. Virtually all criminal networks (99%) are involved in cross-border THB.

### *Division of tasks*

The THB process consists in principle of a number of ‘components’: recruiting, bringing across the border (if relevant) and exploitation of the victims in the sex industry.

#### *The various tasks explained in further detail*

Pimping of victims means the ‘exploitation’ of victims. If a suspect is engaged in pimping, this means that he/she is in charge of exploiting the victim and pockets the ‘profit’ made from the victim, after which any redistribution or payments are made to ‘accomplices’. In (police) practice, these suspects are referred to as the victims’ pimps.

The other tasks are either carried out by the pimps themselves, or by ‘hired’ accomplices. Incidentally, the accomplices are not always paid. Sometimes family members or friends are called upon to ‘do the odd job’. Keeping an eye on victims is felt necessary to prevent them from running away or withholding money. Besides guarding the victim, these people may therefore also have the task of counting the number of clients visiting the victim. Arranging or offering accommodation to victims, for example, involves bringing victims into the brothel where they work. Family and friends are also sometimes asked to take a victim in (temporarily). Collecting and managing the money earned by the victims is usually done by the pimp himself or the ‘surveillant’. Money management also includes buying things for the victims, for example if they are not allowed to go out on to the streets themselves. These are usually day-to-day necessities and things required for work, such as food, work clothes and condoms, but can also be shopping for personal items, such as cigarettes. Incidentally, the above-mentioned tasks are not necessarily all carried out in a THB case.

A separate study<sup>309</sup> analysed the tasks that the arrested suspects of THB carried out. Table 6.15 shows the suspects’ tasks in the selected investigations, divided into cross-border and domestic THB. Since suspects may fulfil several tasks in the THB process, the columns do not add up to 100%.

*Table 6.15 Tasks/roles of suspects, divided into type of THB*

Tasks/roles	Cross-border THB	Domestic THB	Total	
	% <sup>1</sup>	% <sup>2</sup>	N	% <sup>3</sup>
Recruitment	30	88%**	71	39%
Transportation to NL	35	n/a	48	26%
Prostitution	91	96%	169	92%
<i>Pimping</i>	52	69%*	103	56%
<i>Transport to/from workplace</i>	29	36%	56	31%
<i>Supervision</i>	31	31%	57	31%
<i>Financial affairs</i>	29	38%	57	31%
<i>Arranging accommodation</i>	31	33%	58	32%
<i>Violence towards the victim</i>	30	62%**	69	38%
<i>Entering into bogus marriage</i>	3	2%	5	3%

<sup>1</sup> % of the total number of suspects, involved in cross-border THB (N=138).

<sup>2</sup> % of the total number of suspects, involved in domestic THB (N=45).

<sup>3</sup> % of the total number of suspects (N=183).

\* Significant difference between cross-border and domestic THB ( $p < .05$ ).

\*\* Significant difference between cross-border and domestic THB ( $p < .01$ ).

Virtually all arrested suspects are (also) involved in bringing/keeping victims in prostitution in the Netherlands. More than half of these suspects can thus be regarded as pimps.

In addition, more than one-third of the suspects are (also) engaged in recruiting victims. In the case of cross-border THB, the percentage of suspects arrested who (also) recruit victims is 30%.

<sup>309</sup> Extra information has been collected for 61 of the completed investigations concerning the division of tasks. Of these investigations, 17 were completed in 2000 (68% of all investigations completed in that year) and 44 in 2001 (60% of all investigations completed in that year). 60% of the investigations concern cross-border THB and 31%

This indicates that in the case of cross-border THB, recruitment is often not carried out by the pimps themselves, and that these recruiters are not or cannot be tracked down by the police. In addition, more than one-third of the suspects use violence towards the victim; suspects of domestic THB significantly more frequently than suspects of cross-border THB. An explanation for this may be that with cross-border THB there are more opportunities available for non-violent means of coercion against victims than with domestic THB. For example, passports may be confiscated from foreign victims, threats can be made to report the victim to the police (so that she will then be deported), to send the victim back to the country of origin (where she lacks any future prospects), simply dump her on the street (while she cannot speak the language and does not know about (victim support) organisations) or inform family/acquaintances in the country of origin of her activities as a prostitute (in many countries she would be severely condemned for this, even if she had been forced into it).

In Table 6.16 the tasks/roles of the suspects of THB are divided according to gender. Since suspects may carry out several tasks, the columns do not add up to 100%.

Table 6.16 Tasks/roles of suspects, by gender

Tasks/roles	Men	Women		Total
	% <sup>1</sup>	% <sup>2</sup>	N	% <sup>3</sup>
Recruitment	42%	30%	71	39%
Transportation to NL	28%	21%*	48	26%
Prostitution	92%	94%	169	92%
Pimping	63%	36%**	103	56%
Transportation to/from workplace	35%	17%*	56	31%
Supervision	32%	25%	57	31%
Financial affairs	33%	26%	57	31%
Arranging accommodation	34%	26%	58	32%
Violence towards the victim	44%	19%**	69	38%
Entering into bogus marriage	2%	4%	5	3%

<sup>1</sup> of the total number of male suspects (N=136).

<sup>2</sup> of the total number of female suspects (N=47).

<sup>3</sup> of the total number of suspects (N=183).

\* Significant difference between men and women ( $p < .05$ ).

\*\* Significant difference between men and women ( $p < .01$ ).

Of the female suspects, as with the men, most of them are involved in bringing/keeping victims in prostitution. Men, however, are significantly more often the pimps of victims than women. Men also use violence against victims significantly more frequently, although one-fifth of the female suspects are guilty of violence towards victims.

The tasks that foreign-born suspects of THB may have do not differ very significantly from the tasks of Dutch-born suspects. If the results for cross-border THB and domestic THB are examined separately, however, a significant difference does emerge: foreign-born suspects of cross-border THB are significantly more frequently recruiters as well as pimps of victims than Dutch-born suspects. Dutch-born suspects of cross-border THB are more often the ones who bring/keep victims in prostitution in the Netherlands.

## 6.3.4 Victims in investigations

### 6.3.4.1 Reports

Table 6.18 shows the number of victims who reported an offence or made a witness statement in



those whose case was not taken up or completed are not shown here. The information in Table 6.17 is divided by year and type of THB (cross-border and domestic).

Table 6.17 Reports\* made by victims, per annum and type of THB

Year	Cross-border THB		Domestic THB		Total	
	N	Average <sup>310</sup>	N	Average <sup>311</sup>	N	Average <sup>312</sup>
1998	96	8.0	2	1.0	98	7.0
1999	59	5.9	10	1.7	69	4.3
2000	72	4.5	19	2.4	91	3.8
2001	156	4.3	30	2.5	186	3.9
2002	226	5.5	32	2.5	258	4.8
Total	609	5.3	93	2.3	702	4.5

\* And witness statements.

The number of reports and witness statements in successfully completed investigations increased sharply in 2002 after having also risen significantly in 2001. The average number of reports for each investigation also increased in 2002. This number is much higher for cross-border THB than for domestic THB. There may be various underlying causes of the changes in the average number of reports per investigation. It may be, for instance, that the police make more effort within an investigation to obtain more than one report if possible, the police are becoming better at winning the confidence of victims (through experience and training), as a result of which they report the offence more readily, or that investigations with several reports are more likely to be successfully completed.

#### 6.3.4.2 Minors

Table 6.18 contains the number of investigations involving one or more underage victims.<sup>313</sup> This information is also divided according to the year in which the investigations were completed, and by the type of THB.

Table 6.18 Investigations with underage victims, per annum and type of THB

Year	Cross-border THB		Domestic THB		Total	
	N	%*	N	%*	N	%**
1998	4	33%	-	0%	4	29%
1999	5	50%	2	33%	7	44%
2000	8	47%	5	63%	13	52%
2001	11	31%	7	58%	18	38%
2002	11	26%	4	31%	15	27%
Total	39	33%	18	44%	57	36%

\* Percentage of the total number of investigations into the type of THB concerned in the year concerned.

\*\* Percentage of the total number of investigations in the year concerned.

In 2002, underage victims were (also) involved in a quarter of the investigations into THB. This percentage is lower than in previous years.<sup>314</sup> Incidentally, it is not always easy or possible to ascertain the age of victims.

<sup>310</sup> Standard deviation and N 11.43 and 12 (1998); 3.63 and 10 (1999); 4.90 and 16 (2000); 3.79 and 36 (2001); 5.78 and 41 (2002) and 5.30 and 115 (total) respectively.

<sup>311</sup> Standard deviation and N 0.00 and 2 (1998); 0.82 and 6 (1999); 2.50 and 8 (2000); 1.57 and 12 (2001); 2.44 and 13 (2002) and 1.95 and 41 (total) respectively.

<sup>312</sup> Standard deviation and N 10.82 and 14 (1998); 3.55 and 16 (1999); 4.31 and 24 (2000); 3.45 and 48 (2001); 5.32 and 54 (2002) and 5.08 and 156 (total) respectively.

There are indications that some traffickers wait until their (usually Dutch) victims have just turned 18 so that they can set them to work as quickly as possible in the legalised prostitution sector.<sup>315</sup>

### 6.3.4.3 Countries of origin

Table 6.20 shows from which countries the victims who came to the fore in the completed investigations originate. This information therefore says nothing about the *number of victims* who were recruited in these countries. In the table, N concerns the number of investigations, not the number of victims.

Table 6.19 shows only the most frequently occurring countries.<sup>316</sup> An overview of all the countries of origin is contained in Appendix 4 (Table B6.19). Since victims from several countries may be involved in a single investigation, the table does not add up to 100%.

Table 6.19 Country of origin of victims, per annum<sup>317</sup>

Country of origin	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Bulgaria	2	14%	2	13%	-	-	6	13%	20	25%	30	12%
Netherlands	3	21%	6	38%	8	32%	12	25%	16	20%	45	19%
Poland	3	21%	1	6%	3	12%	1	2%	7	9%	15	6%
Russian Fed.	2	14%	-	-	-	-	6	13%	6	8%	16	7%
Nigeria	-	-	1	6%	6	24%	6	13%	3	4%	16	7%
Romania	2	14%	1	6%	2	8%	2	4%	4	5%	11	5%
Moldova	-	-	-	-	-	-	7	15%	3	4%	10	4%
Czech Rep.	4	29%	3	19%	3	12%	2	4%	2	3%	14	6%
Ukraine	1	7%	-	-	2	8%	6	13%	2	3%	11	5%

Bulgaria is the country that appears most frequently in investigations successfully completed in 2002. The number of investigations whereby recruitment (also) took place in Bulgaria rose sharply compared to previous years. The Netherlands is in second place. In 2001, victims from Moldova were involved in a relatively high number of investigations. In 2002, however, this number declined again. The fall in the number of investigations involving victims from Nigeria continued: in 2002, only 4% of the investigations involved Nigeria as a country of origin.

Victims are often recruited from a number of countries in the same region. For this reason, Table 6.20 categorises the victims' countries of origin into regions of origin. Since recruiting activity is particularly prevalent in Central and Eastern Europe, this region has been divided into Central Europe (Poland, the Czech Republic, Slovakia and Hungary), Eastern Europe (Russian Federation, Ukraine, Moldova, Belarus, Azerbaijan), the Baltic States (Estonia, Latvia, Lithuania) and the Balkans (countries from former Yugoslavia,<sup>318</sup> Romania, Bulgaria, Albania). Since traffickers may recruit or organise recruiting in several areas, the table does not add up to 100%. Here too, N refers to the number of investigations and not the number of victims.

<sup>314</sup> Percentage of investigations involving minors each year: 29% (1998), 44% (1999), 52% (2000), 38% (2001) and 25% (2002). A question into the *number of underage victims* that were involved is included in the questionnaire for 2003.

<sup>315</sup> This is also derived from the fact that during inspections in the legalised prostitution sector, more 'just-18' girls are found (source: PPM/dNP). In a number of investigations, perpetrators also stated this during the interviews.

<sup>316</sup> i.e. countries that are identified as countries of origin in ten or more investigations.

<sup>317</sup> Total number of investigations per annum: 14 (1998), 16 (1999), 25 (2000), 48 (2001), 55 (2002) and 158 (total)

Table 6.20 Regions of origin of victims, per annum<sup>319</sup>

Regions of origin	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Western Europe*	-	-	-	-	-	-	1	2%	1	2%	2	1%
Central Europe	7	50%	4	25%	7	28%	9	19%	10	18%	37	23%
Eastern Europe	3	21%	-	-	3	12%	13	27%	13	24%	32	20%
Baltic States	-	-	-	-	4	16%	8	17%	6	11%	18	11%
Balkans	4	29%	3	19%	3	12%	8	17%	25	46%	43	27%
Africa	2	14%	2	13%	7	28%	7	15%	3	6%	21	13%
Latin America**	1	7%	2	13%	-	-	1	2%	0	0%	4	3%
Asia	-	-	-	-	2	8%	2	4%	1	2%	5	3%

\* Netherlands not included.

\*\* Including the Caribbean.

In 2002 the number of investigations involving victims from the Balkans rose. The percentage of investigations where victims were recruited from Africa declined further in relative terms.

#### *Countries of origin without visa requirement*

It was studied to what extent foreign victims come from countries with or without a visa requirement, taking the visa status of the countries of origin as it applied at the start of the investigation. The result is shown in Table 6.21, making a distinction between investigations whereby victims are recruited in countries with a visa requirement, without a visa requirement or both. The information is also shown year by year.

Table 6.21 Countries of origin, with and without visa requirement, per annum<sup>320</sup>

Countries of origin	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Without visa requirement	5	42%	3	30%	3	18%	6	17%	23	55%	40	34%
With visa requirement	4	33%	4	40%	6	35%	14	39%	10	24%	38	33%
With and without visa requirement	3	25%	3	30%	8	47%	16	44%	9	21%	39	33%
Total	12	100%	10	100%	17	100%	36	100%	42	100%	117	100%

In 2002, foreign victims came relatively more frequently from countries without a visa requirement than in previous years. This increase may mean that it is more attractive for traffickers to recruit victims in countries without a visa requirement, but other factors too such as existing connections and 'push and pull factors'<sup>NRM1</sup> may play a role in deciding where to recruit victims.

### 6.3.5 Investigation methods and process

#### *Investigation methods used in THB cases*

For 2002, the respondents in the BNRM police study were asked which investigation methods were used in investigations into THB. The result is shown in Table 6.22. They were also asked whether any financial investigations were carried out. The results concerning financial investigations are discussed, however, in Section 6.3.6, which deals with all kinds of financial aspects of investigations into THB.

Table 6.22 Investigation methods used (2002)

<sup>319</sup> Total number of investigations per column: see table 6.1.

<sup>320</sup> Only the investigations are included in this table where victims were recruited abroad (40). The total number

Investigation methods	2002	
	N	%
Observation	30	55%
Telephone tapping	28	51%
Requests for international legal assistance	13	24%
Intercepting mail	4	7%
Informants, infiltration	2	4%
Other	7	13%

In more than half of the investigations, the suspects are observed and in about half the telephone conversations of suspects are tapped. Telephone tapping in investigations into cross-border THB is not always easy, because usually (several) foreign languages are spoken, which means that (several) interpreters are needed.

A request for international legal assistance is made to another country in a quarter of investigations. Other investigation methods are used less frequently.

#### *Intelligence Led Investigation*

Intelligence Led Investigation (*Informatie Gestuurde Opsporing* - IGO) is a 'management' concept for the investigation process, through which better investigation results can be achieved. The essence of the concept is a strong link between the information process and the investigation process. For example, in the IGO system, information available to the police is presented, analysed, used and exchanged in a systematic and uniform way. Based on this (refined) information, it becomes possible to make clear and targeted choices in the investigation, such as identifying problems, prioritising, allocating manpower and resources and coordinating processes – leading to the best possible result. Investigations also involve the effective use of information, and 'residual information' is systematically filed, allowing it to be used for other investigations.

An argument in favour of more IGO in tackling THB is that many victims of THB initially do not want or have the courage to report the crime. Nevertheless, in these cases it may be worth considering starting up an investigation and collecting (incriminating) information on suspects in other ways. This information may lead, whether or not supplemented by a report or witness statement, to prosecution.

#### *Facilitating and hampering factors in the investigation process*

The respondents in the BNRM police study were asked about factors that facilitated or hampered the investigation process. Responses showed that starting a case, even with a report and/or a sufficient clue for investigation, is difficult in some regions: "the investigation is often too big for one department, there is a lack of knowledge about the phenomenon, they are labour-intensive cases, the priority often rests elsewhere, there is a lack of expertise," were the reasons summed up by one of the persons interviewed. Others said: "Although the government would appear to place priority on THB, this is not always the case with the police". 'A closer inspection of the chain' (*De keten op de keper beschouwd* - LP PPS, 2002) states in respect of THB that the police are not always very good at assessing what is voluntary and what is not. Another factor, according to the *Aanwijzing bejegening slachtoffers van zedenmisdriven* of the Board of Procurators General, is that the police should use certified vice detectives when interviewing victims, but such detectives are not always available.

A problem often raised is the reluctance of victims to report the offence.

#### *Willingness to report an offence*

It is a known fact that victims of THB are reluctant to report the offence, whereas this is considered crucially important in investigating and prosecuting perpetrators. Differences are observed according to country of origin: willingness among women from Eastern Europe is greater than among victims from Africa, for example.

Many victims are said not to report the offence because they are afraid of the perpetrators but also of deportation, or do not regard themselves as victims. Once a single victim does report the offence, according to the police more usually follow if there are several victims in the case. One person interviewed also said that the willingness of victims to report the offence rises if the ‘pimp’ has been caught.

The police believe it can contribute to increasing the victims’ willingness to report an offence. More time taken to win the trust of the victim can bear fruit, but the pressure of work with the police is always considered to be very high and this time is usually lacking. Incidentally, investigations can be brought to a successful conclusion even without reports, for example by using other investigative methods such as tapping telephone conversations (see also the part on IGO earlier in this section).

Furthermore, it is difficult to find shelter for victims (also mentioned in Hopkins & Nijboer) and a few police officers are critical of the B-9 regulation: “The B-9 regulation offers the victim nothing. For instance, victims stay for two years in the Netherlands for the court proceedings, but afterwards they have to get out. That is simply ‘not done’”. It is known that in one case a police officer advised a victim against making a statement, for fear of the lack of safety and/or protection that can ultimately be given to a victim (after returning to the country of origin). Interpreters are also considered crucially important in dealing with victims. One interviewee says that an available list of good interpreters (with experience in this area) can have a positive effect. This could be important, in any case, for interpreters from certain population groups. It is said, for example: “Many Nigerian interpreters gave up working in this investigation because it got too close to them. The Nigerian community is small, and the interpreters move, as it were, in the same circles as the suspects.” Van Dijk (2002) observed that police officers hired interpreters who appeared as suspects in other investigations.

A case can come to a halt for all kinds of reasons. A victim withdraws her report for reasons such as pressure from the suspect(s), or disappears (from a reception facility). In addition, it is difficult to establish the identity of the perpetrators in cross-border THB. Ascertaining the age of victims can also sometimes produce difficulties.

Two additional problem areas: the Netherlands does not have a uniform prostitution policy (as regards licensing, inspections and attention to the phenomenon, for example) and the ban on tolerating the transit of persons – as a result of which the police are forced to act immediately once a victim of THB has been discovered – is perceived to be a problem.

#### *Cooperation with the Public Prosecution Service*

The police team leaders were asked to assess the cooperation with the PPS. Virtually all those interviewed were positive about this, whereby one should remember, however, that a selection was made for the BNRM police study of ‘successfully’ completed investigations (i.e. those referred to the PPS). Investigations where cooperation is not so good will more readily lead to an investigation being broken off or not started up at all.

Cooperation would appear to be better when a ‘permanent’ Public Prosecutor deals with the case. Personnel turnover at the PPS had a counterproductive effect in a number of cases. A hampering factor in some cases is a lack of knowledge among Public Prosecutors and the judges. As a result, a sentence may be demanded and/or imposed that police feel is too lenient.

#### *Cooperation with foreign countries*

In 15 investigations, contact was sought with foreign police organisations. This was usually to ask for information, such as through requests for international legal assistance. Names of suspects were also passed on, to enable them to be investigated and prosecuted.

In ten cases, contact was made with police authorities in countries in Central and Eastern Europe. In five of these cases, cooperation with these countries was perceived as positive, and in five cases as negative. In the case of the negative experiences, the unanimous view was that the information requested was not received, or received too late. The reaction to cooperation with

countries in the EU was generally positive (in five cases). In two cases cooperation was initiated with Nigeria and Brazil respectively, and in both cases this cooperation was unsatisfactory. Cooperation with foreign investigative authorities was evaluated in other studies too (Hopkins & Nijboer; Van Dijk, 2002; LP PPS, 2002). These showed that the success of cooperation depends on the value that authorities in other countries attach to the investigation. The police elsewhere are not always reliable (e.g. the police officers are underpaid and corrupt). Cultural differences too may hamper communication and cooperation. For example, in some countries the subject of prostitution is a sensitive one. Differences in religious convictions, the position of women in society and the level of poverty may also have a negative effect on communication and cooperation.

### 6.3.6 Financial aspects

#### *Financial criminal investigations*

In her First Report, the NRM argued for financial investigations to be initiated at an early stage in THB investigations. PPM/dNP endorses this in its response to this report (PPM/dNP, 2003): criminals must be discouraged from committing the crime, and it also provides valuable insights from an investigative point of view.

Financial investigations entail specific attention to (identifying) profits obtained through crime and the way in which these can be confiscated. This implies the use of financial and administrative tools and assessing information from a financial/technical point of view.

Interest in confiscating the profits of crime has increased sharply in the last few decades.

Financial investigations, however, are still regarded too often as a by-product in tactical investigations (Faber & Van Nunen, 2002; Meloen et al, 2003; Speyers in *Recherchemagazine*, July 2003). Because of the inadequate use of financial knowledge, particularly in the initial phase of the investigation, much financial information is lost and less becomes known about the financial situation of the suspects, as a result of which less can ultimately be confiscated. It would be better to include financial investigation as an integral part of large-scale investigations when preparing the project. Incidentally, it may be worth finding out whether the suspects under investigation also appear in the MOT file (file held by the *Meldpunt Ongebruikelijke Transacties* - Centre for Reporting Unusual Transactions).<sup>321</sup>

#### *Encouraging financial investigations*

According to Faber and Van Nunen (2002), all kinds of reservations, preconceptions and disadvantages are attached to financial investigations: it is not given priority, there is a high risk of failure, nothing is actually confiscated, it takes a lot of time, it is not exciting, you can easily forget about it, etc. The important thing is to achieve a change of culture in the police organisation. This can be brought about by:

- demonstrating and sharing successes;
- providing a simple course on financial investigation for the police;
- limiting the financial expertise of the police and making much use of special investigation services such as the FIOD and the SIOD;
- having helpdesks and expertise centres on financial investigation provide active support in current investigations (instead of waiting until (police) workers themselves request help).

Based on financial research, it may be decided during or after an investigation to calculate the illegal benefit obtained by the perpetrators and make an attempt to confiscate this. In order to do so, first a Criminal Financial Investigation (CFI) is carried out on the basis of Article 36e of the Criminal Code. Table 6.23 shows how often financial investigations are carried out in the investigations into THB that were studied, how often a CFI was opened and how often this leads – as far as is (already) known by the police – to confiscation proceedings. Information concerning financial investigations was collected from 2002 onwards, and concerning confiscation proceedings

<sup>321</sup> This can also produce information apart from financial information. For example, relationships between persons

since 2000. In a number of cases it was still being considered whether or not to open a CFI and/or initiate confiscation proceedings. These cases have not been included in Table 6.23.

Table 6.23 *Financial investigation and confiscation, per annum*<sup>322</sup>

Year	Financial investigation		Criminal financial investigation		Confiscation proceedings	
	N	%	N	%**	N	%***
1998	x*	x	4	31%	x	x
1999	x	x	4	31%	x	x
2000	x	x	8	32%	5	63%
2001	x	x	15	32%	14	93%
2002	23	43%	16	30%	9	56%
Total	23	43%	47	31%	28	60%

\* x = non applicable.

\*\* Percentage of the total number of investigations in the year concerned, for which this is known.

\*\*\* Percentage of the number of CFIs in the year concerned.

In 2002, a financial investigation was carried out in more than 40% of the investigations into THB, and a CFI was opened in almost one-third of the investigations. This latter percentage has remained very constant since 1998. The percentage of investigations whereby the CFI results in the calculation of illegally obtained benefit and – in so far as (already) known to the police – confiscation proceedings, is significantly higher in 2001 than in the years 2000 and 2002. Many investigations since 2002, however, have stated that this information is unknown, because the investigation is being carried out by another department (e.g. a Financial Support Bureau (*Bureau Financiële Ondersteuning* - BFO)). It is possible, with the increasing attention being given to financial investigation and setting up specialised departments and bureaus for this purpose, that the results are not entirely comparable from year to year. In 2002 too, as far as is known more than half of the CFIs still result in confiscation proceedings.

If financial investigations were not carried out, this was usually because the (estimated) return was too low to invest in them, for example, because a victim had only worked for a short time in prostitution, or perhaps not at all yet. Other investigations mention that there is nothing to recover from the suspects. In one investigation, for example, it was stated that money earned was spent straight away (on luxury goods, expensive clothing and drugs), and in two other cases that the money earned had already been diverted. According to one interviewee, the problem is that when it cannot be demonstrated that the perpetrator possesses money, the financial investigation simply fizzles out.

Another reason given is that because of the hectic nature of the investigation, a financial investigation never got going, or that the investigation was ‘short and sharp’ or it was not the primary object of the investigation. Reasons that were mentioned in other investigations (Meloan et al, 2003; Faber & Van Nunen, 2002), but not in this report, have to do with a low priority, a negative costs/benefits analysis and a lack of knowledge.

In situations where a financial investigation was indeed carried out but did not lead to a CFI, the reasons for this were examined. Here too, one reason that was usually given was that too little is earned by the suspects and/or the earnings cannot be traced.

#### *Illegally obtained benefit*

The illegally obtained benefit for the 13 suspects in 2002 for whom this has been calculated and is known amounts to a total of almost €1,500,000. This averages at about €115,000 per suspect in this year. The average illegally obtained benefit per suspect varies from year to year, amounting to €166,688 in 1998, €79,545 in 1999, €104,953 in 2000, €210,999 in 2001 and €115,384 in

2002.<sup>323</sup> A study into the proceeds of crime (Meloan et al, 2003, see box) showed that the ‘illegally obtained benefit investigated’ is reduced by the courts to half, and on appeal to 40%.

*Illegally obtained benefit progressively lowered in various phases of the legal process*

In the study by Meloan et al (2003) – in which 52 cases running into millions were studied – all kinds of reasons are mentioned that cause the illegally obtained benefit estimated in the investigation process to be set progressively lower in the various phases of the legal process. For example: insufficient legitimate evidence, the suspect only received part of the proceeds, the suspect was only one of the perpetrators or the suspect was merely a subordinate in the organisation. Sometimes the illegally obtained benefit is not set lower, but the *confiscation* is set lower, for example because of the lack of financial means on the part of the suspect. Furthermore, an additional factor mentioned is the lack of insufficient financial expertise that still exists among those in the investigation services involved, at the PPS and the judiciary, as a result of which some of the illegally obtained benefits can be lost for a variety of reasons.

*Criminal flows of money*

The second WODC monitor carried out by Kleemans et al into organised crime endeavoured to gain an insight into criminal flows of money. Profits of crime appear to be frequently moved, particularly to countries where they can be used freely or with a strong code of bank secrecy. In the THB cases studied, money transfers are used above all. Such money movements make it much more difficult to track down criminal money. Nevertheless, the possibilities for tracking down the money are often greater than assumed, according to the researchers, because clues are indeed left behind.

*Victims' claims for compensation*

It was studied whether victims made an attempt to recover (some of) the money they earned through civil proceedings or a ‘joinder by the injured party for material and immaterial damage’<sup>324</sup> or to obtain compensation for damage (actually) incurred. This was shown to be the case – as far as is known – in 19 cases (18%). Of these, ten cases were closed in 2001 and four in 2002.<sup>325</sup>

## **6.4 International (policy) developments relating to investigation of THB**

THB is high on the agenda at an international level. As far as investigating THB in the Netherlands is concerned, since the publication of the First Report by the NRM there have been two international developments of particular importance: firstly the enlargement of the EU, and secondly the (desire for an) intensification of international police cooperation.

### **6.4.1 Enlargement of the European Union**

On 1 May 2004, ten new countries acceded to the EU: Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Cyprus, Slovenia and Malta. Romania and Bulgaria are expected to join the EU in the year 2007. For all these countries – in anticipation of their accession to the EU – the visa requirement has already been abolished during the past few years. Citizens of these countries could therefore already travel and remain in the Schengen area, which includes the Netherlands, for three months. Working in this area, however, was only permitted under certain conditions. Since the accession of these countries, this has now been (partially) ~~Manged~~ the acceding countries emerge in various studies as countries of origin of victims of THB. The police are therefore concerned about EU enlargement, because of the possible arrival in the Netherlands of criminals in general and traffickers in human beings in particular. The ex-

<sup>323</sup> Standard deviation and N  $\text{€}110,011.44$  and 3 (1998);  $\text{€}70,239.93$  and 4 (1999);  $\text{€}93,484.90$  and 7 (2000);  $\text{€}230,147.07$  and 15 (2001);  $\text{€}143,316.03$  and 13 (2002) and  $\text{€}161,420.08$  and 42 (total).

<sup>324</sup> *Compensation for damage in the criminal proceedings (Article 51a of the Criminal Code)*



tent to which changes can be expected, however, depends partly on the opportunity available for a citizen of these countries to come and work in the EU. Because this is only possible under certain conditions for the citizens of eight of the ten countries,<sup>326</sup> in principle not much will change. If the accession of the eight countries also means freedom of movement of labour, an increase in the number of prostitutes from these countries in the EU can be expected. Whether or not the number of victims of THB will increase as a result too, is however still open to question. In theory, the number of victims of THB could decline because prostitutes would be able to work here legally and could therefore also be able to go to the police if they were exploited, without the fear of deportation and losing their source of income. On the other hand, there remain enough means by which victims can be forced to work in prostitution and/or hand over a disproportionate amount of their earnings. After all, these means, such as (threatening with) violence or ‘lover boy’ techniques, are used already with Dutch victims. PPM/dNP has already stated that in that case, when inspections are made in the prostitution sector, officers must be more alert to other signs and indications of THB because victims can no longer be traced based on illegality. For example, more could be invested in developing contacts with foreign prostitutes, so that victims themselves will have the courage to come forward and will know where they can go for help. The PPM/dNP too is examining the role that prostitutes’ clients could play in identifying victims.

#### **6.4.2 International police cooperation**

International police cooperation can take different forms. The most basic form is international cooperation whereby requests for certain investigative actions are made through requests for international legal assistance and/or rogatory letters. A more intensive form is parallel investigation: investigations into the same phenomenon in various countries simultaneously (e.g. within the context of a European summit, sports events or the introduction of the euro) according to the individual country’s own investigative aims, whereby police information is exchanged or help is requested and given in a more direct and intensive way. The most intensive form, and one that is relatively new, is to carry out an investigation with a Joint Investigation Team (JIT).

##### *International legal assistance in criminal cases*

The Security Programme states that the aim is to achieve prompt and thorough responses to international requests for legal assistance. By developing International Coordination Centres (ICC) and introducing LURIS (*Landelijk Uniform Registratiesysteem van Internationale rechtshulpverzoeken* - National Uniform Registration System of International Legal Assistance Applications), the aim is to improve substantially the implementation of international legal assistance by the police and the PPS. The most important tasks of the ICCs are to register the requests, coordinate implementation and monitor the quality of the response. Furthermore, (information on) all incoming and outgoing police and judicial requests for international legal assistance must be registered through the ICCs in LURIS.

Furthermore, the exchange of information with Europol will become ever more important in the coming years, and will be increasingly of a compulsory character.

##### *Joint Investigation Teams*

THB in Europe often involves a cross-border component. This fact reinforces the call for an international approach to THB, that is to say more cooperation between countries in tracking down the perpetrators. In a European context, this has led to such developments as the decision to set up JITs.

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<sup>326</sup> The two countries for which free movement of labour is permitted (Malta and Cyprus) are not normally countries

In principle, a JIT involves a single investigation team under a single management, a common purpose and approach to the investigation decided on jointly, joint intelligence (instead of international legal assistance) and joint operations. However, an unambiguous definition of a JIT is still lacking and more than one interpretation is possible. Discussions are also underway regarding the (pre) conditions within which and the way in which JITs must and can operate.<sup>327</sup>

The first JIT in which the Netherlands participates – and also leads, together with the United Kingdom – focuses on THB from Bulgaria. Participating countries, in addition to the Netherlands and the United Kingdom, are Belgium and Germany. Europol and Eurojust are also taking part. The choice for the crime of THB is partly prompted by the fact that THB is one of the three areas mentioned by the European Commission that lends itself to a JIT, plus the fact that three of the five participating countries regard THB from Bulgaria as a problem. The purpose of the JIT is twofold: as well as the results of the investigation, the effects of the learning experiences are also important for future JITs to be set up. Incidentally, much can be learnt from other forms of international cooperation. In such joint ventures, it is above all the differences in criminal law and investigative powers between the countries that produce complications.

The success of JIT will be partly determined by the willingness of the police in the countries concerned to make the necessary capacity available.

### **6.4.3 Organisations focused on international police cooperation**

Institutions within which international police cooperation is also taking shape are the Cross Channel Intelligence Conference, the Task Force of European Chiefs of Police, Europol, Interpol and the Netherlands Centre for International Police Cooperation.

#### *Cross Channel Intelligence Conference*

The *Cross Channel Intelligence Conference* (CCIC) is a cross-border police network of cities/regions in countries bordering the (English) Channel, namely Ghent, Bruges (Belgium), Kent, Southampton, Suffolk, Sussex (United Kingdom), Calais, Lille (France) and Rotterdam-Rijnmond and Zeeland (the Netherlands). The aim of this network is to combat cross-border crime. THB is one of the subjects that come up regularly on the CCIC's agenda. Special working groups have been set up for each theme, including a working group on THB. The chairman of this working group presented an exploratory study in mid 2003, comparing the way in which prostitution and THB is tackled in Rotterdam, Zeeland, Bruges, Lille and Southampton. Next year the CCIC will focus more on migration crime (human smuggling) and the 'facilitators' who supply fake or forged identity documents for this purpose.

#### *Task Force of European Chiefs of Police*

The purpose of the Task Force is to exchange, in cooperation with Europol, good practices and information on recent developments in transnational crime and thus contribute to the planning of operational actions. The idea is that personal, informal contacts can be developed in this way between the Chiefs of Police, facilitating cooperation and interaction. The Task Force's main focus of attention also covers the subject of THB.

#### *Action plans on THB*

At the request of the Task Force, Europol drew up the *Strategy to Prevent and Combat Illegal Immigration and Trafficking of Human Beings into the European Union*<sup>328</sup> and the *Generic Action Plan to Combat Trafficking in Hu-*

<sup>327</sup> This is also developed further in the 'Council framework on JIT'. Europol too has drawn up a model accord for setting up a JIT, which includes (organisational) conditions (Council of the EU, CRIMORG 112, Brussels, 20 December 2002). An important issue, for example, is that JITs must abide by the national legislation of the countries

*man Beings*, followed by the *Specific Action Plan to Combat THB*. The purpose of the latter plan was to tackle a concrete THB problem in a specific country. The plan encompasses the development of anti-THB activities in respect of Bulgaria, and is being carried out by Belgium, Germany and the Netherlands.

### *Europol*

*Europol* assists the member states in the exchange, analysis and processing of information on crime and provides expertise and technical support, also in the area of THB. Until 1 January 2002 this concerned merely exploitation in sexual services and trafficking in human organs and tissues, and not other forms of exploitation. This distinction is now no longer made. *Europol* drew up action plans and publishes each year a *Crime Assessment - Trafficking of Human Beings Into the European Union*.

### *Interpol*

The purpose of *Interpol*<sup>329</sup> is to enhance transnational police cooperation by offering specific services to the law enforcers in its 181 member states. These services include providing relevant, timely and complete information, facilitating international cooperation, coordinating joint operational activities and making available knowledge, expertise and best practices. In this way, *Interpol* aims to optimise the efforts to tackle international crime. THB is one of *Interpol*'s top priorities.<sup>330</sup> Its purpose in this area is to provide its member states with a better insight into the relationship between organised criminal groups and THB. It does this by collecting information on criminal groups involved in THB, their members, their working methods and the providers of fake and/or forged documents. This includes information on the activities of organised criminal groups and smuggled persons after the smuggling process has taken place, such as forced labour, organised begging, pick-pocketing and prostitution.<sup>331</sup> This shows that the subject of THB is being tackled from many angles. *Interpol* emphasises in a variety of publications the distinction between THB and human smuggling.

As far as tackling trafficking in women for sexual exploitation is concerned, *Interpol* set up the *Working group on trafficking in women for sexual exploitation* in 2000.<sup>332</sup> This working group developed the *Manual for investigators*, which describes the best practices in tackling trafficking in women for law enforcers and covers the entire spectrum of pursuing a case of trafficking in women (including financial investigation, investigation with a report to the police and investigation without such a report).

### *Netherlands Centre for International Police Cooperation*

The Netherlands Centre for International Police Cooperation (*Nederlands Centrum voor Internationale Politiesamenwerking* - NCIPS) is a joint venture between the Ministry of the Interior, the Ministry of Justice and the joint police organisations, and forms part of the Netherlands Police Institute. The NCIPS identifies where there is a need for cooperation, draws attention to developments, advises policymakers and manages the budgets made available for this purpose.<sup>333</sup> NCIPS is also responsible for implementing the Phare programme, whereby knowledge and experience in specific areas is passed on from the EU to the countries acceding to the EU. Within this framework, expertise on THB is also exchanged with the Czech Republic and Slovakia.<sup>334</sup>

## **6.5 Points of attention and problem areas**

<sup>329</sup> The official name of the organisation is ICPO-Interpol, where ICPO stands for *International Criminal Police Organization*.

<sup>330</sup> Stated in *Children and Human Trafficking* on [www.interpol.int](http://www.interpol.int).

<sup>331</sup> International Centre for Migration Policy Development (1999), pages 10-11.

<sup>332</sup> This working group has 68 members from 38 countries.

<sup>333</sup> NCIPS is a joint venture between the Ministry of Justice and the Ministry of the Interior.

### *Policy and organisation*

- In some police regions, THB has more priority ‘on paper’ than in practice.
- The police have too little capacity for tackling THB. This leads to cases not being taken up and other cases being shelved, but also to a less pro-active or intelligence-led investigation and fewer investigations focused on the non-legalised prostitution sector. There are signs that in some police regions a volume policy is pursued (establishing a maximum number of investigations into THB), and victims who want to report an offence are sent away and asked to come back at a quieter time, fewer inspections are carried out in the non-regulated or difficult-to-control prostitution sectors and police capacity is only used in THB cases if a victim comes by herself to report the offence.
- Illegal immigration, human smuggling and THB are often grouped together under the same heading. This suggests that THB could be tackled with the same tools that are used against illegal immigration and human smuggling. However, this is only partly true: many victims of THB arrive legally in the country of destination and/or remain there legally. Furthermore, this view completely ignores the phenomenon of domestic THB.

### *Investigation and prosecution*

- The police focus above all on investigating and prosecuting perpetrators and too little on financial investigation and confiscation. If a financial process is started up, this is often too late (financial profits have already been diverted elsewhere and can no longer be traced). More illegally obtained benefits could probably be confiscated.
- Investigations into THB focus too little on the ‘facilitators’, such as persons who are involved in identity fraud and persons involved in diverting and/or laundering money earned through THB.
- Too little ‘use’ is made of prostitutes’ clients in investigating THB, whereas they could certainly play a role here. For example, clients could be the ‘eyes and ears’ in identifying THB and report signs of THB, anonymously if necessary, to *Bel M*.
- The ban on tolerating the transit of persons, i.e. where THB is suspected this may never be tolerated in the sense of allowing the crime to continue temporarily, leads in some cases to early or even premature action, as a result of which broader investigations into organisers, leaders and underlying working methods can be frustrated. Important (possible) suspects can escape arrest in this way.
- Victims in prostitution use very good fake or forged documents.
- It is important for the investigation to encompass all those involved in the THB and not – for practical reasons, for instance – just some of them (such as perpetrators who remain in the Netherlands).
- Traffickers in human beings seek and find new opportunities to bring victims into prostitution, such as massage salons, partner clubs and Turkish coffee houses. Intensive investigation of known and new establishments in the ‘secret prostitution circuit’ could bring these variants to light.

### *Perpetrators and victims*

- It is not always easy to persuade victims of THB to report the offence or make a statement, and it usually takes a relatively long time. Looking for shelter for victims who make a report or are thinking about doing so is also a job regularly carried out by the police out of necessity, which also uses up much capacity. This makes starting up a THB investigation not always a very attractive option.
- The police do not always offer victims the option of the B-9 regulation or a reflection period within it, even in cases where this is compulsory and the victims are entitled to it.

- Victims disappear from reception facilities after they have been brought there by the police, as a result of which they are no longer available as witnesses for the police and/or the judiciary.
- Victims prefer to make a witness statement rather than report an offence. In principle a statement will suffice, however the PPS sometimes only starts up an investigation if a report has been made.
- Victims are increasingly recruited in countries without a visa requirement. Although victims from these countries may be permitted to remain in the Netherlands legally for several months, if they start work (in prostitution) they become illegal. A positive result is not expected from merely deporting these prostitutes, because their traffickers return straight away with the same or new victims.
- Pimps adopt the 'lover boy' technique to bring victims into prostitution and keep them there. Traffickers in foreign women also increasingly use this technique. This complicates the investigation process, because the women recruited in this way are often reluctant to report the offence.
- Victims in reception facilities are still regularly approached (or 'beleaguered') by their traffickers/pimps. Sometimes they themselves contact their traffickers/pimps. In the latter case, they are often in love with the suspects or their trust in them is misplaced.
- Sometimes lawyers play a dubious role towards foreign prostitutes and victims of THB.
- There are signs that traffickers who exploit girls of Dutch nationality wait until their victims have just turned eighteen years old, to put them to work as quickly as possible in the legalised prostitution sector.

### *Cooperation*

- The role of and/or cooperation with GG&GD, the social services and other victim support organisations deserves some attention. The police are of the opinion that these organisations could cooperate more with the police and report more cases to them. A procedure could be sought which would facilitate this without affecting the accessibility of these organisations to their clients group and the confidential relationship that workers have or should have with them.
- There are problems with international police cooperation. There are various causes, such as differences in legislation and regulations, priorities, reliability and culture. At present international cooperation has priority 'on paper'. The success of international cooperation, however, is also determined by the motivation of individual countries to give genuine priority to this phenomenon and make the necessary capacity available to tackle it.

## 7 The Public Prosecution Service and prosecution

### 7.1 Introduction

The Public Prosecution Service (PPS) has stated that THB will be a priority in the years to come, as it has been in previous years. How this will take shape in practice and what developments have occurred in prosecuting THB are the central themes in this chapter.

### 7.2 Policy developments

This paragraph sets out the general frameworks of PPS policy in relation to THB. In addition, the structuring of the subject within the PPS will be discussed in further detail.

#### 7.2.1 A survey of policy and strategic approach

Since October 2001, tackling THB has been coordinated within the PPS at a national level. This is done through the National Public Prosecutor for human smuggling, THB and child pornography.<sup>335</sup> Two documents were published in 2002 under his auspices, analysing the way THB is tackled by partners in the judicial chain, and describing the (proposed) method of tackling the phenomenon within the PPS.

##### *Survey*

In order to achieve as accurate a picture as possible of the way in which the regional police, the KMar and the PPS are structured in order to tackle the crimes of human smuggling and THB, the National Public Prosecutor for THB carried out a survey among these organisations, the results of which were set out in the report *De keten op de keper beschouwd* (A closer inspection of the chain).

The report states that the Board of Procurators General should ensure that all district offices of the PPS give priority to tackling THB, and that the necessary capacity be made available for this purpose. This requires measurable objectives to be formulated and investigations to be evaluated in order to create greater insight into the problem. In this context, crime projection analyses are mentioned as indispensable tools for more effective crime management. In addition, relevant (policy) documents should be brought up to date, and knowledge and information be widely available. Finally, international cooperation must be structured further in order to improve investigation. This concerns both operational cooperation as well as the exchange of information through organisations such as Europol and Interpol.

##### *Strategic approach*

The Strategic Memorandum on Human Smuggling and Trafficking in Human Beings (*Strategienota mensensmokkel en mensenhandel*) (PPS/LP, 2002b) followed the above report. This memorandum was intended to develop the solutions to the problem areas identified earlier.

##### *Needs and problem areas in the Strategic Memorandum*

The analysis in the memorandum produces the following picture. Within the PPS there is no national consultative body which can develop and give shape to the investigation and prosecution of THB. Besides the existing, more policy-oriented consultation with the district contact prosecutors on THB, such a more operationally-focused consultation should be started up by the National PPS. It is noted that the National Office of the PPS has a special task in

<sup>335</sup> For the sake of clarity, this public prosecutor who was succeeded in 2002 by a non-official who no longer has

initiating more cooperation with international partners, including the structural exchange of information with Europol and Eurojust, cooperation with individual Public Prosecutors in various countries and the creation of JITs. As regards knowledge and the exchange of information, knowledge on the subject of THB within the PPS is said to be generally limited. For this reason, the transfer of knowledge must be properly structured, crime projection analyses must be used more often and information must be registered in a uniform way, in order to create a national overview of the situation with regard to THB. In addition, there is a need for a knowledge centre where information can be collected centrally on the approach, best practices and developments in legislation and regulations. International expertise can also be brought together here. Finally, attention must be given to processing cases that contain clues for investigation and (operational) information from the various services. In the approach to and management of THB cases, priority to these cases that has only been given lip service so far must actually be realised, whereby the efforts must focus above all on tackling cross-border THB under the auspices of the National Office of the PPS. The National Public Prosecutor will then need to be given authority to prioritise the investigations into cross-border THB and the use of investigative capacity required for it. Furthermore, a combination of the human smuggling and THB tasks of the district Public Prosecution Services is proposed, with a clustering of district Public Prosecution Services for reasons of efficiency. In this way, PPS officials will be more recognisable in this approach and will manage the entire aliens chain. Problems in legislation and regulations, including those relating to the ban on tolerating the transit of persons, must be tackled and the effects of EU enlargement must be anticipated. All this will ultimately have consequences for capacity. Developments such as the broadening of the definition of THB and the necessary extra attention to be given to financial investigations also place an extra burden on capacity. The PPS will have to consider this further.

Based on the above analysis, it is concluded that the PPS must strengthen the way THB is tackled. The choice here is to link the subjects of human smuggling and THB together under the heading of migration crime.<sup>336</sup> From this perspective, according to the National Public Prosecutor, the National Office of the PPS must work on setting up a national operational consultative body on migration crime, forming an expertise centre on migration crime and setting up a national organisation for migration crime, where operational tasks will be integrated with policy, expertise and strategic tasks. In line with these plans, migration crime coordinators must be appointed at district level, working for a number of local PPS offices (clustering).

### 7.2.2 The general policy framework; Long-term plan and Annual Plan

In addition to the above-described specific initiatives in tackling THB, the PPS is working on general policy frameworks and intentions.

In the PPS Annual Plan 2003, the PPS conforms to the safety policy launched by the government. This policy, which has been laid down in the 'Security Programme', aims to improve the way in which the prevailing perception of a lack of security in society is tackled, placing prime importance on strengthening the investigation and enforcement of crime that is visible to the public in public spaces. THB is not something that falls immediately into this category. However, the Minister of Justice stated once again in no uncertain terms during the General Parliamentary Consultation on THB that the fight against THB has had and continues to have priority with the police and the PPS.

In the PPS's Annual Plan 2003, tackling THB is indeed mentioned explicitly under national subjects on which the PPS focuses specific attention.<sup>337</sup> These subjects concern organised crime, and so the approach must be decided on at a national level, according to the Annual Plan.

#### *The importance of Crime Projection Analyses*

A contributing factor to the actual investigative efforts will be the Crime Projection Analyses (*Criminaliteitsbeeld Analyse - CBA*) on human smuggling and THB that still have to be drawn up.<sup>338</sup> In the survey mentioned earlier and

<sup>336</sup> Document fraud, illegal employment, bogus relationships and, in this context, forgery, all come under this heading.

<sup>337</sup> Besides human smuggling and THB which were referred to in one breath, this also concerns the form of and exercising of authority over the National Crime Squad, XTC and environmental and financial/economic crime.

<sup>338</sup> These crime projection analyses, also sometimes known as 'crime cards' (*misdaadkaarten*), should provide information on and an insight into the level and concentration of crime in a particular area, so that the investigation and

the memorandum on the strategic approach of the former National Public Prosecutor for THB, setting up such analyses had already been advocated, and in its Long-Term Plan, 'Perspective for 2006' (*Perspectief op 2006*) (PPS, 2002) the PPS also announced these analyses. The present National Public Prosecutor also emphasises the usefulness of CBAs, but feels that the reports by the NRM, which are to a certain extent comparable with a CBA, are important sources of information for the PPS and which, with additions on specific points, can serve as a type of CBA on THB.

The PPS's Long-term plan is related to the Dutch Government's Security Programme and contains agreements with the PPS within the framework of its implementation. As regards THB, the PPS states that this is a special theme for which a strengthening of criminal enforcement is required.

### 7.2.3 THB in the (national) PPS structure

In 2003, the way in which the subject of THB was positioned in the national structure of the PPS was changed. This is largely due to the creation of the National Crime Squad in 2003. The existing police core teams were brought under the National Crime Squad and the subject of THB was added to the (core) tasks of the National Crime Squad. The management of the core teams remained in the hands of specific core team public prosecutors and is under the direct authority of the (Chief Public Prosecutor of the) National PPS. In view of these changes, the function of National Public Prosecutor, with the combined portfolios of human smuggling, THB and child pornography, was transferred to the (then) Public Prosecutor for the North-East Netherlands Police Core Team (*Kernteam Noordoost-Nederland* - NON), which includes the human smuggling unit. At the same time, the subject of THB was officially added to the human smuggling unit's tasks. The NON Public Prosecutor also became the National Public Prosecutor for human smuggling and THB; the subject of child pornography was removed from his portfolio. In a letter to the NRM, the Board of Procurators General places the transfer of the portfolios in the context of widening the attention given to migration crime, which also includes cross-border forms of THB. It is left unclear where the (operational and policy-based) investigation and prosecution of (purely) national forms of THB will be placed, but it is clear from investigation and prosecution practice that these forms (still) fall within the work area of the district public prosecutors for THB. The (new) National Public Prosecutor for THB defines his work with THB (and human smuggling) in terms of organised crime, and not in terms of the (usually) transnational character of the crime, although transnational and organised crime nearly always go hand in hand.<sup>339</sup> This places the investigation and prosecution of local and (inter)regional forms of THB in the hands of the regional police, cooperating at an international level if necessary, under the auspices of a district public prosecutor. The organised forms of THB that operate across regions are dealt with by the National Crime Squad, managed by the National Public Prosecutor. This is also in line with the purpose and task of the National Crime Squad. Incidentally, the National Public Prosecutor has no formal relationship of authority over the district public prosecutors with THB in their portfolio.<sup>340</sup>

The National Public Prosecutor is accountable, just as his predecessor, to the National PPS, which controls the entire National Crime Squad.

With the transfer of the THB portfolio to the new National Public Prosecutor, the operational, tactical and preparatory strategic management was separated from the more policy-based tasks that were also carried out by the former National Public Prosecutor. The intention is to bring together the policy-based tasks on human smuggling and THB within an 'expertise group' that will be set up under the chairmanship of the Procurator General, holder of the Organised Crime port-

<sup>339</sup> According to an explanation by the National Public Prosecutor.

<sup>340</sup> Such a relationship of authority does not fit within the structure of the PPS and is not being aimed for. As far as examining THB cases is concerned, therefore, the stated mission for the subject must be implemented at both national



folio.<sup>341</sup> This expertise group must serve as a national policy consultation on migration crime and will consist of the district public prosecutors who hold the THB and/or human smuggling portfolio.<sup>342</sup> This national policy consultation will be given the task of national coordination and monitoring results, as well as giving advice on and implementing national policy. The intention was to set up a knowledge centre to support this policy consultation, where the preferred option is to seek cooperation with the Human Smuggling Information and Analysis Centre (*Informatie- en Analysecentrum Mensensmokkel* - IAM) and the THB Information Unit (IEM).<sup>343 344</sup>

At a district level, there has been no change in the positioning of the subject of THB. For each district, a public prosecutor has been appointed who will hold the THB portfolio.<sup>345</sup> The exact details of his/her role and tasks will vary from district to district, but the public prosecutor concerned will at any rate be the point of contact for matters relating to THB.

The periodic consultation with these portfolio holders that was originally initiated by the NRM and later continued by the National Public Prosecutor was no longer held in 2003.<sup>346</sup> At present there are plans, as already stated, for this consultation to be resumed under the chairmanship of the Procurator General, holder of the Organised Crime portfolio, its area of focus being migration crime.<sup>347</sup>

#### 7.2.4 Strengthening criminal enforcement

The announced strengthening of law enforcement will also have to apply in relation to the subject of THB. Although no specific quantitative objectives have been formulated in this area, certain developments and tools will undoubtedly help to make a positive contribution to the numbers of THB cases that are taken up by the PPS. Setting up of the National Crime Squad has already been mentioned, as has the adding of the subject of THB to its tasks, the intention to make crime projection analyses for THB and the drawing up by IEM of proposals for police investigation. These are aids that facilitate the police and the PPS better in their tasks, and therefore contribute to strengthening the investigation and prosecution of THB.<sup>348</sup>

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<sup>341</sup> At the time of writing this report, consultations were still going on between the National Office of the PPS and the National Public Prosecutor on the specific delegation of the operational and policy-based tasks. Clarity on the delegation of the associated responsibility is important, because both tasks affect each other. In the meantime, the consultations with the district THB portfolio holders, who serve as a sounding board for the Procurator General, holder of the Organised Crime Portfolio, have started up again, meeting twice a year.

<sup>342</sup> In a number of districts, both subjects have been brought together under the same public prosecutor, and in others they have been kept as separate portfolios. In this context, the former National Public Prosecutor proposed appointing public prosecutors for migration crime in all district offices of the PPS. This idea was prompted by many areas of overlap she had identified between human smuggling and THB. The present National Public Prosecutor, however, does not feel that such a link is automatically logical (Vromans, 2003).

<sup>343</sup> Meanwhile it has been decided that although no specific PPS expertise centre will be created, use will be made of existing expertise among the police and the (district) PPS.

<sup>344</sup> For an explanation of IEM and IAM, please refer to Chapter 6. Unlike previously, both organisations are under the authority of the National Public Prosecutor for human smuggling and THB. Bringing such authority under a single person allows for better coordination of the respective activities, and sufficient attention can be devoted to both crimes, with appropriate prioritisation when choices need to be made.

<sup>345</sup> In a number of cases, the THB portfolio is combined with the human smuggling portfolio. As far as is known, there are still no holders of a migration crime portfolio which includes both portfolios.

<sup>346</sup> The most recent meeting was held in November 2002. The intention of the National Public Prosecutor at that time was to combine the next meeting partly with the periodic consultation between the district portfolio holders on human smuggling. Such a combined consultation, however, has never been held.

<sup>347</sup> The consultation was resumed in April 2004, with the subjects of human smuggling and THB in separate, but successive, consultations. The present National Public Prosecutor is in fact a proponent of keeping both subjects separate, and he avoids the term 'migration crime', because this leads to differences of interpretation and does not contribute to any clarification.

<sup>348</sup> This does not necessarily mean that the number of THB cases that will be prosecuted will rise too. However, it

#### *Transfer of the tasks of the Aliens Department to the IND and strengthening criminal enforcement*

The transfer of administrative admission tasks of the Aliens departments of the police to the IND that has been announced in the Security Programme, which will release extra police capacity for investigating criminal illegal aliens and monitoring (illegal) aliens, may have an (indirect) effect. Although monitoring by the Aliens Department focuses initially on combating the undesirable influx and residence of aliens, and not on combating THB. However, this means more contacts with (illegal) aliens. If in doing so the criteria laid down in the B-9 regulation on granting this status to possible victims are followed to the letter,<sup>349</sup> more stringent monitoring could lead to more frequent identification of possible victims of THB. This could lead to more clues for investigation, which will ultimately lead to the handling of more THB cases by the police and the judiciary.<sup>350</sup>

A course has been developed by the National Police Selection and Education Centre (*Landelijk Selectie- en Opleidingscentrum Politie* - LSOP), in collaboration with the (then) National Public Prosecutor for THB, for holders of THB portfolios and their supporting staff. This course was provided in 2003 by the Training and Study Centre for the Judiciary (*Studiecentrum Rechtspleging* - SSR). Central to the course were the knowledge and skills that the public prosecutors must have as leaders of an investigation for managing and assessing police teams in investigations into THB. Subjects dealt with included relevant (international) legislation and regulations, techniques for charging suspects, police procedures in THB cases (both administrative and criminal), the position and interests of the victim and the role of chain partners such as municipalities, STV, IND and GGD.

Finally, it may be expected that the proposed, improved victim policy will contribute in its own way to strengthening the investigation and prosecution of crimes, including THB.

### **7.2.5 Victim policy**

The PPS aims to pursue a more targeted victim policy. Part of this involves restorative justice for the victim and strengthening the role of the victim in the criminal proceedings.

#### **7.2.5.1 Restorative justice**

In respect of restorative justice, the PPS announced in its long-term plan that its importance must be upheld: “During the coming years, however, consolidation will be the dominant theme rather than all kinds of new initiatives, or the tightening up of existing objectives.” Confiscation of illegally obtained benefits is an example of this.

#### *BOOM and confiscation*

In its 2003 Annual Plan, the Prosecution Service Criminal Assets Deprivation Bureau (*Bureau Ontnemingswetgeving Openbaar Ministerie* - BOOM) stated that confiscation had improved in the Netherlands, but the use of the confiscation tools is still not regular practice within the PPS. As a consultancy bureau on confiscation matters, BOOM believes that it should act as a driving force vis-à-vis the PPS. As well as providing advice and support to the district offices of the PPS in confiscation cases, BOOM pursues confiscation cases itself. BOOM attention will possibly extend to THB cases as well in the future. In consultation with the NRM, BOOM expressed its willingness to examine to what extent assets are confiscated in THB cases, and to identify the findings and problem areas. Based on these results, solutions could then possibly be sought to improve confiscation in THB cases.

In concrete confiscation cases, incidentally, it has proved to be difficult to determine the extent of the illegally obtained benefits (Meloan et al 2003). The asset comparison method could possibly offer a solution here.<sup>351</sup>

<sup>349</sup> Which does not always happen in practice; see Chapter 6.

<sup>350</sup> In the *Illegale notota* by the Minister for Aliens Affairs and Integration, one of the measures proposed that could contribute to improving the way THB is tackled and which also tackle the criminal structures behind illegal practices, is to give active attention to identifying signs of THB within the context of police monitoring of aliens.

<sup>351</sup> This method involves comparing the assets of a convicted person with the assets he had before he committed the crime. If the convicted person cannot explain the increase in his assets through legal activities, this increase can be

Restorative justice also includes compensation to victims of crimes. The efforts to achieve such compensation remain an essential element of the policy, even though this may sometimes be at the expense of bringing the case to a settlement quickly.<sup>352</sup> The PPS has a somewhat more nuanced view of compensation when it states that this must not be aimed for at all costs. There is little point, for example, in investing in achieving compensation for damages by the perpetrator if it would appear to be impossible from the outset. In that case, it is not sensible, according to the Long Term Plan, to raise the victim's expectations, which will only lead to disappointment.

### 7.2.5.2 Strengthening the role of the victim

In their basis criminal law and prosecution in the Netherlands are perpetrator-oriented; the victim only plays a marginal role in this. Nevertheless, over the years various initiatives have been introduced to strengthen the position of the victim in criminal proceedings. The victim's position in criminal proceedings is partly determined by various instructions from the Procurators General.

#### *The Victim Care Instruction*

The Victim Care Instruction (*Aanwijzing slachtofferzorg*) contains further rules relating to victim care by the police and the PPS. In it, tasks are assigned to the police and the PPS to improve the way they treat victims and provide them with information and compensation. The starting points in this guideline serve as the basic principle for the way victims are treated by the police and the PPS, and involve more specifically:

- a proper and, where necessary, personal treatment of the victim;
- providing clear and relevant information to the victim, as quickly as possible;
- utilising as much as possible the possibility of a compensation regulation within the context of settling the criminal case. This may involve both material and immaterial damage.

The above-mentioned regulations offer the victim certain rights, such as the right to join the criminal process as the aggrieved party, the right to inspect case documents, the right to proper treatment and the right to receive clear and relevant information quickly from the police and PPS about important steps in the criminal process, including a victim interview in the case of very serious offences.

Since the Annual Plan states that no new initiatives will be introduced in 2003 in victim policy, the strengthening of the role of the victim as announced by the PPS concerns in particular the material position of the victim, i.e. the way in which the PPS deals with existing regulations. The Annual Plan mentions a single, existing example, namely the 'victim statement'.<sup>353</sup> This allows the victim to express (in writing) what has befallen her.

Working with a written victim statement has no legal basis and is therefore not an enforceable right for the victim. This does apply, however, to the right of victims and next of kin to be heard. This gives the victim, or her next of kin, the right during the court hearing to make a statement on the consequences to her of the charges.

#### *Right of victim to be heard*

If the victim submits a written request to the public prosecutor to be heard on this, the latter is required to honour this request and call the victim to the court hearing. This expressly concerns only the right to speak about the consequences of the crime against the victim (or the next of kin), not the right of the victim to give her views on the suspect or the sentence to be imposed.<sup>354</sup> This task is reserved for the public prosecutor. The nature of the crimes being

<sup>352</sup> The latter is another aim of the PPS within the context of its Long Term Plan.

<sup>353</sup> This concerns a written statement by the victim that is added to the criminal file in the form of an official report, drawn up by a police officer from the investigation team. This allows the court to take account of issues such as emotional and material damage and injury to the victim, as well as her relationship with the suspect and his attitude

judged for which the victim may exercise her right to speak is limited to crimes which, according to the legal definition, carry a prison sentence of eight years or more, as well as a few exceptional crimes. These are crimes in particular involving violation of the victim's physical integrity.<sup>355</sup> THB (Article 250a of the Criminal Code) is one of these crimes.

### 7.3 Prosecution-specific points

In the prosecution of THB cases in practice, the PPS is confronted with all kinds of practical problems. This paragraph describes three of them.

#### 7.3.1 Prosecution and international legal assistance

THB often has a transnational character, and in the absence of powers of cross-border investigation and prosecution one has to rely in principle on national means and powers. This may pose problems for the PPS in prosecuting this crime. Which problems these are, and their effect on combating THB by the PPS was examined in the doctoral thesis *Trafficking in Persons - Prosecution from a European Perspective* (Rijken, 2003).

The researcher highlighted a number of obstacles in the area of international cooperation:

- One of the most important obstacles to the effective prosecution of THB is the fact that victims and witnesses are often no longer in the country, usually because they have been deported by the aliens police. In some cases the victims have been interviewed by the police or examining magistrate before being deported, but usually not.<sup>356</sup> For prosecution purposes, this means that these victims and witnesses often need to be tracked down, which is problematic in practice.
- Victims and witnesses who have returned voluntarily or involuntarily to their country of origin are often unwilling to make a statement. This unwillingness is primarily caused by fear of and threats by the traffickers or their accomplices, as well as the bad experiences that the victims and witnesses have with the authorities in their homeland and the contacts that these authorities have with the traffickers. In addition, victims and witnesses will not want to shout about their 'prostitution past' or be reminded of it, for fear of the consequences.
- It is difficult too to obtain a statement from victims and witnesses who are (still) in the Netherlands. Here too, fear of the traffickers plays an important role, as does the effort that the police and the PPS have to make to build up a relationship of trust with the person involved. The fact that in many cases the deportation criteria for illegal aliens are strictly applied, regardless of whether a person is a victim or not, has a discouraging effect too.
- The trustworthiness of local law enforcement officers in some countries abroad is sometimes doubted. This also has a negative effect on the reliability of the material obtained from these officers to support facts and stories, reason why such cooperation is sometimes avoided. At a central level, experiences are often better.
- The formalities that need to be observed in criminal cooperation are generally perceived as an obstacle to the process of this cooperation.<sup>357</sup> Often it is difficult to reach the competent officers and it can take a long time to obtain formal responses. For this reason, the preferred method is to have direct contact between the officers charged with the work, which usually facilitates the exchange of information a great deal. The existence of liaisons in this respect is

<sup>355</sup> In addition, a few offences against property and causing death or severe bodily injury in traffic.

<sup>356</sup> Better cooperation between the aliens police and the police and judiciary, particularly the public prosecutors, would in itself reduce the risk of victims and witnesses, who are essential in THB cases for a successful prosecution, being sent back to their country of origin before they have been interviewed by the police or, even more importantly, the examining magistrate.

perceived as positive.<sup>358</sup> In spite of the swift(er) direct communication that usually occurs, requests for international legal assistance for procedural reasons are always (also) made through the formal channels of communication.

- In the contacts with some countries, a lack of recognition of and/or attention to and priority for THB is experienced. With a few countries, particularly those on the African continent, there is simply no cooperation at all.
- Language forms an important delaying factor in international cooperation. Documents and communication must be translated and interviews also require the use of an interpreter. As far as suspects are concerned this sometimes leads to problems, because interpreters are afraid of the suspects or try to protect them. Victims also find it difficult to relate their experiences and build up a relationship of trust with the police through an interpreter. Furthermore, there are not always enough interpreters available and not all interpreters are reliable. Because of the language barrier, confusion often arises and cooperation between organisations from different countries may sometimes be delayed.

The most striking research result, according to the researcher, is the observation that the public prosecutors (who were interviewed) regard the need for international criminal cooperation as an obstacle to the criminal proceedings. In their view, it usually takes a long time and there is a substantial risk of failure. For this reason, the public prosecutors try to avoid international cooperation as much as possible, even if this compromises the opportunity to prosecute one or more related crimes. The researcher therefore concludes that prosecuting THB is made more difficult when several countries are involved and she believes that the transnational character of the crime of THB justifies another form of prosecution than one based on purely national competences. This solution would ideally lie in the existence of regional jurisdiction at EU level. Although the EU is gradually working towards more cooperation as regards criminal procedure (while retaining national competences) and harmonisation of material standards in criminal law, it is still a long way from having its own criminal law (of procedure).

### **7.3.2 Policy on case-dismissal and victims of THB**

It regularly occurs in investigation and prosecution practice that a person is initially considered as a suspect of a crime (e.g. possession of a fake or forged travel document), while she should be considered at a later stage as a (possible) victim of THB. At such a moment, there is nothing to prevent offering the person concerned a B-9 permit. If such classification of the person as a victim is confirmed in the further proceedings, at a certain moment the question will arise as to whether the victim should be prosecuted for the criminal offence initially identified. The answer to this question must in principle be negative.<sup>359</sup> Since, however, the person involved was earlier regarded as a suspect, the PPS must decide to close the case with a decision not to prosecute (case-dismissal).

## **7.4 Research results**

This paragraph sets out the results of a secondary analysis of THB cases within the national database called OM-data.<sup>360</sup> An explanation of the research can be found in Appendix 2. Suffice it to say here that it concerns cases that were registered during the period from 1998 to 2002 under the

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<sup>358</sup> The police in particular have many such direct contacts. At a judicial level, these contacts are much more limited. The public prosecutors interviewed believe that contacts are useful on that level too and they therefore argue for more of such liaisons (Rijken, 2003, p.210).

<sup>359</sup> This is the actual implementation and consequence of the 'anti-discrimination clause', which is (also) included in the UN Protocol (Article 14 paragraph 2).

heading of THB. No cohort was followed in the analyses, but for each year the number of cases registered with the PPS, dealt with by the PPS or settled by the courts were examined.<sup>361</sup>

#### 7.4.1 Cases of THB registered with the Public Prosecution Service

In the period from 1998 to 2002, the PPS registered 706 criminal cases involving (only or partly) a suspicion of THB (Article 250ter or Article 250a of the Criminal Code).<sup>362</sup> A (criminal) case is taken to mean in this paragraph, within the context of prosecution, the case against a single suspect.

Table 7.1 shows how many cases there were each year and how many of these cases are known to involve underage victims (too).<sup>363</sup>

Table 7.1 Number of cases registered<sup>364</sup> and cases that (also) involve underage victims, per annum

Year	Cases registered		Cases that (also) involve underage victims	
	N	%	N	%
1998	134		16	12%
1999	103		28	27%
2000	138		37	27%
2001	130 <sup>365</sup>		27	21%
2002	201		27	13%
Total	706		135	19%

The number of registered cases increased sharply in 2002. The number of cases that (also) involved underage victims remained the same in absolute terms, but therefore declined in relative (percentage) terms.

Previous reports did not make any differentiation *within* the crime of THB, other than in relation to the involvement of underage victims. This has been done this time. Table 7.2 shows the results.

Table 7.2 Type of THB, per year of registration

Type of THB	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
250ter/a par. 1	16	20%	3	3%	3	2%	34	26%	54	27%	110	16%
250ter/a par. 2	117	88%	100	97%	135	98%	96	74%	147	73%	595	84%
250ter/a par. 3	1	1%	-	-	-	-	-	-	-	-	1	0%
Total	134	100%	103	100%	138	100%	130	100%	201	100%	706	100%

The vast majority of THB cases concern Article 250a of 250ter paragraph 2, i.e. THB whereby two or more persons act together, or a victim younger than 16 years is involved or serious bodily

<sup>361</sup> This means that it does not always concern precisely the same cases: after all, some cases are not registered, dealt with by the PPS and settled in the courts in the same year.

<sup>362</sup> This includes cases that were dropped by the PPS in a later phase and cases in which no suspicion of THB was ultimately included in the charge.

<sup>363</sup> Criterion used: registration under article (sub)paragraphs that indicate explicitly and irrefutably the underage status of the victims. Since underage victims may also come under other article (sub)paragraphs, this virtually always leads to an underestimate of the number of cases involving underage victims.

<sup>364</sup> These are all cases including cases transferred (to a different district). There were three such cases in this period.

<sup>365</sup> This is two less than that reported for 2001 in the previous report. The difference is the result of small changes in numbers (one case less in the district of Roermond, one more in Groningen and two less in Maastricht) which are probably the result of corrections in OM-data after the reference date used for the analyses. Since consistent use has been made for this report of the new analyses, in a number of tables there are small differences compared to those in

injury is inflicted. Cases that are registered under Article 250a or 250ter paragraph 1<sup>366</sup> also occur, seemingly to an increasing extent. In the period of five years studied, however, only one case was registered as an Article 250ter/a<sup>367</sup> paragraph 3 case.<sup>368</sup>

The crime of THB is usually committed in combination with other crimes. In the period from 1998 to 2002, these were: granting access to an undesirable alien (122 times), (attempted) rape or complicity thereof (95 times), being in possession of weapons (62 times) and (attempted) deliberate deprivation of liberty or complicity thereof (61 times). Crimes relating to drugs, making and using fake or forged travel documents, maltreatment and threats also occur regularly in combination with THB. There would seem to be an increase in the use of fake or forged travel documents in combination with THB.

Previous reports have also described combinations of crimes. This time, however, a different categorisation is being used.<sup>369</sup> A somewhat modified version of the categorisation used by the *Centraal Bureau voor de Statistiek* (Statistics Netherlands - CBS) is used, whereby for each case the crime with the most severe sentence 'prevails', in the sense that this is shown. The modification to this categorisation meets the wishes of BNRM to make THB as visible as possible in the categorisation.<sup>370</sup> Table 7.3 provides an overview of the most severe crimes registered for each case.

Table 7.3 Most serious crimes, per year of registration

Most severe crimes	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Sexual violence	16	12%	13	13%	9	7%	18	14%	15	8%	71	10%
Other violence	5	4%	3	3%	2	1%	3	2%	7	4%	20	3%
Offence against property	-	-	-	-	2	1%	2	2%	-	-	4	1%
Vandalism/public order	-	-	-	-	1	1%	-	-	-	-	1	0%
THB: 250ter/a par. 1	11	8%	3	3%	2	1%	24	19%	45	22%	85	12%
THB: 250ter/a par. 2	81	60%	81	79%	119	86%	81	62%	129	64%	491	70%
THB: 250ter/a par. 3	1	1%	-	-	-	-	-	-	-	-	1	0%
Other offences under the Criminal Code. <sup>371</sup>	20	15%	3	3%	3	2%	2	2%	5	3%	33	5%
Total	134	100%	103	100%	138	100%	130	100%	201	100%	706	100%

<sup>366</sup> This could be regarded as the most simple form of THB: not carried out in a group, no victims younger than 16 years involved, and no serious bodily injury inflicted. This qualification, however, does not affect in any way the seriousness of the crime.

<sup>367</sup> In view of the year of registration, this should be 250ter.

<sup>368</sup> I.e. THB committed in a group context, whereby a victim younger than 16 years is also involved, or serious bodily injury has been inflicted.

<sup>369</sup> Partly because the category of 'THB in combination with several other types of crime' used in previous reports does not say very much and is also a very large category.

<sup>370</sup> In the CBS's categorisation, THB is currently included and hidden in the category 'other crimes'. This is not done here and in the case of a combination of crimes with the same sentences, THB will take precedence.

<sup>371</sup> For example, for example (THB in combination with) fraud, taking an official making a false charge, kidnapping, etc.

In 2002, in 86% of the cases THB was the only or the most severe crime registered. In the other cases there were (even) more severe crimes involved besides THB, usually a form of sexual violence (8%), such as sexual assault, rape or sexual abuse.

If one looks at the period from 1998 to 2002 as a whole, in 82% of cases THB is the only or the most severe crime registered. Most cases concern Article 250*ter/a* paragraph 2, but the number of cases in which 250*ter/a* paragraph 1 forms the most severe crime is growing in relative terms.

## 7.4.2 The suspects

### Age

In 2002 the average age of suspects at the time of their first THB crime was 31 years. In 81% of the cases registered in 2002, the age was between 18 and 40 years and 34% aged between 18 and 25 years. Viewed over the total period from 1998 to 2002, the percentages are 80% and 31% respectively.<sup>372</sup>

In the period from 1998 to 2002 there were 25 underage suspects, accounting for 4% of the total number of suspects. Their numbers vary only slightly from year to year.

### Country of origin

The suspects come from more than 50 countries. Table 7.4 shows (in alphabetical order) the most important countries of origin.<sup>373</sup> Table B7.4 in Appendix 4 contains a complete overview.

Table 7.4 Country of suspects' birth, per year of registration

Country of birth	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Albania	10	7%	-	-	2	1%	4	3%	25	12%	41	6%
Bulgaria	5	4%	6	6%	-	-	12	9%	27	13%	50	7%
Czech Republic	3	2%	3	3%	3	2%	5	4%	2	1%	16	2%
Iraq	-	-	-	-	-	-	1	1%	6	3%	7	1%
Morocco	4	3%	7	7%	17	12%	5	4%	3	1%	36	5%
Netherlands	30	22%	40	39%	38	28%	30	23%	53	26%	191	27%
Netherlands Antilles	2	1%	2	2%	4	3%	1	1%	1	1%	10	1%
Nigeria	8	6%	7	7%	17	12%	3	2%	7	3%	42	6%
Romania	2	1%	1	1%	3	2%	2	2%	8	4%	16	2%
Soviet Union	3	2%	5	5%	2	1%	6	5%	7	3%	23	3%
Sudan	2	1%	4	4%	4	3%	-	-	2	1%	12	2%
Surinam	4	3%	3	3%	6	4%	4	3%	5	2%	22	3%
Turkey	17	13%	4	4%	9	7%	8	6%	26	13%	64	9%
Yugoslavia	25	19%	13	13%	9	7%	22	17%	6	3%	75	11%
Unknown	5	4%	1	1%	-	-	-	-	4	2%	10	1%
Other	14	10%	7	7%	24	17%	27	21%	19	9%	91	13%
Total	134	100%	103	100%	138	100%	130	100%	201	100%	706	100%

The Netherlands is the most frequently occurring country of birth and the number of suspects born in the Netherlands has increased. A striking aspect is the large increase and substantial proportion of Albanian suspects, suspects born in Bulgaria and suspects born in Turkey. An increas-

<sup>372</sup> At that moment, men were on average 31 years and women 29 years.

<sup>373</sup> The criterion for inclusion in this table is that in one of the years there were five or more in the entire period.



ing, but (still?) not significant proportion of suspects from Iraq, Poland (see the table in Appendix 4) and Romania can be observed.

The countries of the suspects' birth that came up most frequently are shown in Table 7.5, whereby a ranking is given for each year of registration by the PPS, the first five positions being included in the table.<sup>374</sup>

Table 7.5 Ranking of most frequently occurring countries of birth of suspects, per year of registration

Country	1998	1999	2000	2001	2002	Total
	Rank	Rank	Rank	Rank	Rank	N
Netherlands	1	1	1	1	1	191
Yugoslavia	2	2	3'	2	4	75
Turkey	3		3'	4	3	64
Albania	4					41
Nigeria	5	3'	2'			42
Morocco		3'	2'			36
Bulgaria		4		3	2	50
Soviet Union				5		23
Romania					5	16

The summary shows that the Netherlands has remained constant at first place as country of birth, and in this sense the 'positions' of Yugoslavia and Turkey have remained reasonably stable. The emergence of Nigeria, since 1998, has not persisted, but Bulgaria is increasingly a country of origin.

#### Gender

The suspects are usually men, namely in 78% of cases (calculated over the period from 1998 to 2002), with clear differences in the suspects' countries of origin. If we limit ourselves to the five most important countries of origin, it is noticeable that among the Turkish suspects there are hardly any women at all (as far as is known, not more than one),<sup>375</sup> whereas women are in fact in the majority among Nigerian suspects (23 women, or 55%). The other countries of origin occupy a middle position on this point.<sup>376</sup>

#### 7.4.3 Cases dealt with by the Public Prosecution Service

Table 7.6 gives a summary of the number of cases in which the suspect has been taken into preventive custody, per year of registration.

Table 7.6 Preventive custody, per year of registration

Preventive custody	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Yes	111	83%	84	82%	108	78%	94	72%	154	77%	551	78%
No	23	17%	19	18%	30	22%	36	28%	47	23%	155	22%
Total	134	100%	103	100%	138	100%	130	100%	201	100%	706	100%

<sup>374</sup> An accent shows that the position is shared.

<sup>375</sup> The gender of two suspects was not known.

<sup>376</sup> From 12% women among the Yugoslavian suspects and 15% among the Dutch suspects to 26% women among

In 2002, more than three-quarters of suspects were in preventive custody at the moment the case was brought before the court. Viewed over the entire period from 1998 to 2002, this is 78% (varying per year from 72% to 83%).

Table 7.7 shows how the PPS deals with cases. The above tables referred each time to the 706 criminal cases registered in the period from 1998 to 2002. Table 7.7 concerns the 664 cases dealt with by the PPS in the same period.<sup>377</sup>

*Table 7.7 Cases dealt with by PPS, per year in which cases were dealt with*

Dealt with	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
THB summons <sup>378</sup>	56	54%	83	60%	72	77%	100	63%	115	69%	426	64%
Unconditional decision not to prosecute	44	42%	45	33%	17	18%	46	29%	40	24%	192	29%
Summons for other offences <sup>379</sup>	3	3%	4	3%	3	3%	12	8%	11	7%	33	5%
Transfer <sup>380</sup>	-	-	2	1%	1	1%	1	1%	-	-	4	1%
Joinder (of cases)	1	1%	2	1%	-	-	-	-	1	1%	4	1%
Conditional decision not to prosecute	-	-	2	1%	-	-	1	1%	-	-	3	1%
Out-of-court settlement	-	-	-	-	1	1%	-	-	1	1%	2	0%
Total	104	100%	138	100%	94	100%	160	100%	168	100%	664	100%

By far the most frequently used form of dealing with THB cases, viewed over the entire period from 1998 to 2002, is the summons. The summons is usually (partly) for THB, but sometimes only for other offences.<sup>381</sup> In 29% of cases the case is unconditionally dropped. The other forms of settlement (transfer, conditional decision not to prosecute and out-of-court settlement) are only used sporadically.

If one examines the data on an annual basis, 2000 stands out in a negative sense (few settlements). If one does not include this year, the number of settlements increases year by year. The percentage of decisions not to prosecute has declined and summonses are more frequently served for offences other than THB. What could play a role here is the fact that it is possibly easier to put forward convincing evidence for offences other than THB.

#### 7.4.4 Settlement by the court

To recapitulate: during the period from 1998 to 2002, 706 cases were registered with the PPS in which there was (also) a suspicion of THB. During the same period, 664 cases were dealt with by the PPS. Also in the same period, the court (of the first instance) settled a total of 393 cases in which the charge of THB was (also) made.<sup>382</sup> Table 7.8 gives, for each year of settlement, a summary of the judgements.

<sup>377</sup> The difference between the number of cases registered with the PPS and the number of cases dealt with by the PPS is caused by the fact that the PPS has not yet taken a decision to prosecute in all of the cases. By way of explanation: some of the cases registered at the end of 2002 will not be settled by the PPS until 2003.

<sup>378</sup> It concerns a summons for THB, either solely or in addition to other offences.

<sup>379</sup> It concerns cases whereby, despite earlier suspicions of THB ultimately no charge of THB was made.

<sup>380</sup> To another district or abroad.

<sup>381</sup> The latter naturally only in the case of suspicion of THB in combination with other types of crimes.

<sup>382</sup> These are not exactly the same cases as those registered with the PPS in the same period, or which were dealt with by the PPS. In particular, some of the cases settled in the same district may well have been brought to court by the

Table 7.8 Settlement in the first instance, per year of settlement

Settlement	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Sentenced	56	89%	55	83%	72	85%	74	87%	83	89%	340	87%
Acquittal	3	5%	6	9%	11	13%	7	8%	10	11%	37	9%
PPS inadmissible	2	3%	3	5%	1	1%	3	4%	1	1%	10	3%
Joinder of cases	2	3%	1	1%	-	-	-	-	-	-	3	1%
Unknown	-	-	1	1%	1	1%	1	1%	-	-	3	1%
Total	63	100%	66	100%	85	100%	85	100%	94	100%	393	100%

In 2002, a sentence was passed in the vast majority (89%) of cases brought to court. In 11% of the cases, an acquittal followed. The percentages broadly correspond to those of previous years. Occasionally the PPS is inadmissible, the case is joint or it is unknown how the case was settled.

The nature of settlement is particularly interesting in relation to the crimes for which a sentence has been passed. However, OM-data does not contain this information. For this reason, Table 7.9 shows the nature of the settlement according to the most serious crime in the charge (i.e. the offence that bears the heaviest punishment).

Table 7.9 Settlement for most serious crime, per year of settlement

Most serious crime <sup>383</sup>	Judgement	1998		1999		2000		2001		2002		Total	
		N	%	N	%	N	%	N	%	N	%	N	%
Sexual violence	Sentence	7	88%	6	75%	12	100%	9	100%	7	88%	41	91%
	P.P. n.a.*	-	-	-	-	-	-	-	-	1	13%	1	2%
	Acquittal	1	13%	2	25%							3	7%
	Total	8	100%	8	100%	12	100%	9	100%	8	100%	45	100%
Other violence	Sentence	-	-	3	100%	2	100%	1	100%	1	100%	7	100%
	Total	-	-	3	100%	2	100%	1	100%	1	100%	7	100%
Vandalism/public order	Sentence	-	-	-	-	-	-	1	100%	-	-	1	100%
	Total	-	-	-	-	-	-	1	100%	-	-	1	100%
THB 250ter/a par. 1	Sentence	17	85%	-	-	-	-	1	100%	12	92%	32	74%
	P.P. n.a.	2	10%	3	50%	1	100%	-	-	-	-	6	14%
	Acquittal	-	-	3	50%	-	-	-	-	1	8%	4	9%
	Joinder	1	5%	-	-	-	-	-	-	-	-	1	2%
	Total	20	100%	6	100%	1	100%	3	100%	13	100%	43	100%
THB 250ter/a par. 2	Sentence	26	93%	38	93%	57	83%	59	86%	61	87%	241	87%
	P.P. n.a.	-	-	-	-	-	-	3	4%	-	-	3	1%
	Acquittal	2	7%	1	2%	11	16%	6	9%	9	13%	29	11%
	Joinder	-	-	1	2%	-	-	-	-	-	-	1	4%
	Total	28	100%	41	100%	69	100%	69	100%	70	100%	277	100%
THB 250ter/a par. 3	Sentence	2	67%	-	-	-	-	-	-	-	-	2	67%
	Joinder	1	33%	-	-	-	-	-	-	-	-	1	33%
	Total	3	100%	-	-	-	-	-	-	-	-	3	100%
Other offences under the Criminal Code	Sentence	4	100%	8	100%	1	100%	1	50%	2	100%	16	94%

year 2003 (at the earliest). Furthermore, the cases that were registered by the PPS as THB (too), but in which a summons was issued only for other offences (33 in the period from 1998 to 2002) will no longer be included in the following information.

<sup>383</sup> Offences against property are lacking in this summary because no summons was issued for these and/or the

	Acquittal	-	-	-	-	-	-	1	50%	-	-	1	6%
	<i>Total</i>	4	100%	8	100%	1	100%	2	100%	2	100%	17	100%
Total	Sentence	56	89%	55	83%	72	85%	74	87%	83	88%	340	87%
	P.P. n.a.	2	32%	3	5%	1	1%	3	4%	1	1%	10	3%
	Acquittal	3	5%	6	9%	11	13%	7	8%	10	11%	37	9%
	Joinder	2	3%	1	2%	-	-	-	-	-	-	3	1%
	Unknown	-	-	1	2%	1	1%	1	1%	-	-	3	1%
	<i>Total</i>	63	100%	66	100%	85	100%	85	100%	94	100%	393	100%

\* PPS inadmissible.

A note of caution should be sounded when interpreting this table. For the sake of completeness, not only the numbers but also the percentages are shown. Because of the detailed subdivision (offence combinations x verdict x year of settlement), however, some cell combinations are so low that the percentages are fairly meaningless.

What can be deduced from the table, however, is:

- in 2002 a sentence was imposed in 88% of the cases in which sexual violence was the most serious crime, 92% for Article 250a paragraph 1 as most serious crime and 87% for Article 250a paragraph 2;
- taking the period from 1998 to 2002 as a whole, in the cases in which Article 250a/ter paragraph 2 was the most serious crime, the sentence imposed fluctuates somewhat.

Table 7.10 gives a summary of the sentences imposed, once again showing the crime that carries the heaviest punishment.

Table 7.10 Sentence imposed for most serious crime, per year of settlement

Most serious crime <sup>384</sup>	Sentence imposed	1998		1999		2000		2001		2002		Total	
		N	%	N	%	N	%	N	%	N	%	N	%
Sexual violence	No principal sentence <sup>385</sup>	-	-	-	-	1	8%	-	-	-	-	1	2%
	Custodial sentence	7	100%	6	100%	11	92%	8	89%	7	100%	39	95%
	CSO*	-	-	-	-	-	-	1	11%	-	-	1	2%
	<i>Total</i>	7	100%	6	100%	12	100%	9	100%	7	100%	41	100%
Other violence	Custodial sentence	-	-	3	100%	2	100%	1	100%	1	100%	7	100%
	<i>Total</i>	-	-	3	100%	2	100%	1	100%	1	100%	7	100%
Vandalism/public order	Custodial sentence	-	-	-	-	-	-	1	100%	-	-	-	100%
	<i>Total</i>	-	-	-	-	-	-	1	100%	-	-	-	100%
THB: 250ter/a par. 1	No principal sentence	2	12%	-	-	-	-	-	-	-	-	2	6%
	Conditional principal sentence	-	-	-	-	-	-	-	-	1	8%	1	3%
	Custodial sentence	12	71%	-	-	-	-	3	100%	9	75%	24	75%
	Custodial sentence + fine	1	6%	-	-	-	-	-	-	1	8%	2	6%
	CSO	1	6%	-	-	-	-	-	-	1	8%	2	6%
	CSO + fine	1	6%	-	-	-	-	-	-	-	-	1	3%
	<i>Total</i>	17	100%	-	-	-	-	3	100%	12	100%	32	100%

<sup>384</sup> 'Offences against property' are lacking in this summary, because no summonses were issued for these and/or the court has not yet come to a judgement in such a case.

<sup>385</sup> With cases in the category 'no principal sentence', an additional sentence (e.g. confiscation) or a measure (e.g. detention under hospital order) may have been imposed. The term 'additional sentence' incidentally is misleading.

THB: 250ter/a par. 2	No principal sentence	1	4%	2	5%	1	1%	-	-	1	2%	5	2%
	Conditional principal sentence	-	-	-	-	2	4%	-	-	2	3%	4	2%
	Custodial sentence	20	77%	31	82%	43	75%	47	84%	50	82%	191	80%
	Custodial sentence + fine	-	-	4	11%	3	5%	-	-	-	-	7	3%
	CSO	5	19%	1	3%	6	11%	8	14%	4	7%	24	10%
	CSO + fine	-	-	-	-	1	2%	-	-	3	5%	4	2%
	Fine	-	-	-	-	1	2%	1	2%	-	-	2	1%
	Custodial sentence + CSO	-	-	-	-	-	-	-	-	1	2%	1	0%
	<i>Total</i>	26	100%	38	100%	57	100%	56	100%	61	100%	238	100%
THB: 250ter/a par. 3	Custodial sentence	2	100%	-	-	-	-	-	-	-	-	2	100%
	<i>Total</i>	2	100%	-	-	-	-	-	-	-	-	2	100%
Other of- fences under the Criminal Code	Custodial sentence	3	75%	8	100%	1	100%	1	100%	2	100%	15	94%
	CSO	1	25%	-	-	-	-	-	-	-	-	1	6%
	<i>Total</i>	4	100%	8	100%	1	100%	1	100%	2	100%	16	100%
Total	No principal sentence	3	5%	2	4%	2	3%	-	-	1	1%	8	2%
	Conditional principal sentence	-	-	-	-	2	3%	-	-	3	4%	5	2%
	Custodial sentence	44	79%	48	87%	57	79%	61	86%	69	83%	279	83%
	Custodial sentence + fine	1	2%	4	7%	3	4%	-	-	1	1%	9	3%
	CSO	7	13%	1	2%	6	8%	9	13%	5	6%	28	8%
	CSO + fine	1	2%	-	-	1	2%	-	-	3	4%	5	2%
	Fine	-	-	-	-	1	2%	1	1%	-	-	2	1%
	Custodial sentence + CSO	-	-	-	-	-	-	-	-	1	1%	1	0%
	<i>Total</i>	56	100%	55	100%	72	100%	71 <sup>386</sup>	100%	83	100%	337	100%

\* Community Service Order.

The same note of caution should be sounded with this table as with Table 7.9, in fact even more strongly: since this also concerns very small numbers (only the cases in which the court imposed a sentence), some cell combinations are even lower, as a result of which the percentages for these cells are largely meaningless. However, what can be deduced from the table is:

- in 2002, in 85% of all cases in which THB was involved (whether or not in combination with another crime) and the courts imposed a sentence, a custodial sentence was imposed (see bottom row in the table);<sup>387</sup>
- if one examines all such cases during the period from 1998 to 2002, this percentage fluctuates slightly from year to year (from 83% to 94%);

<sup>386</sup> This is three less than in Table 7.8. The difference is caused because with three cases where Article 250ter/a paragraph 2 is the crime with the heaviest punishment in a THB case, it is known that a sentence was imposed, but not which one.

<sup>387</sup> In 2002, 85% of cases under a custodial sentence, in 10% of the cases a custodial sentence plus a fine and in another 10% of

- in 2002, the sentence in all cases in which sexual violence was the most serious crime and where a sentence was imposed was a custodial sentence. This happened in virtually all cases in previous years too;
- in 2002 the sentence in 84% of all cases in which Article 250a paragraph 2 was the most serious crime and in which a sentence was imposed was a custodial sentence.<sup>388</sup>

Table 7.11 shows for each crime (combination) the average duration of the custodial sentence imposed, as well as the associated standard deviations. The 25 cases in total where ‘other violence’, ‘vandalism/public order’ and ‘Article 250ter/a paragraph 3’ and ‘other offences under the Criminal Code’ formed the most serious offence have been omitted from the table because the numbers are too small to calculate averages or standard deviations.

Table 7.11 Average term of custodial sentences (in days) for most serious crime, per year of settlement

Most serious crime	1998		1999		2000		2001		2002		Total	
	Average	SD	Average	SD	Average	SD	Average	SD	Average	SD	Average	SD
Sexual violence	1153	704	966	707	1367	905	1427	719	1064	737	1225	756
THB: 250ter/a par. 1	810	780					887	580	382	220	654	620
THB: 250ter/a par. 2	480	274	794	556	779	561	788	638	622	477	714	544
Total <sup>389</sup>	773	604	905	757	893	659	926	717	646	509	823	655

In 2002, calculated across all cases in which THB was (also) involved, a prison sentence of an average of 21 months was imposed (bottom row in the table). The highest average prison sentence was imposed where sexual violence was the most serious crime (1064 days or nearly three years). In THB cases where Article 250ter/a paragraph 1 was the most serious crime, an average of one year was imposed (382 days) and with THB where Article 250ter/a paragraph 2 was the most serious crime, an average of 20 months (622 days). Viewed over the years from 1998 to 2002 as a whole, no clear trend can be identified, but it is clear that the average duration of the custodial sentences imposed in 2002 is relatively low. Appendix 4 contains a table (Table B7.11) that provides a more detailed explanation of the duration of the custodial sentences imposed.

The sentences imposed would appear low in relation to the penalty carried by the offence. If, however, one compares the average duration of the custodial sentences imposed on THB on the one hand, whether or not in combination with other crimes (but with the exception of rape) and rape on the other hand, whether or not in combination with other crimes (but with the exception of THB), it would appear (relatively) not to be so bad.<sup>390</sup> In the first type of cases (calculated over 62 cases) it was in fact 580 days, and in the second (calculated over 365 cases) 582 days.<sup>391</sup>

#### Grounds for the sentence

When determining the severity of the sentence to be imposed, various factors play a role. It will be determined in all cases on the basis of the nature and seriousness of the crimes, the circumstances under which the crimes were committed and the person of the suspect. The way the separate factors are weighed up may vary from case to case. Judgements in THB cases show that factors such as the level of involvement in the crime, the extent and duration of

<sup>388</sup> In 82% of cases only a custodial sentence, and in 2% of cases a custodial sentence plus a CSO.

<sup>389</sup> The total is calculated including the total of 25 cases in which ‘other violence’, ‘vandalism/public order’ and ‘Article 250ter/a paragraph 3’ and ‘other offences under the Criminal Code’ were the most serious crimes.

<sup>390</sup> It should be remembered in this respect that the maximum prison sentence for rape (Article 242 of the Criminal Code) is 12 years, whereas THB only carries a sentence of 6 years maximum, or under aggravating circumstances 8 or 10 years.

<sup>391</sup> The median in both cases is 450 days. In 2001 and the first half of 2003, the average duration of the custodial sentences imposed for THB were in fact significantly higher than for rape: 818 and 812 compared to 480 and 600

the exploitation, the number of victims, the degree of restriction of freedom, the violence used, the nature of the deceit, the working conditions and the financial aspects of the case are all crucial in determining the severity of the sentence to be imposed. Factors which, apart from the intensity of the above-mentioned factors, would appear to increase the severity of the sentence are the low standard of living in the victims' country of origin and with it the limited freedom of choice and the position of dependence of these victims, the residence status of victims in the country of destination, psychological and physical health risks and the (intended) profit motives of the suspect. A striking factor that may reduce the sentence was used by the Arnhem Court of Appeal. It justified a lower sentence by the fact that "the women (the victims; BNRM) were already working in prostitution before they came into contact with the suspect."

OM-data contains information only on settlement of cases in the first instance. Additionally, it is known whether an appeal has been lodged in a case, and by whom. Table 7.12 gives a summary.

*Table 7.12 Appeals lodged, per year of settlement (in the first instance)*

Appeal lodged	1998		1999		2000		2001		2002		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
None	35	56%	41	62%	44	52%	44	52%	46	49%	210	53%
By PPS	2	3%	2	3%	5	6%	4	5%	13	14%	26	7%
By suspect	11	18%	18	27%	23	27%	22	26%	21	22%	95	24%
By both parties	15	24%	5	8%	13	15%	15	18%	14	15%	62	16%
Total	63	100%	66	100%	85	100%	85	100%	94	100%	393	100%

The table shows that in 2002, an appeal was lodged in 51% of the cases, in most cases by the suspect. If one examines developments in the period from 1998 to 2002, no clear trends can be identified, but it is clear that the number of appeals lodged by the PPS in 2002 was relatively high.

## 7.5 International developments

This paragraph describes two international developments that are relevant to the PPS and the prosecution of THB.

### 7.5.1 Other forms of THB

The increasing level of international attention to forms of exploitation in the socio-economic sphere will also have consequences for the Dutch PPS. This separate from the intended changes to Dutch criminal legislation, with which a broader scope of the crime of THB will be introduced into the Criminal Code. After all, in other countries national legislation has already been amended in line with the international definition of THB, as a result of which all forms of socio-economic exploitation as referred to in the UN Protocol and the EU Framework Decision have been defined as a criminal offence. Requests for international legal assistance in this area, to the Netherlands too, are therefore also conceivable.

### 7.5.2 Eurojust

The EU joint alliance of European Public Prosecution Services, Eurojust, was formally set up by Council Decision on 28 February 2002. The aim of Eurojust is to strengthen the fight against serious forms of organised, cross-border crime in the EU by promoting judicial cooperation in that area. Since Eurojust does not have any supranational jurisdiction, it must meet this aim by coordinating, simplifying and strengthening investigation and prosecution across national borders. This is done by a team of national Public Prosecution Services, judges and police officers who have been appointed for this purpose by their member states, but who remain part of their national ad-

of origin. The national members of Eurojust provide assistance to their national colleagues in concrete cases, and develop cross-connections with their Eurojust colleagues through consultation so that investigations can proceed more successfully, particularly in the area of international legal assistance and international cooperation. The limitations that the members (may) encounter in this process arise from the widely diverging legal systems, legislation and regulations of the individual countries, from which differences in jurisdiction and powers also arise.

Eurojust's area of work also covers THB. Although statistical data from Eurojust show that only 6% of cases referred to Eurojust concern THB,<sup>392</sup> this form of crime, because of its complexity and the importance of networks to tackle this phenomenon, has been assigned top priority by Eurojust. In Eurojust's experience THB usually also entails an element of money laundering (Eurojust, 2002, p.12).

## 7.6 Points of attention and problem areas

A few points of attention and problem areas in relation to the prosecution of THB and the PPS policy are summed up below, grouped in categories.

### *Organisation and policy*

- The priority given by the PPS in its policy documents to the subject of THB has still been insufficiently realised in practice. Furthermore, there are differences of opinion between the various districts on recognising the importance of prosecuting those suspected of THB.
- THB cases often take a great deal of time, and as a result place a relatively heavy burden on the (limited) available capacity of the PPS. Financial investigations in these cases also demand much of the PPS's capacity, and the same is expected of the upcoming broadening of the THB provision. This places the PPS in a dilemma, in view of the many priorities that need to be exercised.
- The upcoming broadening of the THB provision demands preparation on the part of the PPS in policy and strategy. However, there are still no signs that confirm or point to the fact that this is happening.
- Partly in relation to the shortage of knowledge about the contents of the B-9 regulation among (some) PPS staff, the lack of financial resources for a follow-up to the first course on THB that was organised in 2003 is a matter of concern.

### *Prosecution practice*

- The confusion that exists on the use of the (GOC squads of the) KMar in THB cases also affects the PPS in its approach to these cases, on the one hand because of its effect on the available capacity for investigation, and on the other hand because of the organisational level at which THB cases can be taken up.
- Within the police, the feeling is that the sentence demanded by the PPS in THB cases is on the lenient side. In most cases this subsequently results in a lenient sentence imposed by the court. Even apart from the lenient sentences demanded by the PPS, it is felt within police circles that light sentences are regularly given in THB cases. Apart from the degree of involvement of the suspect and his personal circumstances, this is blamed on the incomplete picture that some judges have of the seriousness of the crime and its consequences for the victims.
- The absolute ban on tolerating the transit of persons in the case of THB is too strict for PPS practice.
- The agreement that reports of THB are sent on by the police in the region where the report was made to the police region in which the crime was committed and where therefore the investigation must take place is insufficiently adhered to in practice. The willingness to take



over these reports is not very great, as a result of which certain police regions, and with them the local PPS, remain stuck with the reports.

#### *International*

- International cooperation at PPS level in THB cases only exists to a very limited extent, and is avoided as much as possible because of problems and shortcomings that such cooperation entails in practice.
- This means that there is little insight into the phases of the THB process that occur in other countries. This hampers investigation, certainly when tackling the entire chain is the preferred option.
- In addition a lack of recognition of and attention to the problem of THB is experienced in contacts with some foreign countries.
- The PPS is confronted with the fact that victims or witnesses are no longer in the country, while they are still needed for the prosecution. This is caused by too hasty deportation, but also because of shortcomings in the system of victim support. In addition, victims (both those who have already returned to their country of origin and those still residing in the Netherlands) are often unwilling to make a statement for fear of their traffickers and their threats, as well as corruption abroad.
- Cooperation within Eurojust is hampered by differences in (and restrictions of) competences of the individual members, as a result of which it is not always possible to tackle problems directly and quickly.

## 8 Recommendations

Thanks to the efforts of many persons, institutions and organisations, much has been achieved in the Netherlands over the years with regard to tackling and combating THB. In fact, since the First Report, progress has been made and initiatives taken up in countless areas. This report provides an overview of these developments. However, the report does also make clear that there are still defects and shortcomings, which have been set out in each chapter under the heading of points of attention and problem areas. In order to achieve improvements to the existing situation on these points, this chapter contains recommendations, grouped by subject. Explanation of the recommendations, and the reasoning supporting them, have been kept brief, but should be understood within the context of the detailed descriptions in the preceding chapters, as well as the recommendations in the First Report. In so far as the implementation of earlier recommendations has already been initiated or promised, these will not be automatically repeated here. However, earlier recommendations are brought to the fore again if they have not yet received any, or adequate, attention by the Government, or if further insights require a further incentive, a different accent or further qualification. The recommendations that follow are not ordered according to importance or priority.

### *Legislation and regulations*

1. Dutch criminal law must be brought in line as soon as possible with internationally accepted starting points and requirements as laid down in the UN Convention against transnational organised crime, the accompanying UN Protocol on Trafficking in Human Beings and the EU Framework Decision on Trafficking in Human Beings. For this purpose, parliament needs to pass with due urgency the Bill currently before it to broaden the definition (and the scope of the penal provision) on THB (Bill on THB). As well as its substantive importance, if ratification is delayed the Netherlands will be unable to take advantage of mechanisms for monitoring and further implementation which have already been set in motion in relation to the UN Convention and the UN Protocol. Another consequence is that the Netherlands will be less and less able to justify its pioneering and leading position in the area of THB.
2. The preferred option is to express more clearly the specific character and seriousness of exploitation for sexual purposes compared to exploitation in other socio-economic sectors. The legislator could, in addition to the Explanatory Memorandum to the Bill on THB, express this more explicitly.
3. The legislator should define the term ‘exploitation’ in labour situations outside the sex industry more precisely in terms of content, and not simply leave it up to the courts. It should be noted that the recommendation contained in the First Report to carry out an exploratory study into the way modern slavery manifests itself in society was responded to relatively late, so that – contrary to what the recommendation aimed to achieve at that time – the results were not already available at the time of submitting the Bill. It is now recommended, with due consideration of the results of this study, that agreement be reached at an international, and at any rate European, level on the scope of the term ‘exploitation in labour situations’, so that with (international) cooperation in investigations, but also extradition for this type of THB, it will largely concern misconduct of the same degree of seriousness. In doing so, we need to rely on the ratio of the Convention’s requirement for the punishability of conduct under the heading of THB, namely if it concerns a serious violation of human rights, i.e. excesses.

4. In order to achieve clarity and uniform emphasis in tackling THB, particularly as far as the treatment of victims is concerned, it is recommended that the government unequivocally declares itself to be in favour of an approach primarily within the context of human rights.
5. Another issue that should be stated in full detail is whether the EU Framework Decision on the Standing of Victims in Criminal Proceedings has led to amendments to Dutch legislation and regulations and, if so, what amendments. This concerns in particular providing victims at an early stage with information that is important for protecting their interests, attention to the special position occupied by underage victims of sexual exploitation, as well as the opportunities for victims to obtain legal assistance.
6. Greater clarity will also need to be obtained on the direction the government wishes to follow regarding the (categorical) prohibition clause contained in the Aliens Employment Act (Implementation) Decree on the issue of work permits for work in the sex industry.
7. In order to prevent THB or make it easier to be identified, the government should also express more clearly its intentions for the long term on opening the sex sector in the Dutch labour market to new EU citizens, whether or not under strict but manageable conditions, for the purpose of salaried employment. After all, a lack of clarity (on conditions and opportunities) is not generally conducive to combating THB, but also an excessively intricate system of conditions (such as those for the self-employed) may be counterproductive because of dependence on third parties that may arise as a result.
8. Upholding – just in case – the (now obsolete) slave trade clause in the Criminal Code (Article 274) with a reference to existing (and not explicitly revoked) international instruments on this subject, raises the relevant question (for implementation practice) of the scope of applicability of this old criminal clause compared to the future THB clause. After all, the latter is derived from the definition of the term in the UN protocol in which THB also explicitly includes slavery and practices equivalent to slavery, as also, following on from this, in the Framework Decision on THB. It is therefore recommended that, at an international level, the question should be raised whether – to put it briefly – modern slavery within the meaning of the UN Protocol also comprises the ‘old’ slavery, so that we do not have to continue using two concepts in national legislation which mean the same or can hardly be distinguished from each other.
9. A further recommendation is to engage in a broad discussion on the question whether the (deliberate) buying of sexual services from persons who have quite clearly been forced into providing such services should be made a criminal offence. This in line with the already applicable punishability of buying sexual services from underage persons. During this discussion, the desirability and practical enforceability of making such acts a punishable offence will need to be raised.

#### *B-9 regulation*

10. With the broadening of the B-9 regulation to cover victims of all forms of THB, it must be examined where differentiation according to the nature of THB is appropriate in the reception of and help offered to victims and how this can be organised. This also applies to the matter of being allowed to work and the practical opportunities available to the victim to work while holding B-9 residence status, as has already been agreed within the EU but not yet implemented in the current B-9 regulation.

11. Structural measures must also be taken in order to prevent the B-9 regulation from not being applied in practice, especially where it involves offering the reflection period to decide whether or not to report the offence. This is particularly pressing since in the current political climate the importance of (immediate) deportation of illegal aliens is being emphasised. If possible victims of THB are not properly cared for, they risk being ‘swept away’ by (local) government intent to tackle the problem of illegal aliens and sometimes also to simply suppress nuisance. These methods should be regarded as counterproductive as far as tackling THB is concerned.
12. We recommend making shelter and assistance available not merely to victims who cooperate with investigation and prosecution or are considering doing so. Although a more or less formal assessment of victim status remains desirable in order to prevent potential misuse of the regulation, there are victims about whom there is little or no doubt regarding their victim status, even though they do not have the courage to report or to consider doing so. This applies, for example, to victims found by the police with a high score based on the list of THB signals designed by the PPS and used by the police. Even without a report, useful information for investigation and prosecution may emerge from these victims’ stories. Furthermore, there is the chance that they will, once they have come to themselves, (have the courage to) cooperate after all with an investigation and prosecution.
13. It is desirable for each of the authorities involved in the implementation of the B-9 regulation to inform their own staff and the other partners in the chain about how the tasks assigned to them under the B-9 regulation are (to be) carried out. This will be conducive to a uniform implementation of the regulation and greater clarity in its application.
14. Furthermore, all partners in the chain involved in the implementation of the B-9 regulation must inform the victims as fully and quickly as possible, each according to its individual contribution to it, of the rights and opportunities the B-9 regulation offers them, and also to keep them informed of progress and settlement of the proceedings. This applies not only to social security aspects, but also to aspects of criminal and aliens law.
15. In consultation with the designated authorities, sufficient opportunities for concrete and proper legal assistance to victims in the above-mentioned areas must be provided. It is not appropriate to limit access or restrict the duration of assistance in advance.
16. In order to monitor the proper implementation of the B-9 regulation, it is recommended designating a central office that maintains a record of problems with implementation, provides advice on solving these problems and can intervene if needed. The diversity of disciplines involved in the implementation of the regulation requires the appointment of an authoritative body.

### *Victims of THB*

17. Although offering proper protection to victims within the Netherlands’ national borders will be a practical priority, the Dutch government will have to ensure that a more far-reaching form of victim protection is provided in those cases that qualify for it. In order to do so, efforts must be made to cooperate across national borders, such as by drawing up bilateral or multilateral agreements. This is crucially important not only for humanitarian reasons, but also to (be able to) encourage victims to come forward, to get out of their predicament and tell their story to victim support workers but if possible also to the police and the PPS. The latter

is often necessary for practical reasons in order to have a realistic chance of bringing the perpetrators to justice. One should also realise here that without effective repression, perpetrators can continue undisturbed and prevention does not benefit as they can continue to create new victims. Added to this is the fact that confiscating profits obtained from criminal activities can only take place in our legal system after sentencing. In the fight against THB, where the perpetrators are simply after profits, it is precisely the use of this means that is regarded as the most effective.

18. Sending back a victim to the country of origin must go hand in hand with the best possible preventive measures to prevent persons falling victim to THB again or to protect them against reprisals, particularly those victims (and/or their families) who have cooperated with the authorities in investigating and prosecuting the perpetrators. Even without the above-mentioned cooperation, when repatriation is not justified in view of the victim's safety, there must be some provision to allow such a person to remain longer legally in the Netherlands, as well as provision for (continued) shelter and assistance. The conditions for (any) return of a victim to the country of origin must be established on a policy basis, and only after a risk analysis (that the victim must know about) and after minimum conditions for responsible repatriation have been formulated. The existence of such a policy will give partners in the chain in the fight against THB greater confidence not to advise victims against making a report.
19. Attention must be given on a structural basis to the safety of women and AMAs in asylum centres. Phenomena such as recruitment for prostitution and leaving such centres for an unknown destination must be prevented and combated as much as possible, but recognised and registered if they do occur.
20. BAMAs (accompanied AMAs) should not be placed under the responsibility of (distant) family members without proper checks on the reliability of these persons.

#### *Victim support and representation of interests*

21. Many organisations involved in sheltering, assisting and representing the interests of victims of THB have to cope with a lack of structural finance for their activities. Since their efforts and the expertise they have built up in this area are indispensable for an effective THB policy, the government must make a (more) structural investment in these non-governmental organisations in order to be assured of their valuable contribution and the continuity of their work.
22. (Victim support) organisations that (may) have to deal with victims of THB must be able to recognise victims as such, in particular the underage victims. Training courses should focus attention on the problem of THB. Existing lists of THB 'signals' may be helpful in recognising victims and in training programmes.
23. Ways must be sought to make information on THB or (possible) suspects of THB, that is often held by victim support workers, available to the police, without affecting the accessibility of these workers and the confidential relationship that victim support workers (must) have with their clients.
24. Since it would appear that foreign victims too are more frequently forced into prostitution through 'lover boy techniques', it is important for victim support organisations to devote attention as a matter of course to this phenomenon, also for foreign victims of THB. This may prevent (some of) these victims leaving reception centres, as sometimes the feelings that vic-

tims have for their trafficker may result in them contacting him again and sometimes even in going back to him.

25. It is up to reception centres, and victim support organisations in general, to be the first to consider seriously the advantages and disadvantages of reception by category or integral reception (and additional support, if applicable) of victims of THB, in order to develop a well-considered proposal on the issue and submit it to central government, taking account of a) proper recognition of THB victim status, b) optimum use of existing expertise that may not be available in all reception centres and c) optimum safety for victims.
26. In order to prevent a situation whereby the opportunity (recently agreed at EU level) for victims of THB to work during the B-9 period merely exists on paper, serious efforts will need to be made to support victims in finding suitable work and assist them in it. This aspect must be taken account of when converting this agreement into Dutch regulations, which is currently in hand.

### *Research and registration*

27. An optimal central registration system for *all* victims of THB is desirable. In order to achieve it, it is important for all (victim support) organisations that (may have to) deal with victims of THB to be aware that they can report all victims, including Dutch and underage victims, to the STV. They need to be motivated to do this. Motivation will increase if the organisations involved will themselves benefit from such registration. That is why it is vital to impress on the organisations the importance of registration, and to ensure feedback of information. Contrary to that which could be derived at present from the B-9 regulation, the unequivocal delegation to STV of this registration task, formally too, would therefore be appropriate.
28. Measures must be taken to deal with the problems still being reported of finding accommodation for victims of THB in reception centres. Firstly, through accurate, up-to-date registration of available places that can be accessed by all organisations involved in placing victims. Secondly, by creating extra places if there are insufficient existing placement options. Specific attention needs to be given to reception facilities for underage victims of THB.
29. It is important to find out more about what happens to victims after they have been recognised as such. This goes beyond that stated as desirable in the Government's response to the First Report. More specifically, research needs to be carried out into the problem of victims leaving reception facilities and the reasons for it, as well as the experiences of victims after they have returned to the country of origin.
30. Despite efforts within the framework of the Dutch presidency of the OSCE, for example, there are still only a few officials equivalent to the Dutch NRM in other countries. Since various initiatives have been taken at an *international* level in order to analyse and follow the THB problem from a supranational perspective and interest, the lack of information and data collection at a *national* level is being more urgently felt. Taking this view, further efforts to encourage other countries to set up bodies with a position and task such as the NRM are still needed. The availability and exchange of relevant information between countries and with international organisations will be encouraged as a result, so that the picture of the nature and extent of THB for the countries concerned and the international community can be improved and made more complete. This is very important for tackling THB and for the choice of the tools needed for this

*Law enforcement - general*

31. In tackling THB, repression must not be seen as opposite to prevention, nor to a humanitarian approach focusing on the victim, c.q. an approach based on human rights. Effective repression ensures that perpetrators are unable to continue their activities undisturbed and create new victims. Prevention is therefore well served by repression. For the importance of this, please refer to recommendation 17.
32. Taking the prostitution policy as amended by a change in the law on 1 October 2000 as the starting point, and with it the intention of stepping up the fight against THB, it is extremely important to implement and pursue this policy in a clear and unambiguous way in practice, in all (sub)areas. Gaps or shortcomings in it could give rise to situations in which THB can flourish more readily. Government authorities involved in implementing prostitution policy should therefore do everything possible to iron out existing shortcomings in this policy. This may vary from implementation rules and proper and strict administrative enforcement to issues such as sufficient opportunities for setting up (bona fide) prostitution establishments, the provision of information and programmes targeting those wanting to leave the sector.
33. National overviews of the results of administrative inspections and (any) subsequent administrative interventions in the prostitution sector must be made available, in order to provide better insight into the frequency of the inspections and the number of victims of THB found, including underage victims, as well as the number of illegal prostitutes discovered.
34. It must be examined whether and to what extent administrative measures against a malafide proprietor of a sex establishment in one municipality can be used in assessing a licence application by the same proprietor in another municipality, in order to prevent these proprietors from 'doing the rounds'.
35. Now that many new (international) regulations have been drawn up over the past few years in the area of THB, in the years to come attention must be focused above all on their implementation and practical implications. After all, with law enforcement it is the successful implementation that matters and which continues to give meaning to the regulations. New regulations should only be considered if they add something (substantive) to the existing body of regulations.
36. New regulations and priority attention to THB demand a real effort as regards enforcement, for which police and judicial capacity must be available. Without adding new capacity, the fight against THB, as one of the many priorities that have been expressed, simply cannot be given enough volume and force.
37. The administrative enforcement of the legalised prostitution sector must not slacken, but be applied stringently and properly, even if this takes up capacity. Prostitution policy, under the responsibility of each municipality, affects and is crucial to the ultimate responsibility borne by central government (Minister of Justice) for the criminal enforcement of THB. This means that the price of a failing enforcement at an administrative level, within the framework of a *prostitution* policy at municipal level, is (also) paid for at a national level as part of criminal enforcement in *THB* policy. This fact forces the central government to take more direct responsibility for the prostitution sector, so that it can live up to it better and can be called to account for it

38. By excluding the escort sector, which forms a considerable share of activity in the sex sector, from the licensing obligation, there is a fair chance that it is precisely in this area that THB may occur. If the administrative means of control in this sector, which is characterised by mobility, cannot function effectively (enough) and/or demands an extreme use of capacity, a simpler system of regulation and inspection will need to be examined. After all, the larger the area of activity that cannot be covered by an administrative means of control, the weaker the effect these means will have as a supplementary tool in the fight against THB. This is even more urgent, since the change to the law has generated the expectation that by adding the tool of administrative control, a contribution can be made to the fight against THB.
39. Now that with the lifting of the general ban on brothels and notwithstanding the choice to decentralise prostitution policy, central government has also formulated general objectives (to be evaluated at a later date), it is only logical for the Minister of Justice to continue to be the coordination and contact point for the prostitution policy, as long as this is not provided for other in another way at central level. Referring predominantly to decentralised policy with questions focusing on these objectives (as happened during the Parliamentary Debates) ignores the responsibility for this at central government level. In particular, where these objectives partially overlap (or affect) the issue of THB, an appeal is made to central government not to shirk its responsibility in this area or merely to pass it on to (municipalities as) local government.
40. The (Dutch) government must declare in principle whether the bar for law enforcement into the crime of THB, whereby a national standard is usually set on the issue of the effectiveness of the investigation, should not be raised (higher than merely the national level) for cross-border, organised forms of THB. Following on from this, the government should promote more international cooperation, removing or reducing obstacles to prevent the situation where only some of the players in the THB chain are caught while others (within and outside the Netherlands) escape being brought to justice. This is essential, not only from the view of upholding standards, but also because proper repression contributes to prevention.
41. In the light of the above, the idea put forward earlier of a European area of criminal justice for cross-border forms of organised crime, in particular the combat of THB, must be built upon further.

### *Police and investigation*

42. The priority the police give at a policy level to investigating THB must also be shown in practice by (all) regional police forces.
43. In investigations into THB, besides the attention given to the actual perpetrators of THB, more attention needs to be given to the ‘facilitators’; those involved in identity fraud or diverting or laundering the income from such trafficking. More intensive investigation of these ‘facilitators’ hampers criminals in their THB activities and in other criminal offences.
44. Investigations should also be instigated more frequently than is currently the case, if the victim involved does not want or dare to report an offence. In such situations, the earlier developed concept of Intelligence Led Investigation can be used for collecting (incriminating) information about the suspect(s) of THB.



45. Since signs concerning domestic THB point to the fact that some traffickers wait until their victims have just turned 18 years old in order that they can be put to work as quickly as possible in the legalised prostitution sector, the police (and victim support services) must pay special attention to this group of young people in the prostitution sector.
46. The problems that victims of THB quite often experience when reporting or wanting to report an offence must be solved. A victim of THB who reports to the police must be given the opportunity, in accordance with the prevailing procedure, to make a report as quickly as possible.
47. Financial investigations must be initiated more often and at an earlier stage in investigations into THB. On the one hand this serves the (separate) confiscation procedure, and on the other hand financial investigation can produce valuable information in providing proof of the THB case itself. Information from financial investigations can also be useful in establishing the amount of the (material) compensation to be awarded to the victim.

#### *Public Prosecution Service and prosecution*

48. The differences between the various districts in the way THB is tackled show that the priority attention to the subject as advocated in policy documents is not given equally in implementing this policy. There must be more national coordination in order to avoid the situation where the priorities that have been set in this area are in fact no more than words on paper.
49. Following on from this, it is also highly desirable for the PPS itself to demonstrate more actively (as the leader in the investigation) what is necessary and what efforts need to be made to uphold the criminal ban on THB properly.
50. Furthermore, the PPS must declare and demonstrate more explicitly where obstacles occur in practice, despite existing legal instruments for international cooperation. When determining the effectiveness of an investigation, usually a national standard is set, however this produces too little insight into the phase(s) of the THB procedure that has/have taken place outside the Netherlands. This in turn means that the THB chain as a whole is often insufficiently broken and so criminal activities can be easily resumed. On balance, this result must be regarded as unsatisfactory and not effective (enough).
51. More effort is needed to achieve results in confiscating the illegally obtained benefits. High profits, in combination with the low risk of being caught in this crime remain the most important motive for (potential) perpetrators of THB. Starting up a financial investigation more often and at an earlier stage as an integral part of the THB investigation is important in this respect.

#### *Other recommendations*

52. It is important for the Netherlands, in order to achieve an objective picture, especially abroad as well as in an international context, to explain its own prostitution policy better, but above all to promote more actively and powerfully its policy on combating THB. For this reason, the Dutch government should be represented at a formal level – i.e. by those with political responsibility – more often at important (international) meetings.

53. The strengthening of (international) cooperation that is justifiably emphasised in all sorts of areas should not lead to the parallel and independent development of initiatives focusing on this issue without there being (more) harmonisation between the initiators. Through better communication and provision of information on pending and current initiatives, such as in the area of training, scientific research and data collection, a duplication of such initiatives must be prevented so that if there is a risk of such duplication, the (scarce) resources available can be used for a joint initiative or for other activities not carried out earlier or elsewhere.
54. In the broad field of combating THB, each of the chain partners involved must anticipate the potential consequences of the forthcoming broadening of the definition of THB and the relevant article in the Criminal Code. Together with central (government) level, it must then be examined what measures are needed and how they can be implemented, whereby the Ministry of Social Affairs and Employment in particular should also be more intensively involved, in view of the definition's focus on exploitation in employment relationships.
55. More specifically, the PPS and the investigating authorities must prepare themselves, in mutual consultation, for the consequences as regards law enforcement of the forthcoming broadening of that which will be considered criminal behaviour under the definition of THB in the Criminal Code. In doing so, investigation and prosecution (as well as identification by victim support services) will be served by drawing up a list of 'signals' for these other forms of exploitation, whereby the existing list of THB signals of sexual exploitation could serve as a guide.
56. In response to the repeated call in international documents for training to be given to all officials and persons involved in tackling THB, more attention should be given to education and training. A thorough knowledge that is kept regularly up to date is indispensable for the practice of tackling THB. A few initiatives have been developed and implemented for individual partners in the chain, which can be used as an example and learnt from. For members of the PPS, a course on THB has been organised, but is provisionally a one-off course. Such an opportunity is lacking for members of the Bench. It is therefore worth recommending setting up a structural facility for both target groups.
57. The forthcoming broadening of the article on THB in the Criminal Code should lead to a broadening of the subject matter on which the NRM's report should focus. In view of the required preparation for this and continuity of current activities, a formal decision on the matter will need to be taken quickly.

*Recommendations reiterated from the First Report (in so far as not already included in the context of the above-mentioned recommendations)*

58. In response to recommendation no. 10 from the First Report (exclusion of the reflection period for the category of victims who have not yet been put to work in prostitution in the Netherlands), the government stated that it had been considering for this category the feasibility of a specific procedure that would do justice to the exceptional situation of these victims. This has not yet led to any result. Although the argument used by the government that there is no point in allowing victims to enter the Netherlands and then deferring their departure may apply to (some of the) victims arriving through Schiphol Airport, this ignores the fact that victims may also have entered the Netherlands across other borders. Moreover, this argument fails to appreciate the often transnational character of the crime, in the sense that one person may already have become a victim of THB in a country other than the Netherlands. The NRM

still fails to understand why such a victim does not need any time to recover from such an ordeal and to reflect on the consequences of reporting the offence. These comments serve to focus attention once again on the recommendation.

59. In the context of the recommendation to achieve better cooperation between the various partners in the chain in tackling THB (recommendation 13<sup>NRM1</sup>), the government stated in its response that it is working on improving cooperation between the PPS and the IND. As regards the implementation of the B-9 regulation and the responsibilities of both the parties involved in it, according to the IND problems still exist in the relationship between the IND and PPS already identified earlier (lack of knowledge at the PPS concerning the content of the B-9 regulation and of the partition of powers in deciding on an application, lack of information exchange on decisions under the B-9 regulation). The agreements made to enter into structural consultations with each other have clearly not (yet) led to any results on these points.
60. The idea of starting up a public education campaign by the government in order to raise awareness of the phenomenon of THB and thus pursuing a properly structured deterrent policy on the demand side (recommendation 17<sup>NRM1</sup>), the government regarded as being less expedient. In the government's view, it is rather for the sector itself to achieve self-regulation and focus positive attention on the legally operating establishments in order to achieve this effect. In its response, the government did not express a view on the suggestion for a 'quality mark' for advertising sex establishments. However, the importance of focusing attention on preventing THB through awareness and information campaigns for the public at large still exists and is also recommended in countless international agreements made by the government. For this reason, but also because normalization of the sector is still under development, in addition to self-regulation there is also a role for the government to play on this matter. Apart from that, central government bears the responsibility of disseminating information among the public, since the message that needs to be put across is not sector-specific, but states that exploitation and abuse of people cannot be tolerated. With the forthcoming broadening of the article on THB, making THB not related solely to the sex industry, this importance is given even greater emphasis. The government should accept this responsibility and act accordingly.
61. Specific attention should be paid to providing information to (potential) clients for sexual services. They must be made aware of their responsibility to buy these services only in the regulated sector, and to remain vigilant even then. Clients above all could pick up signs of THB more readily and then pass them on to the competent authorities. It would be useful in such information to draw attention to existing facilities in this area, such as the anonymous telephone line Report Crime Anonymously (*Bel M*).
62. Concerning the strict ban on tolerating the transit of persons put forward in the so-called Rouvoet motion, the government takes the view that this must be upheld in full in THB cases, because human dignity is always at stake in such a crime. Although the latter is absolutely true, the practice of investigation and prosecution shows that a differentiated approach is required for each specific case (recommendation 25<sup>NRM1</sup>). The government does not appreciate the need for this. The police and the PPS, however, do aim in practice to achieve such differentiation in applying the ban, without compromising the essence of the motion. With this in mind, once again it is recommended reviewing the scope and effect of the Rouvoet motion for judicial practice, certainly also in view of the forthcoming broadening of the article on THB. A judicial test for the lawfulness of the route chosen should not be automatically ruled out.
63. The greater attention for criminal enforcement outside the legalised sector recommended under number 26<sup>NRM1</sup> was endorsed by the government. In the government's response, this at-

tention was however made conditional upon the takeover of the administrative monitoring task by the police. More active investigation and prosecution by the police and the PPS of the organisation of prostitution outside the legal sector, however, should not be made dependent on the administrative effort, regardless of who actually carries it out. Administrative supervision in the legal sector and an increased effort to track down and prosecute THB outside the legal sector must exist side by side, and not one after the other. In order to achieve this, sufficient capacity must be available to use both of these tools.

The above-mentioned recommendations are addressed to the Dutch government, but also to other parties, depending on the recommendations' contents. The announced government response to these recommendations and the subsequent parliamentary debate, must make quite clear which recommendations will be followed up and what priority will be assigned to them. The time has come when fine words will no longer suffice, in the sense of repeatedly assigning priority to this despicable form of usually organised, cross-border crime. A national action plan is needed to give real substance to all the good intentions that have been expressed. Such an action plan can form the basis for a coordinated, multidisciplinary approach, which will allow insight into the level of compliance with the recommendations and the progress of initiatives and activities, and allow such compliance to be adjusted and verified. Besides the parliamentary debate that will proceed through the stages of formulating, submitting and rejecting motions, such a national action plan can fulfil the need for everyone, including chain partners and politicians, to better monitor the situation and implementation in the area of THB.

The call to the government (in the First Report) to continue to devote intensive attention to macro factors that are or could be the root cause of international THB, such as the lack of employment and development opportunities, poverty and gender problems, is still just as relevant as ever. It is worth recommending that such factors, particularly in relation to THB, be involved in (development) relations with other countries. Genuine success in the fight against THB can only be achieved if the national and international community commits itself fully and with conviction to tackling the more fundamental causes of the phenomenon of THB.

## **9 Summary**

### **9.1 Introduction**

Trafficking in human beings is a form of serious, often organised and cross-border crime that leads to the violation of fundamental human rights. THB must therefore be combated with the greatest vigour.

Thorough information is important when developing policy in this area. The task of the National Rapporteur on THB is to collect information and report to the Dutch government. This report is the third report produced by the NRM, and contains quantitative data for the period from 1998 to 2002 inclusive, qualitative information for the years 2002 and 2003, as well as detailed conclusions and recommendations.

This chapter contains the summary.

### **9.2 Legislation and regulations**

#### **9.2.1 Trafficking in Human Beings in the Criminal Code**

In 2002, Article 250a on THB in the Criminal Code was extended to include not only prostitution but all forms of sexual services, so that now the commercial organisation of forced sexual services, the employment of minors in sexual services, the transporting of persons across borders for this purpose and profiting from these circumstances are punishable offences. The level of punishment remained the same. In the same amendment, the extraterritorial applicability of Article 250a of the Criminal Code was extended. As a result, Dutch citizens as well as aliens who have or acquire a permanent home or address in the Netherlands and commit the offence of THB outside the Netherlands on an underage person, may be prosecuted in the Netherlands.

Various international agreements have forced the Netherlands to amend once again its (criminal) legislation in relation to THB. This has resulted in a Bill (a new Article 273a of the Criminal Code) that is currently being debated in Parliament. In this Bill, THB concerns in principle all forms of exploitation for the purpose of work or services. This includes forced or compulsory work or services, slavery and practices equivalent to slavery, bondage and the trafficking of persons with the intent of removing organs. The severity of the punishment for THB under certain circumstances will be increased.

#### **9.2.2 B-9 regulation**

The B-9 regulation for aliens who are victims of THB has to date remained unchanged, apart from a recent amendment due to the transfer of the administrative tasks of the aliens police to the IND. For a number of reasons, however, changes to the B-9 regulation are required in due course. Firstly this is due to the proposed amendment of the Criminal Code currently being debated, whereby the definition of THB is to be extended to include all forms of socio-economic exploitation, and secondly because of the option concluded at EU level for victims of THB to work during their stay in the destination country. In addition, there are problems that have been repeatedly observed in the implementation of the B-9 regulation, which could also be reason to change its wording. With regard to the latter point, for the time being the focus is on reaching further implementation agreements with all chain partners concerned.

#### **9.2.3 Prostitution policy and framework for administrative enforcement**

Since the lifting of the general ban on brothels on 1 October 2000, running a sex establishment in the Netherlands is no longer prohibited. Municipalities are responsible for pursuing a local prostitution policy, based on a licence system for running sex establishments. For instance, they can impose rules in the municipal bye-laws concerning the establishment, interior and business operation of the sex establishment within their borders. Criminal law too sets limits on the operation of a sex establishment, which are (usually) also laid down in the municipal bye-laws. For instance, a ban on employing underage persons, illegal persons and victims of THB is a licensing condition in virtually all municipalities. As a result of the Wet BIBOB that came into force on 1 June 2003, the local government may refuse or withdraw a license if a serious risk of misuse is suspected. In 2001, incidentally, the municipalities still had a substantial backlog of licence applications to process, which still has not been entirely cleared.

Based on Article 151a of the Municipalities Act, government officials may be appointed to monitor compliance with the regulations for running a sex establishment as well as street prostitution. In most municipalities, police officers are assigned this task. There may be good reasons for this, but in practice it may cause confusion because the prime task of the police is to ~~investigate crime~~ ~~at the same time~~. As the general ban on brothels was lifted, an obligation for prostitutes to carry identification was introduced, in particular to make it possible to check for illegal and underage persons. A Bill has meanwhile been passed, whereby a general obligation to carry identification (for everyone in the Netherlands aged 14 years and older) will be introduced.

#### **9.2.4 Foreign prostitutes**

The basic principle adopted by the Dutch government is that aliens originating from outside the EU/EER may not work in the Dutch sex industry. Subjects of EU countries may in principle do so. On 1 May 2004, ten new member states – including many countries of origin of victims of THB - acceded to the EU. The Dutch government has decided that (for the time being) persons from eight of the ten countries that acceded to the EU in 2004 would not be allowed to work in salaried employment in the Dutch sex industry. However, these EU subjects may start working in the sex industry as a self-employed person under certain conditions. In addition, on the basis of the Association agreements, the Netherlands is obliged to permit aliens from ‘association countries’ (Bulgaria and Romania) that have not yet joined the EU, who want to start working as a self-employed prostitute to do so, under certain conditions.

Various NGOs have repeatedly argued for more flexible opportunities for foreign prostitutes to enter the Dutch market. This would – in these NGOs’ view – make these prostitutes less dependent on third parties, and thus reduce the risk of THB.

### **9.3 Investigation and prosecution**

#### **9.3.1 (Policy) developments with the police, KMar and AIVD**

In recent policy documents concerning the police THB is mentioned, but in the same breath as (the investigation of) illegal aliens. The Minister of Justice has repeatedly stated that THB is a priority for the police and the PPS. The setting up of the National Crime Squad is now a reality. It is highly likely that THB will become one of the areas on which the National Crime Squad will focus its attention (however this has not yet been formally confirmed).

The Royal Military Constabulary (KMar) also dealt with THB cases in the past (supporting the police). In the future, KMar will probably focus less or not at all on THB. The National Intelligence and Security Service (AIVD) will collect information – as part of its foreign intelligence task – in the area of THB if national security is or could be at risk.

### **9.3.2 (Policy) developments within the Public Prosecution Service**

In PPS policy documents, THB is consistently highlighted as a national priority, usually together with the fight against human smuggling. This close link, often under the heading of migration crime, is being increasingly abandoned in the PPS's current (policy-based) practice. Although both issues are brought together in the portfolio of a single National Public Prosecutor, the latter regards these issues as separate from each other, however without ignoring any connection between them.

In the PPS's long-term plan, THB is mentioned as a special theme for which criminal enforcement needs to be strengthened. The National Crime Squad, managed in this matter by the National Public Prosecutor for THB, will play an important role here.

Restorative justice, another important focus of the PPS's attention in addition to enforcement, will in the coming years be increasingly about perpetuating the existing situation. THB is not specifically mentioned in this respect, and so it is unclear whether the PPS wants to make an (extra) effort on the issue of confiscating illegally obtained benefits, for example, and on compensation for victims in THB cases. In the area of victim policy too, the PPS has not announced the development of any new initiatives in its policy documents. However, the right of victims to speak at the trial will also become applicable to the crime of THB.

### **9.3.3 Investigations into THB**

The number of investigations into THB that were completed by the police has increased sharply, particularly since 2000. In 2002 55 investigations into THB were completed and referred to the PPS. Of these investigations, 24% concern domestic and 76% cross-border THB.

The number of investigations carried out into THB partly depends on the extent to which the investigation of this crime is given priority and capacity made available to pursue it. In some police regions, this is lacking.

Most investigations relate to window and club prostitution. In 2001 the number of investigations focusing on the escort sector increased as a proportion of all investigations. This increase continued on – in general terms – into 2002. Victims of THB were also found in Turkish cafes and massage parlours.

### **9.3.4 Investigation methods and process**

Investigation methods that are used relatively often in THB cases are observation and telephone tapping. Requests to other countries for international legal assistance are also made relatively frequently. Intelligence Led Investigation is increasingly pursued, and could in fact be of particular use in THB cases because many victims of THB do not want or have the courage (initially) to report the offence. In these cases, (incriminating) information can be gathered in other ways, at a later stage possibly supplemented with (information from) a report or witness statement. The investigation process is hampered by a number of factors, which have already been mentioned in the First Report of the NRM. In addition, the prostitution policy pursued is not the same everywhere (in relation to such things as licences, inspections and attention given to the phenomenon). Traffickers can profit from this.

### **9.3.5 Financial aspects**

Generally speaking, financial investigations are too often regarded as subsidiary in tactical investigations. In 40% of the investigations into THB completed in 2002, financial investigations were indeed carried out, according to the team leaders. In almost one-third of the investigations, a criminal financial investigation (CFI) was initiated which resulted in confiscation proceedings in

at least half of the cases. The illegally obtained benefits calculated in the investigation phase are reduced on average by half by the courts, and to 40% on appeal.

If no financial investigation is carried out or this does not result in a CFI, the reason often stated is (partly) that the (estimated) proceeds are too low, or that the suspect possesses little of any value. Other reasons cited are that earnings cannot be traced. Kleemans et al (2002) undertook a study of criminal cash flows in organised crime, and found that the profits of crime are often frequently moved around, particularly to countries where they can be freely spent or with a strong banking secrecy. In the THB cases studied, money transfers above all were used for this purpose. Such money movements complicate the tracing of criminal money. Even so, the possibilities of tracking down such cash are often greater than assumed, according to the researchers, because such transactions do indeed leave a trail.

### **9.3.6 THB cases registered with the Public Prosecution Service**

In 2002, 201 cases were registered with the PPS in which THB was the only or one of the suspected crimes; a substantial increase compared to previous years. Of these 201 cases, 13% (also) involved underage victims, the second-lowest percentage since 1998. The vast majority of the cases concerned THB under aggravating circumstances (Article 250a paragraph 2 of the Criminal Code), but since 2001 the proportion of this type of THB has declined, whereas the number of THB cases without aggravating circumstances (Article 250a paragraph 1 of the Criminal Code) has been rising since 2001. During the past five years, only one variant of THB with the most severe penalty (Article 250a paragraph 3 of the Criminal Code) has been registered. THB is usually the most severe crime in the charge. In slightly less than 20% of cases an even more serious charge was made; usually a form of (sexual) violence. THB is often committed in combination with other crimes, in particular providing access to an undesirable alien, (attempted) rape, the possession of weapons and (attempted) deprivation of liberty. Furthermore, there would seem to be an increase in the use of fake or forged travel documents in combination with THB.

### **9.3.7 Dealing of cases by the Public Prosecution Service and settlement by the court**

In 2002 a summons was served in almost 70% of the cases dealt with by the PPS, an increase compared to previous years. The number of cases that are unconditionally dismissed and those in which ultimately a summons is served for crimes other than THB would appear to be gradually declining.

In the cases brought before the courts by the PPS, a sentence is virtually always imposed. In 2002 this was the case in 89% of cases brought before the courts. The average sentence imposed by the courts in 2002 in cases in which THB was (also) declared proven was just over 21 months. The severity of the (custodial) sentence naturally varies from case to case and depends on the crimes that have also been declared proven. If, in addition to THB, sexual violence was also involved which carries a heavier penalty, the average sentence was almost three years; where THB was the most serious crime, the average was something over 20 months (with the qualification of Article 250a paragraph 2 of the Criminal Code) and something over 12 months (with the qualification of Article 250a paragraph 1 of the Criminal Code).

The average sentences imposed for THB (whether or not in combination with other crimes, but with the exception of rape) would appear not very severe, but virtually correspond with the average sentence for the crime of rape, which has a considerable higher maximum punishment (whether or not in combination with other crimes, but with the exception of THB).

Roughly one in ten cases ended in an acquittal in 2002; a percentage that is comparable with previous years. Very occasionally the PPS is declared inadmissible. In half of all cases an appeal is lodged, usually by the suspect.



## 9.4 Suspects

### 9.4.1 Suspects in investigations

In the investigations that were successfully completed in 2002, the police identified a total of 207 suspects of THB, arrested 191 suspects (92%) and 'referred' 180 suspects (87%) to the PPS. The majority of those arrested were men. Almost a quarter were women. The percentage of women among those arrested increased in 2000 and 2001, but fell again in 2002. Almost half of the suspects have Dutch nationality, however some of them were born outside the Netherlands. Relatively speaking, many suspects of foreign nationality originate from Albania, Bulgaria, (former) Yugoslavia, Nigeria and Turkey. In 2002 the number of suspects with Albanian and Bulgarian nationality increased sharply, whereas the number of Dutch suspects declined. Virtually all suspects born in Morocco and on the Netherlands Antilles were suspected of domestic THB. In 2002, 48% of suspects with foreign nationality were residing illegally in the Netherlands. In 2002, 18% of suspects arrested in 2002 ran a sex establishment, whether or not a legal one. However, the number of proprietors of sex establishments – identified through in 2002 completed investigations – who according to the police were aware at any rate of the fact that victims of THB were working for them, is much higher, namely 78. Proprietors from municipalities where the licensing procedure is well organised would appear, however, to be afraid of losing their licence and therefore are reluctant to involve themselves with (underage) victims of THB. In addition, there are reports that lawyers sometimes contact victims of THB to persuade them to change or withdraw their report, and/or benefit in another way from the fact that foreign prostitutes are very keen to work in prostitution in the Netherlands.

### 9.4.2 Prosecuted suspects

Suspects in THB cases who were handed over to the PPS are on average 31 years old, and in three-quarters of cases are men. In 2002 there were 25 underage suspects, a number comparable to earlier years. Almost a quarter of suspects are women, whereby it is striking that the proportion of Nigerian women among the suspects is very high, namely 55%. Unchanged compared to previous years, the Netherlands is the most important country of origin of suspects; one in three suspects were born in the country. In 2002, other important countries of origin of suspects were Yugoslavia, Turkey and Bulgaria, countries which during the past five years have virtually always been among the top five of the most frequently occurring countries of the suspects' birth.

### 9.4.3 THB modus operandi

THB virtually always begins with recruiting or abducting victims, in the Netherlands or abroad. Most foreign victims are approached by recruiters, but it also occurs that victims themselves approach the recruiters, who are often persons from the same country as the victim and usually even known to her. Most victims left for their destination country within a week of being recruited. This could be a deliberate strategy to give the victims little time to think through their decision properly.

Generally speaking, recruiters who operate abroad are seldom tracked down. In 2002, however, this appeared to occur more often than previously, possible because more foreign 'lover boys' were tracked down, whereby recruiter and pimp are usually one and the same person.

Foreign victims are then brought or sent to the Netherlands, sometimes being sold *en route* (there are persons engaged exclusively in the business of intermediate trafficking in victims) or are put to work abroad. In two-thirds of investigations victims possess a valid passport, and in more than a third a fake or forged one. Visas are forged less frequently. Furthermore, victims originate –

even relatively frequently in 2002 – from countries without a visa requirement. Police officers say that many fake or forged documents can hardly be distinguished from genuine ones.

Traffickers use all kinds of means of coercion to bring women into and keep them in prostitution and/or to confiscate their earnings. Often violence is used or threatened. Suspects of domestic THB use violence more frequently than suspects of cross-border THB. An explanation of this could be that with cross-border THB there are more non-violent ways for exerting force on victims than with domestic THB. A further striking fact is the rise in the number of investigations in 2002 concerning foreign victims who have been set to work in prostitution through ‘bogus love’ (by ‘lover boys’). Some of the completed investigations showed that THB victims had been drugged.

#### **9.4.4 Criminal co-operation/allocation of tasks**

The investigations completed in 2002 concern relatively fewer extensive criminal networks than in earlier years. In those investigations included in a part-study, most arrested suspects are engaged in bringing victims into prostitution in the Netherlands and keeping them there. In cross-border THB, recruiting is often carried out by others, who relatively speaking are less often tracked down or arrested by the police.

Of the women engaged in THB, most – just as with the men – are involved in bringing victims into prostitution and keeping them there. Men, however, are significantly more frequently the pimps to the victims, whereas women more often have a supporting role. Men also use violence towards victims significantly more frequently, although it is striking that a fifth of the women suspects are still guilty of physical violence towards victims.

In 30% of the investigations into cross-border THB from 1998 to 2002, according to the police ‘facilitators’ were involved, producing and/or supplying documents, whether or not fake or forged. Too little attention is given to these facilitators in investigations.

### **9.5 Victims**

#### **9.5.1 Specific groups of victims**

A few specific groups of (possible) victims are discussed in the report. In the first place, these are the underage victims. They may originate from outside the Netherlands, but there are also Dutch underage victims, often having fallen prey to ‘lover boys’. AMAs too, who have to leave the Netherlands when they turn 18 years old, as well as BAMAs belong to the vulnerable groups in the Netherlands, partly because of their (future) illegal status. The same applies to women in asylum centres, whose safety is moreover not optimally safeguarded, and for women with a dependent residence status.

There are all kinds of reasons why victims are reluctant to disclose their story (shame, fear, little trust in the police). For some of the African victims, an additional element is that the agreements with their traffickers have been sealed through voodoo rituals, making it impossible for them to escape the powers of their exploiter(s).

#### **9.5.2 Victims – a quantitative analysis**

##### **9.5.2.1 The extent of trafficking in minors**

It is difficult to obtain reliable information on trafficking in children, but also on the phenomenon of minors in prostitution, as only few underage victims come to the notice of victim support services and/or the police. It is said, though, that the problem is greater in reality. However, it is

unlikely that the police and victim support services cannot find victims or find it difficult to do so, whereas clients can. The question therefore regularly arises as to whether the (limited availability of) data do(es) in fact give an estimate of the actual situation. Figures on underage victims are included in the summary below.

#### **9.5.2.2 Victims registered with the STV**

The STV maintains a registration of (possible) victims of THB who are reported to it. More than half (56%) of the reports to the STV in 2002 originated from the police, a slight rise compared to previous years. Other important but clearly less frequent informants were private individuals, reception facilities and the Dutch Refugee Council (*Vluchtelingenwerk*).

In 2002 the STV registered 343 victims, a larger number than in previous years. Half of these victims come from Central and Eastern Europe (especially Bulgaria, Romania and the Russian Federation), 31% from Africa (particularly Nigeria) and 5% from the Netherlands. Bulgaria, Moldova and Romania, and (to a somewhat lesser extent) Albania and Belarus seem to be particularly on the rise as countries of origin.

Most of the victims registered with the STV are aged between 18 and 30 years. 41 victims are underage (i.e. 16% of the reports where the age is known, the same percentage as in 2001). Almost all victims are women; very occasionally men or boys are involved.

#### **9.5.2.3 Victims in the BNRM study of victim support services**

A total of 56 (42%) of the (victim support) organisations interviewed by BNRM which may possibly come in contact with victims of THB dealt with such victims in 2002. The study showed that not all these organisations report (all) victims to the STV. Only 21 organisations (38%) reported all victims to the STV. In the study, these organisations reported a total of 163 victims of THB (26% of all victims mentioned in the study). On the other hand, eight organisations did not report any victims at all to the STV.

The vast majority of the victims with whom the organisations came into contact in 2002 were foreign and Dutch women. Some 13% to 14% of them were underage. Transsexual victims were found occasionally, and men very seldom. There was contact with just one underage male victim.

#### **9.5.2.4 Victims in police registration**

The police have developed the victim registration system IKP-S, in which most regional police forces now register possible victims. In 2002 371 (possible) victims were registered. The information on the countries of origin of registered victims is comparable to that from the STV registration system. In IKP-S too, Bulgaria – almost a third of the registered (possible) victims come from this country – Romania and Nigeria were the most important countries of origin in 2002.

#### **9.5.2.5 Victims in police investigations**

In 2002, at least 258 victims of THB reported to the police or made a witness statement. In the same year, a quarter of THB cases investigated (also) involved underage victims. This percentage is lower than in previous years. The top 5 countries of origin of victims in 2002, as shown from the completed investigations, were Bulgaria, the Netherlands, Poland, the Russian Federation and Romania. Generally speaking, the majority of victims come from Central and Eastern Europe.

In 19 cases, one or more of these victims tried to obtain compensation for damages suffered through civil proceedings or a 'joinder as the aggrieved party for material and immaterial damage' (results of which unknown). Of these, ten cases were settled in 2001 and four in 2002.

### **9.5.2.6 Victims and the B-9 regulation**

According to the IND registration system, the number of B-9 permits applied for and issued rose slightly in 2002. There were 160 B-9 applications, and 127 were granted. Two-thirds of those who obtained a B-9 permit were aged between 18 and 26 years. Roughly 10% were underage, including very young children, who are probably the children of victims. Only 4% were male. Men are over-represented in the age category of 41 years and older, which leads one to believe that these are (mostly) witnesses.

More than a quarter of the victims/witnesses who obtained a B-9 permit were of Bulgarian nationality; virtually no change compared to previous years. In addition, a relatively large number were of another Central or Eastern European nationality, or Nigerian. The number of B-9 victims/witnesses from the Balkans increased relatively sharply in 2002, whereas the number from Central Europe fell significantly.

In 2002, 81% of the applications that were eventually granted were dealt with within four weeks, and 99% within twelve weeks. Only 1% of applications took longer than 24 weeks to be processed, which meant that the percentage of applications processed very slowly, fell.

## **9.6 Victim support and representation of interests**

### **9.6.1 Victim support organisations and interest groups**

Assistance to victims of THB has a broad meaning in this report, and comprises prevention in the form of information, as well as shelter, aid and support in the Netherlands and in preparation for returning to the country of origin. A range of organisations provides one or more forms of this assistance.

The STV fulfils a central role as national reporting centre for victims and is responsible for registering them. In addition, the STV initiated and coordinates regional networks of victim reception and support organisations and also coordinates La Strada, an international network aimed at preventing trafficking in women from Central and Eastern Europe.

Other organisations active in victim support are Atalantas (self-help organisation for victims), BLinN (individual assistance of victims), IOM (assistance when returning to the homeland), the JOS project (legal assistance to victims in criminal proceedings against suspects and in obtaining compensation), Uitzicht (arranging shelter for victims who do not make a report) and TAMPEP (championing the rights of immigrant sex workers and protecting victims of THB). There is also a range of joint projects, such as those aimed at the safe return of victims and improving mutual cooperation.

Organisations that (partly) concentrate their efforts on underage victims are the national reception project Asja, ECPAT/DCI (combating the sexual exploitation of children), the 'lover boy' project in the town of Zwolle, Pretty Woman (ambulant assistance for the prevention and support of girls who work or used to work in prostitution), Prostitution Social Work Humanitas in Rotterdam (prevention, fieldwork, resocialisation and organisation of theme afternoons), Nigerian Women Association in the Netherlands (Helpdesk for African victims) and the Scharlaken Koord (prevention aimed at minors in general, and at AMAs). The Youth Prostitution Platform has advocated to set up an expertise centre on youth prostitution, the aim of which is to collect information on the nature and extent of prostitution by minors. It became clear in early 2004 that such a centre will indeed be set up.

The Association of Sex Club Owners (VER) drew up a Code of Conduct for THB in 2003, which was endorsed by all members and affiliated enterprises. The code rejects all forms of THB, coercion and putting underage persons to work in prostitution, and imposes consequences on affiliated members if such practices are discovered. These involve informing the authorities of such

crimes and expelling VER members who actively or passively cooperate in such practices. In addition, (possible) victims will be informed of and/or introduced to NGOs which will be able to help them.

### **9.6.2 Signals from victim support services**

Victim support workers, just as the police, point to a shortage of reception places in general, as well as places for victims of THB in particular. The latter is partly related to the fact that not all centres take in victims of THB, or only in limited numbers, because these victims are regarded as a difficult target group. Eventually it is usually possible to find shelter for victims, but this often takes much time and victims do not always end up in the most suitable facility. Victim support services also point out the problem that although the funding of shelter for victims of THB is well organised on paper, problems do tend to arise in practice. There is also a fear among the victim support services, in view of the need to protect the victims and their own staff, against the criminal networks of traffickers.

A study of needs carried out by BLinN shows that victim support workers and victims have little knowledge of the options available as regards training and education during a stay in a reception facility. Victims of THB also disappear relatively often from reception facilities in order to work (independently). In fact, generally speaking they have come to the Netherlands to work here temporarily and earn some money. For all kinds of reasons, many victims prefer to remain in the Netherlands. This often makes it difficult for victim support workers to start up a repatriation procedure. Nevertheless, the theme of repatriation is important, because there are victims who must return (and are deported) and those who do indeed want to return to the country of origin.

### **9.6.3 Cooperation with chain partners**

The BNRM's study among victim support services shows that most organisations are (very) satisfied with or neutral about cooperation with chain partners. They have the most contact with the police, STV and mental health care services and are the most satisfied with them. Opinions, incidentally, are divided and explanations vary markedly, which indicates regional and individual differences in methods of working (together).

## **9.7 International developments**

### **9.7.1 Legislation and regulations**

There have been many developments at an international level during the past few years on the matter of tackling THB. Within the four major organisations that are most relevant to Europe (UN, EU, CoE and the OSCE), all kinds of agreements and (statutory) regulations have been brought about to improve the fight against THB. These form to a major extent the guiding principle for Dutch policy in this area. For example, binding agreements within the UN and the EU form the basis for the forthcoming broadening of the definition of THB in the Dutch Criminal Code.

At an international level, it is interesting to note that a gradual shift can be perceived from purely making regulations (codification) towards a move to implement and apply them in (legal) practice. After the initial call to incorporate the crime of THB in national legislation, the emphasis is now increasingly being placed on the need to focus attention on the victims, both in prevention and assistance. In this respect the argument is growing for a more human-rights based approach to the problem. Also a call for (more) international cooperation and harmonisation is being heard ever more loudly at an international level. This involves not merely investigation, prosecution

and trial, but also prevention and assistance. The need to collect and exchange information is also strongly emphasised. In this respect, it is repeatedly recommended that member states appoint a National Rapporteur or similar body.

If one takes together all the relevant international agreements and (statutory) regulations in the area of THB, it becomes clear that uniform definitions are not always used. The same terms are sometimes used in a slightly different way, even within international organisations, which would appear to produce overlap but sometimes also inconsistencies in definitions. It is therefore open to question whether the international agreements provide a sufficiently coherent whole. At any rate, there is one point on which international agreements leave room for differences in interpretation. This concerns the scope of the term of exploitation, as contained in the definition of THB in the UN Protocol but also in the definition based on it in the EU Framework Decision on THB. In particular where exploitation outside the sex industry is concerned it has been insufficiently established what activities should or should not be covered by this term. This question in fact also exists at the national, Dutch level.

### **9.7.2 Enlargement of the EU**

Many of the countries that acceded to the EU on 1 May 2004 are countries of origin of victims of THB. The question is therefore whether more traffickers and victims will come to the Netherlands as a result of this enlargement. Since working in the Netherlands is not possible at present for citizens of eight of the ten countries, or only under certain conditions, little will change for the time being. When the accession of the eight countries will actually start to mean freedom of movement for work purposes, an increase in the number of prostitutes from these countries in the EU can be expected. Whether or not the number of victims of THB will increase as a result is open to question.

### **9.7.3 Investigation and prosecution**

The most intensive – and relatively new – form of international police cooperation is a so-called Joint Investigation Team (JIT). In a JIT, various countries form a single investigation team with a common objective. There is ‘joint intelligence’ (instead of international legal assistance) and ‘joint operations’. The first JIT in which the Netherlands is taking part focuses on THB.

In addition, the intention is to improve considerably the implementation of international legal assistance by the police and the PPS. Studies have shown that public prosecutors regard international criminal cooperation as an obstacle to criminal proceedings and therefore try to avoid it in transnational THB cases. In doing so, the standard of national effectiveness is usually used, as a result of which everything is done to prevent or keep to a minimum the requests for international legal assistance in order to avoid procedural or practical obstacles, certainly when such assistance is not necessary for a prosecution or when it will not lead to a more severe sentence than can be already expected on the basis of the ‘national data’. Incidentally, the PPS would appear in practice, with a view to effective prosecution, to be hampered by the fact that victims and witnesses of THB are often no longer available because they have been deported as illegal aliens. In addition, the unwillingness of many victims and witness to make a statement for fear of the consequences causes problems for the PPS.

## **9.8 THB in specific sectors of prostitution**

### **9.8.1 Streetwalkers’ zones**

In many municipalities the streetwalkers' zones (originally intended to keep addicted prostitutes out of town centres) have been the subject of discussion. In most cases this is related to the increased nuisance in and around these zones, usually arising from an increase in the number of illegal prostitutes there. Before the lifting of the general ban on brothels, these prostitutes were still able to work in brothels and window prostitution where they were tolerated, but with the lifting of the ban on brothels and more intensive inspections in these sectors they moved out (either forced to do so or otherwise), to the streetwalkers' zones, for example. Some municipalities have therefore closed down the streetwalkers' zone or are considering doing so. Victim support organisations are concerned about the closure of streetwalkers' zones and the associated drop-in centres. One of the reasons is that these drop-in centres can maintain some element of control on matters such as exploitation/THB, and that this form of reception facility can sometimes offer victims a means of escape.

As part of tackling the 'problem of illegal persons', street-clearing campaigns also take place in streetwalkers' zones, whereby persons residing illegally in the Netherlands are arrested and immediately deported. These campaigns have led to protests from various organisations as far as illegal prostitutes are concerned, because among the arrested illegal prostitutes there may be victims of THB who are deported from the Netherlands, sometimes even together with their traffickers, without an (adequate) investigation being made into their case. There are also signs that women who may be victims of THB are not offered a reflection period, whereas this should in fact be given under the B-9 regulation. Moreover, the police officers who are expert in this field – usually working in the police force's 'vice squad' – are not (always) involved in such campaigns. The possible traffickers (who are caught) (against whom no criminal action is taken because no actual investigation is carried out) would seem to find it just as easy to come (back) to the Netherlands with the same or new victims. Such campaigns are therefore not very effective at all for combating THB.

### **9.8.2 Escort sector**

Escort businesses do not require a permanent address, either as an intermediary or for the actual provision of the sexual services, and are therefore difficult to inspect. Following on from this, there are also other problems in relation to escort prostitution. Firstly, an escort agency is required to be licensed in the municipality where it is established. For escort agencies that have no permanent business address but only advertise, for example, using a mobile phone number or the Internet, it can be difficult to establish in which municipality the enterprise has its business address and is therefore obliged to have a licence. Secondly it is very difficult in practice to check whether the enterprise makes use of underage or illegal prostitutes and/or victims of THB.

As part of the project entitled 'Quality Enforcement' (*Handhaven op Niveau*), efforts are being made to develop effective enforcement methods and sanction tools for the escort sector. For example, within this framework the 'hotel room procedure' has been developed (also known as 'inspection through appointment'). This means that an appointment is made with an escort prostitute in order to check whether or not her employer complies with the licensing conditions.

### **9.9 THB before and after the lifting of the general ban on brothels**

An important question that concerns many people is what effect the lifting of the general ban on brothels has on the nature and extent of THB in the Netherlands. The answer, perhaps a disappointing one to some people, is that the effect cannot be measured. Firstly, this is because the situation relating to THB before the lifting of the ban is unknown, and secondly because although the lifting of the ban may be associated with a particular date, some municipalities put the legislation into practice earlier or in fact much later than that date, as a result of which there was no

uniform changeover moment at a national level. The third reason is that it is virtually impossible to gain a precise understanding of the existing situation, because THB is a crime that is carried out in secret and victims do not report it in all cases. Fourthly, other factors may affect the nature and extent of THB too. However, the media often report that the lifting of the general ban on brothels has led to more THB. This is in any case not a correct conclusion. Before the lifting of the general ban on brothels, THB and other (criminal) offences were committed in *all* sectors of the sex industry. Some of these sectors are now inspected and are assumed to be (or becoming) free of the criminal element that was formerly present in them. A variety of studies and signals do show that THB is moving into the illegal, non-regulated and difficult-to-control prostitution sectors, although the extent to which this is happening is unknown. This does not necessarily mean, however, that the extent of THB is now at or even above the 'old' level it was at before the ban on brothels was lifted. In fact, it is plausible that this is not the case, if only because not every client is attracted to this 'secret' prostitution sector. At any rate, proper administrative action in the legal and regulated sex industry is extremely important, so that this sector can in any case be and remain free of THB. Vigilance in respect of victims of THB who (at first sight) (appear to) work legally in this sector, such as with good fake or forged identity papers or a residence licence 'with partner' is necessary. In addition, efforts must be made to track down THB in the 'secret' sex sector.

It is therefore difficult to draw any conclusion on the effects of lifting the ban. Since BNRM has been following THB for a number of years in all its various manifestations and carries out (secondary) research into it, we can mention a number of areas in which changes have become apparent since the ban was lifted. A comparison is made each time with the situation two years before the lifting of the ban (1998 and 1999) and two years afterwards (2001 and 2002). The year 2000 is regarded as a transitional phase for reasons already described above, and is therefore not included. Such comparisons make clear that the number of investigations that the police started up (and successfully completed) 'after' the ban was lifted is much higher than before (37 investigations 'before' and 79 investigations 'after' the ban was lifted), although the average number of persons arrested in each investigation fell after the ban was lifted. This pattern is also evident in the number of cases registered with the PPS against a single suspect; this did rise (237 cases 'before' and 331 cases 'after' the ban was lifted) but not to a corresponding extent. This rise makes clear, however, that the police and the PPS have made considerable efforts (in spite of capacity shortages) to investigate and prosecute THB. Furthermore, in the opinion of police officers there are fewer malafide proprietors of sex establishments in the legalised prostitution sector now than before the general ban on brothels was lifted. The question is whether malafide proprietors of sex establishments have stopped THB, or whether they have continued their activities in the 'secret' prostitution sector, as a result of which they have disappeared from view because there is less investigative activity in this area. The number of victims registered with the STV is slightly higher since the ban was lifted (515 victims 'before' and 627 victims 'after' the ban was lifted) (double counts cannot be ruled out here). The number of victims and witnesses that made use of the B-9 regulations more than doubled (107 victims 'before' and 249 victims 'after' the lifting of the ban).



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## **Appendix 1 THB provision in the Dutch Criminal Code**

**Until 1 January 2005: Article 250a (non-official, English translation of 1 October 2002)**

Paragraph 1

Any person who:

1. by force or some other physical act, by threats of violence or of any other physical act, by misuse of authority arising from the actual state of affairs or by deception, induces another person to make him/herself available for the performance of sexual acts with or for a third party for remuneration or, under the said circumstances, takes any action which he or she knows or may reasonably be expected to know will result in that other person's making him/herself available for performing those acts;
2. recruits, takes with him or her or abducts a person with a view to inducing that person to make him/herself available for performing sexual acts with or for a third party for remuneration in another country;
3. induces another person to make him/herself available for performing sexual acts with or for a third party for remuneration or takes any action which he or she knows or may reasonably be expected to know will result in that other person making him/herself available for performing those acts when the other person is a minor;
4. wilfully profits from sexual acts of another person with or for a third party for remuneration, while he or she knows or must reasonably assume that that other person is making him/herself available for performing those acts under the circumstances referred to in subparagraph 1;
5. wilfully profits from sexual acts of another person with or for a third party for a remuneration, if the other person is a minor;
6. forces another person by violence or some other physical act or threat of violence or other physical act or by misuse of authority arising from the actual state of affairs or by deception to benefit him or her from the proceeds of his or her sexual acts with or for a third party.

shall be guilty of trafficking in persons and as such liable to a term of imprisonment not exceeding six years and a fifth category fine\*, or either of these penalties.

Paragraph 2

The following offences shall be punishable with a term of imprisonment not exceeding eight years and a fifth category fine\* or either of these penalties:

1. trafficking in persons by two or more persons acting in concert;
2. trafficking in persons in respect of a person who is under the age of sixteen;
3. trafficking in persons if force or some other physical act as referred to in subparagraph 1 results in serious physical injury.

Paragraph 3

Trafficking in persons by two or more persons acting in concert under the circumstances referred to in paragraph 2, subparagraph 2 or 3, shall be punishable by a term of imprisonment not exceeding ten years and a fifth category fine\* or either of these penalties.

\* A fifth category fine is a fine of maximum € 45,000,-.

**Since 1 January 2005: Article 273a (non-official, English translation of 1 January 2005)**

1. Any person who:

(a) by force, violence or other act, by the threat of violence or other act, by extortion, fraud, deception or the misuse of authority arising from the actual state of affairs, by the misuse of a vulnerable position or by giving or receiving

transports, moves, accommodates or shelters another person, with the intention of exploiting this other person or removing his or her organs;

(b) recruits, transports, moves, accommodates or shelters a person with the intention of exploiting that other person or removing his or her organs, when that person has not yet reached the age of eighteen years;

(c) recruits, takes with him or abducts a person with the intention of inducing that person to make himself/herself available for performing sexual acts with or for a third party for remuneration in another country;

(d) forces or induces another person by the means referred to under (a) to make himself/herself available for performing work or services or making his/her organs available or takes any action in the circumstances referred to under (a) which he knows or may reasonably be expected to know will result in that other person making himself/herself available for performing labour or services or making his/her organs available;

(e) induces another person to make himself/herself available for performing sexual acts with or for a third party for remuneration or to make his/her organs available for remuneration or takes any action towards another person which he knows or may reasonably be expected to know that this will result in that other person making himself/herself available for performing these acts or making his/her organs available for remuneration, when that other person has not yet reached the age of eighteen years;

(f) wilfully profits from the exploitation of another person;

(g) wilfully profits from the removal of organs from another person, while he knows or may reasonably be expected to know that the organs of that person have been removed under the circumstances referred to under (a);

(h) wilfully profits from the sexual acts of another person with or for a third party for remuneration or the removal of that person's organs for remuneration, when this other person has not yet reached the age of eighteen years;

(i) forces or induces another person by the means referred to under (a) to provide him with the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs;

shall be guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding six years and a fifth category fine\*, or either of these penalties:

2. Exploitation comprises at least the exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, slavery, slavery like practices or servitude.

3. The following offences shall be punishable with a term of imprisonment not exceeding eight years and a fifth category fine\*, or either of these penalties:

(a) offences as described in the first paragraph if they are committed by two or more persons acting in concert;

(b) offences as described in the first paragraph if such offences are committed in respect of a person who is under the age of sixteen.

4. The offences as described in the first paragraph, committed by two or more persons acting in concert under the circumstance referred to in paragraph 3 under (b), shall be punishable with a term of imprisonment not exceeding ten years and a fifth category fine\*, or either of these penalties.

5. If one of the offences described in the first paragraph results in serious physical injury or threatens the life of another person, it shall be punishable with a term of imprisonment not exceeding twelve years and a fifth category fine\*, or either of these penalties.

6. If one of the offences referred to in the first paragraph results in death, it shall be punishable with a term of imprisonment not exceeding fifteen years and a fifth category fine\*, or either of these penalties.

7. Article 251 is applicable mutatis mutandis.

\* A fifth category fine is a fine of maximum ₺ 45,000,-.

## Appendix 2 Explanation of the research methods used

### 1 Introduction

BNRM collects information in a variety of ways. For example, it carries out on a regular basis (every one or two years) a number of empirical studies and secondary analyses on databases created by other parties. This appendix provides an explanation of the research methods used.

### 2 The BNRM police study

#### *Introduction*

Each year BNRM analyses all investigations into THB that have been completed by the police and ‘referred’ to the PPS.

#### *Objectives and research questions*

The purpose of the study is to provide an insight into the way in which THB is committed in the Netherlands, by whom and with which type of victims. The research questions are as follows:

- How many investigations into THB do the police complete in the Netherlands?
- How can traffickers in human beings be typified?
- To what extent do they form (organised) criminal collaborative groups?
- How is the offence of THB carried out?
- How can the victims of THB be typified?
- To what extent and in what way is the prostitution sector involved in THB?
- How much do traffickers earn from THB?
- What offences apart from THB are committed by traffickers?
- In what way is THB investigated?
- What developments occur over time in relation to THB?
- Do victims in reception facilities still have contact with their exploiters? If so, how and why?

#### *Research method*

For this report, all investigations into THB that were successfully completed in 2002 were collated and analysed. The results were then compared with the results from previous years.

All (police) units that (can) carry out investigations into THB were approached. They were asked to report to the researchers all investigations into THB that were completed in 2002<sup>394</sup>, after which the team leaders of these investigations were interviewed by telephone. These interviews were carried out using the same list of questions that was used in earlier years, with the addition of a few other relevant questions.

Five investigations that appeared to be particularly interesting, due to new developments, for example, or the way in which the suspects form a criminal collaborative unit, were analysed in more detail. For this purpose a visit was made to the police region concerned for a face-to-face interview and/or a study of the police files on the case, using a very extensive questionnaire with both closed and open questions.

#### *Additional remarks*

In the BNRM police study the investigations analysed were categorised according to year of ‘completion’, i.e. the year in which the investigation was completed and referred to the PPS. This is in line with the research method followed and still to be followed, whereby each year the investigations into THB that have been completed are assessed and analysed. Furthermore, this allows the most recently completed investigations to be included in the analyses.

The investigations analysed for this study concern in principle all investigations into THB that have been completed and referred to the PPS, and therefore provide a good picture of the situation. However, more THB offences are committed than come to the attention of the police and not all investigations are brought to a positive conclusion (and referred to the PPS). The investigations analysed therefore only give a partial picture of the real situation. How large or representative this part is, is unknown.

### 3 The BNRM victim support study

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<sup>394</sup> Ongoing investigations are not included (yet). They will be included automatically in a later year, once the investigation is completed and referred to the PPS.

### *Introduction*

Every two years, BNRM collects information from organisations that are or may be active in assisting and representing the interests of victims of THB or who (may) come across such victims as part of their work. The first study was carried out for the year 2000, and now once again for the year 2002. In the light of experiences with the first study, the set up of the study into the year 2002 has been changed somewhat, with more organisations being approached and modifications being made to the questionnaire.

### *Objectives and research questions*

The purpose of the study is to provide an insight into the number and type of victims of THB, as well as the way in which they are offered shelter and support. The research questions are as follows:

- How many and which (victim support) organisations came into contact with victims of THB (in 2002)?
- With how many victims of THB did they come in contact?
- How can these victims be typified?
- How many of these victims are (also) registered with the STV?
- What are the reasons why victims do not report THB?
- What conducive and hampering factors play a role in working with and/or assisting victims of THB?
- How can the assistance provided to victims of THB be improved?
- What developments (in the nature and extent of the number of victims of THB) are being observed (compared to the year 2000)?
- Do victims in reception facilities still have contact with their exploiters? If so, how and why?

### *Research method*

All (victim support) organisations in the Netherlands known to BNRM that may come in contact with victims of THB were contacted in writing and sent a questionnaire. There are a total of 294 of these organisations.

A total of 132 organisations (45%) returned the questionnaire and 54 of these (18%) had come across victims of THB and completed the entire list. The random sample of 132 organisations proved to be a representative one.<sup>395</sup>

### *Additional remarks*

Organisations do not always know whether their clients who work in prostitution are doing this under coercion, and the easily accessible services in particular do not always know whether their clients are of the age of majority or not. Furthermore, victims of THB, because they are usually put to work in several places, may come in contact with several services in various regions and therefore may have been reported by these various services which may lead to double counts. Double counts may also occur if a victim has had contact with several services in the same region, such as a reception facility and healthcare service. On the other hand, each organisation involved with victims of THB knows that only some of the victims come in contact with victim support services. The quantitative data from this part-study therefore provide no more than an indication of the extent of the problem. However, the qualitative information is of greater importance because it comes from a wide (and representative) spectrum of victim support services.

## **4 The B-9 study**

### *Introduction*

BNRM analyses each year the files supplied by the IND which include all requests for and granting of residence permits under the B-9 regulation. This allows a picture to be drawn up of the current situation regarding the B-9 regulation, as well as any trends that may be developing in this area.

### *Objectives and research questions*

The purpose of the study is to provide an insight into the number and type of victims of THB who appeal to the B-9 regulation. The research questions were:

- For how many victims was a B-9 permit applied for?
- To how many victims was a B-9 permit granted?
- What is the processing time (from applying for to granting the permit)?
- What (background) characteristics do persons applying for or granted a B-9 application have?
- What developments have there been over time with regard to THB?

### *Research method*

The IND provided files of all contacts of persons in the period from 1996 to 2002 in which the B-9 regulation was involved. The files contain all applications for residence permits under the B-9 regulation (initial applications and applications for an extension), as well as information on all permits granted. BNRM aggregated all files at a personal

level and selected the applications and permits granted in the period from 1998 to 2002. The result is a data file of all persons who appealed to the B-9 regulation and/or were granted a residence permit for the first time under the B-9 regulation. This data file forms the basis for the analyses in Chapter 3.

#### *Additional remarks*

##### *B-9 concerns only aliens who report THB*

It should be realised that THB does not necessarily concern aliens, but that the data in the IND study only concern victims and witnesses of THB who reside illegally in the Netherlands. After all, only then is legalisation of a stay in the Netherlands for the purpose of investigation and prosecution necessary. Furthermore, the IND files only contain data on persons who qualify for a temporary residence permit because they have *reported* THB. Victims who are in the reflection phase or do not want to make a report are not registered by the IND.

##### *A note of caution with the study*

A few additional comments should be made in relation to the database used in the study. Firstly: the IND does not register in a consistent and/or unambiguous way whether residence permits applied for and granted are linked to the B-9 regulation. It is possible that not all victims who have appealed to the B-9 regulation have been traced (and included in the database).

Secondly: the B-9 regulation provides a temporary residence permit for both victims and witness of THB who report THB. Whether or not a person receives a B-9 permit as a victim or a witness is not registered by the IND.

##### *Differences compared to statistics previously published by the NRM*

The number of applications and permits granted as stated in this report for the period from 1998 to 2001 deviates slightly from that in the previous report. The reasons for this are:

- The situation may change because a decision on B-9 applications still pending was taken at a later reference date.
- Earlier settlements may be changed in order to correct a registration error, but also because the IND reviews or withdraws its decision before the objection or appeal procedure is started up. It may also be that an application for or granting of a B-9 permit is 'cancelled'.
- A change in the analysis method relating to the granting of a B-9 permit. It has been decided that from now on the date on which a decision is sent will be taken as the reference date. This choice has led to a few small shifts in numbers.

## **5 The PPS data**

### *Introduction*

At the request of BNRM, each year analyses are carried out on a 'THB' sub-file from the national database known as 'OM-data', which contains information from the 19 district PPS offices on the prosecution of suspects.<sup>396</sup> The analyses give a picture of the course of proceedings in the first instance. OM-data contains information on cases and offences. Unlike the situation in relation to police investigation, a (criminal) case within the context of prosecution is taken to mean *the case against a single suspect*. Criminal cases against individual suspects may involve several criminal offences.

### *Objective and research questions*

The purpose of the study is to provide an insight into the prosecution of suspects of THB in the Netherlands. The research questions are as follows:

- How many cases relating to THB were registered with the PPS in 2002?
- How often are underage victims involved?
- How can the suspects be typified as regards gender, age and country of origin?
- What offences other than THB are they suspected of?
- How did the PPS deal with cases in 2002?
- How did the courts settle cases in 2002?
- How often do the various parties lodge an appeal?
- What developments are there over time with regard to THB?

### *Research method*

From the total PPS database a selection was made of cases in which the offence of THB was (also) registered. No cohort was followed in the analyses, but each year the number of cases registered, dealt with by the PPS and settled by the court are examined.<sup>397</sup>

*Additional remarks*

Only the *principal* charges are included in OM-data. In addition, sometimes only the first offence in several principal charges is registered in OM-data. This means that not only does OM-data provide only a limited picture of the total number of THB offences that are committed (namely that part that comes to the attention of the police and is referred to the PPS), but also that that part of the information that does indeed reach the PPS and which may possibly play a role in the course of the prosecution cannot be found in OM-data. How much information is lost in this way is not known.

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<sup>397</sup> This means that it does not necessarily refer to the same cases all the time.

## Appendix 3 Notes on tables and statistics

### Notes on the tables presented

This report includes many tables. Below are some comments that are important for the interpretation of these tables. Due to rounding, the tables do not always add up to exactly 100%. For the sake of readability the tables do, however, always indicate 100%.

When numbers are set out in a column of a table, in the heading of the relevant column the letter N is used, an abbreviation for 'number'.

In the tables a dash (-) shows that the number is zero, and a dash (-) also indicates that the corresponding percentage is 0%. If the number is higher than zero, but the percentage when rounded comes to 0%, 0% is shown.

### Notes on the statistics used

#### *Standard deviation*

This report sometimes indicates what the average is, for example the average number of suspects in investigations into THB. In addition, the number (N; see above) and the so-called standard deviation are also always given. The standard deviation indicates the extent to which the numbers on which the average is calculated, differ. The higher the standard deviation, the more this is the case. This is not the place to discuss statistical methods at length. However, a small example for clarification: in a class ten people all get a 6 for a test. The average report figure is then a 6, the standard deviation is low. After all, everyone scores the same. In another class five people get a 2 for the test and five people a 10. Here too the average is a 6. The standard deviation is, however, high here, because the people get a very wide range of scores.

#### *Index*

In some tables an index is given. The index shows how much the number of – for example suspects – has changed in a particular year compared with a base year. Which year is taken as a base year is indicated in the heading of the table. That year is set at 100. An index of higher than 100 indicates a rise with respect to the base year and an index of lower than 100 a fall. For example: an index of 200 indicates that the number has doubled with respect to the base year.

#### *Significance*

In this report results for different groups are sometimes compared with one another. If this is the case a check is usually made as to whether the difference found is 'significant' or not. This is then indicated in the text, with in a footnote the corresponding values  $\chi^2$ , df and p. This means that a check has been made as to how big the chance is that the difference found is based on coincidence. Let us give a fictitious example here too. Say that there are three people who drink cola each day and three people who never drink cola. One person in the first group dies of a heart attack, no one in the second group. Is drinking cola related to having a heart attack? This is difficult to say with so few people. There is a high chance that the result found is based on coincidence and that drinking cola has nothing to do with heart attacks. A test would then show that the difference is not significant. Now there are 180 people of which 90 people drink cola and 90 do not, and 30 cola drinkers from the first group die of a heart attack. The man in the street would say: 'that cannot be down to chance'. A statistical test would show 'this difference is significant'.

In this report it is assumed that the chance of coincidence may not be greater than 5% – a percentage often used among researchers. Exactly how big this chance is, can be seen from the p value indicated in the footnote. For example:  $p < .01$  means that the chance of a coincidence is less than 1%. The values  $\chi^2$  and df (this stands for the number of degrees of freedom) are values that are necessary to determine whether differences are significant and are not discussed further here.

## Appendix 4 Supplementary tables

Table B3.2 Countries of origin of (possible) victims, registered with the STV, per annum\*

Country	1998	1999	2000	2001	2002	Total	
	N	N	N	N	N	N	%
Albania	4	-	5	4	8	21	1%
Algeria	-	1	1	-	1	3	0%
Angola	-	-	-	1	3	4	0%
Azerbaijan	1	1	-	-	-	2	0%
Bangladesh	-	1	-	-	-	1	0%
Belarus	3	-	2	1	8	14	1%
Belgium	-	2	-	-	1	3	0%
Bosnia and Herzegovina	1	-	-	1	1	3	0%
Brazil	4	3	-	1	-	8	1%
Bulgaria	20	7	19	40	59	145	10%
Burundi	-	-	-	-	1	1	0%
Cameroon	1	1	4	2	10	18	1%
Cape Verde Islands	1	-	-	-	-	1	0%
Chile	1	-	-	-	-	1	0%
China	11	21	19	10	8	69	5%
Colombia	3	3	2	1	2	11	1%
Congo	-	1	1	1	3	6	0%
Croatia	1	3	-	-	1	5	0%
Cuba	-	-	-	-	3	3	0%
Czech Republic	25	12	14	8	6	65	4%
Democratic Republic of Congo**	-	-	3	-	-	3	0%
Dominican Republic	11	3	4	-	3	21	1%
Ecuador	-	-	-	-	1	1	0%
Egypt	-	-	-	2	-	2	0%
Eritrea	-	-	-	1	-	1	0%
Ethiopia	-	-	2	-	1	3	0%
Estonia	1	3	3	1	-	8	1%
France	-	-	-	-	1	1	0%
Georgia	-	-	-	2	1	3	0%
Germany	-	2	1	-	1	4	0%
Ghana	-	4	4	2	2	12	1%
Guinea	-	-	1	3	6	10	1%
Guyana	-	-	-	-	1	1	0%
Hungary	3	2	6	4	1	16	1%
Iceland	-	1	-	-	-	1	0%
Indonesia	-	-	-	-	1	1	0%
Iran	-	-	-	-	1	1	0%
Iraq	-	-	1	-	-	1	0%
Italy	-	1	-	1	-	2	0%
Ivory Coast	-	-	1	-	4	5	0%
Jamaica	2	-	-	-	-	2	0%
Kazakhstan	1	-	-	1	-	2	0%
Kenya	-	1	-	-	-	1	0%
Kyrgyzstan	-	-	-	1	-	1	0%
Latvia	4	-	9	1	1	15	1%



Lithuania	7	7	10	10	13	47	3%
Malawi	-	4	11	-	-	15	1%
Moldova	6	4	6	9	14	39	3%
Mongolia	-	-	1	-	2	3	0%
Morocco	-	3	6	1	4	14	1%
Namibia	-	-	-	1	-	1	0%
Netherlands	13	13	25	11	18	80	5%
Nigeria	19	41	41	15	45	161	11%
Peru	1	-	-	-	-	1	0%
Philippines	-	2	1	-	-	3	0%
Poland	11	17	12	4	9	53	4%
Romania	11	10	10	4	22	57	4%
Russian Federation	12	26	19	27	16	100	7%
Rwanda	-	-	-	-	1	1	0%
Sierra Leone	3	8	10	6	12	39	3%
Slovakia	-	7	5	1	2	15	1%
Slovenia	1	-	-	-	-	1	0%
Somalia	-	-	1	-	1	2	0%
Sri Lanka	1	-	-	-	-	1	0%
Sudan	11	10	4	1	1	27	2%
Suriname	1	-	1	1	1	4	0%
Sweden	-	-	-	1	-	1	0%
Taiwan	-	-	-	-	1	1	0%
Tajikistan	-	-	-	1	-	1	0%
Thailand	2	2	4	-	3	11	1%
Tibet	1	-	-	-	-	1	0%
Togo	-	-	3	2	6	11	1%
Trinidad	-	1	-	-	-	1	0%
Turkey	-	3	1	-	5	9	1%
Uganda	-	-	-	1	1	2	0%
Ukraine	9	24	12	18	5	68	5%
Uzbekistan	-	-	-	1	-	1	0%
Venezuela	-	3	-	-	-	3	0%
Vietnam	-	-	2	1	-	3	0%
(former) Yugoslavia	-	-	1	3	-	4	0%
Zambia	-	1	-	-	-	1	0%
Unknown	14	26	49	72	21	182	12%
Total	228	287	341	284	343	1483	100%

\* Because of low numbers, the percentages per year have been left out.

\*\* Former Zaïre.

(Source: STV, 2002; 2003).

Table B3.5 Country of birth of (possible) victims in IKP-S (2002)

Country of birth	N	%
Albania	8	2%
Algeria	1	0%
Angola	4	1%
Belarus	3	1%
Benin	1	0%
Brazil	1	0%
Bulgaria	106	29%
Cameroon	1	1%

China	4	1%
Czech Republic	5	2%
Dominican Republic	5	1%
Estonia	1	0%
Germany	2	1%
Ghana	4	1%
Hungary	4	1%
India	2	1%
Iran	1	0%
Iraq	1	0%
Latvia	3	1%
Liberia	7	2%
Lithuania	8	2%
Moldova	4	1%
Morocco	5	1%
Netherlands	16	4%
Nigeria	23	6%
Palestinian territory	1	0%
Poland	22	6%
Portugal	1	0%
Romania	38	10%
Russian Federation/Soviet Union	19	5%
Sierra Leone	25	7%
Slovakia	5	1%
Spain	2	1%
Sri Lanka	1	0%
Sudan	11	3%
Suriname	1	0%
Thailand	1	0%
Togo	2	1%
Turkey	1	0%
Uganda	1	0%
Ukraine	9	2%
Unknown	8	2%
Total	371	100%

*Table B3.9 Nationality of persons with B-9 permit, per annum\**

Nationality	1998	1999	2000	2001	2002	Total	
	N	N	N	N	N	N	%
Albanian	1	-	1	1	4	7	2%
Angolan	-	-	-	1	2	3	1%
Belarussian	-	-	1	1	1	3	1%
Belgian	-	2	-	1	-	3	1%
Bosnian	-	-	-	1	1	2	1%
Brazilian	-	1	-	-	-	1	-
Bulgarian	7	7	7	33	35	89	22%
Cameroon	-	1	1	2	5	9	2%
Chinese	1	-	-	2	2	5	1%
Croatian	-	1	-	-	-	1	-
Czech	6	6	4	7	3	26	6%
Dominican	3	1	-	-	-	4	1%

Finnish	-	-	1	-	-	1	-
German	-	1	1	1	-	3	1%
Ghanaian	-	1	-	1	1	3	1%
Guinean	-	-	-	3	1	4	1%
Hungarian	-	2	-	2	-	4	1%
Italian	-	-	-	1	-	1	-
Ivorian	-	-	1	-	-	1	-
Kyrgyzian	-	-	-	-	1	1	-
Latvian	1	-	-	1	-	2	1%
Liberian	1	-	-	-	-	1	-
Lithuanian	3	1	3	1	5	13	3%
Malawian	-	2	-	-	-	2	1%
Moldavian	-	2	1	5	12	20	5%
Moroccan	-	1	2	-	-	3	1%
Namibian	-	-	-	1	-	1	-
Nigerian	2	7	9	9	14	41	10%
Polish	2	4	1	3	2	12	3%
Romanian	3	3	6	4	15	31	8%
Russian	1	4	6	16	5	32	8%
Sierra Leone	-	-	-	1	6	7	2%
Slovakian	1	6	2	2	1	12	3%
Soviet	-	-	-	-	1	1	-
Sudanese	-	-	1	-	-	1	-
Suriname	-	1	-	-	-	1	-
Thai	-	-	-	-	-	-	-
Togolese	-	-	-	-	1	1	-
Trinidadian	-	-	-	-	-	-	-
Turkish	-	-	-	1	-	1	-
Ugandan	-	-	-	1	2	.3	1%
Ukrainian	4	8	3	16	4	35	9%
Uzbek	-	-	-	-	1	1	-
Venezuelan	1	1	-	-	-	2	1%
Yugoslav	-	-	1	2	1	4	1%
Unknown	4	1	1	1	1	8	2%
Total	41	66	55	122	127	411	100%

\* Because of low numbers, the percentages per year have been left out.

Table B6.4 Standard deviation with Table 6.4

Year	Cross-border THB	Domestic THB	Total
	Sd	Sd	Sd
1998	8,9	0,0	8,5
1999	4,5	1,8	4,0
2000	8,7	2,1	7,4
2001	4,4	2,5	4,1
2002	3,8	1,7	3,5
Total	5,7	2,0	5,1

Table B6.5a Nationality of suspects, per annum\*

Nationality	1998	1999	2000	2001	2002	Total	
	N	N	N	N	N	%	
Albanian	7	3	1	13	35	59	9%

Azerbaijani	-	-	-	1	-	1	0%
Belgian	-	1	1	-	7	9	1%
Bulgarian	11	3	-	4	39	57	9%
Brazilian	-	-	-	1	-	1	0%
Colombian	2	-	-	-	-	2	0%
Czech	3	2	2	4	-	11	2%
Dominican	1	2	-	-	-	3	0%
Dutch	17	23	50	85	62	237	36%
Estonian	-	-	-	5	-	5	1%
German	5	-	1	6	1	13	2%
Ghanaian	-	-	-	2	-	2	0%
Greek	2	-	-	-	-	2	0%
Hungarian	-	-	-	2	-	2	0%
Indonesian	-	-	-	1	-	1	0%
Iraqi	-	-	-	-	2	2	0%
Israeli	-	-	2	-	-	2	0%
Italian	1	1	1	1	-	4	1%
Liberian	-	1	-	-	-	1	0%
Lebanese	1	-	-	2	-	3	0%
Lithuanian	-	-	-	1	1	2	0%
Moldavian	-	-	-	3	4	7	1%
Moroccan	2	-	10	2	-	14	2%
Nigerian	-	7	11	12	6	36	5%
Polish	-	-	-	-	2	2	0%
Romanian	1	2	1	2	5	11	2%
Russian	-	-	3	-	5	8	1%
Slovakian	1	1	2	1	-	5	1%
Spanish	-	-	-	1	-	1	0%
Stateless	-	-	1	-	-	1	0%
Sudanese	-	3	-	-	-	3	0%
Suriname	-	-	-	-	1	1	0%
Syrian	-	-	-	1	-	1	0%
Thai	-	-	-	-	1	1	0%
Tunisian	-	-	1	-	2	3	0%
Turkish	6	2	2	1	10	21	3%
Ukrainian	-	-	3	4	1	8	1%
Yugoslav	15	16	7	15	-	53	8%

\* Because of low numbers, the percentages per year have been left out.

Table B6.5b Country of birth of suspects, per annum\*

Country of birth	1998	1999	2000	2001	2002	Total	
	N	N	N	N	N	N	%
Albania	5	3	3	14	35	60	9%
Algeria	-	-	-	1	-	1	0%
Angola	-	1	-	-	-	1	0%
Azerbaijan	-	-	-	1	-	1	0%
Belgium	-	1	2	-	6	9	1%
Bulgaria	11	3	-	4	40	58	9%
Brazil	-	-	-	1	-	1	0%
Colombia	2	-	-	-	-	2	0%
Czech Republic	4	2	2	4	-	12	2%

Dutch Antilles	-	1	7	1	1	10	2%
Egypt	-	-	-	2	-	2	0%
Estonia	-	-	-	5	-	5	1%
Germany	5	-	1	5	-	11	2%
Ghana	-	-	-	9	-	9	1%
Greece	2	-	-	-	-	2	0%
Hungary	-	-	-	2	-	2	0%
Indonesia	-	-	-	6	1	7	1%
Iraq	-	-	1	-	2	3	0%
Israel	-	-	2	-	-	2	0%
Italy	1	1	1	1	-	4	1%
Lebanon	1	-	-	2	-	3	0%
Liberia	-	1	-	-	-	1	0%
Lithuania	-	-	2	2	1	5	1%
Moldova	-	-	-	3	4	7	1%
Morocco	2	2	10	5	1	20	3%
Netherlands	13	11	31	57	49	161	24%
Nigeria	-	11	13	11	6	41	6%
Poland	-	-	-	-	2	2	0%
Romania	1	2	2	2	5	12	2%
Russian Federation	-	-	3	-	6	9	1%
Slovakia	1	1	2	1	-	5	1%
Spain	-	-	-	1	1	2	0%
Stateless	-	-	-	-	-	-	0%
Sudan	-	3	-	2	-	5	1%
Suriname	-	3	1	1	2	7	1%
Syria	-	-	-	1	-	1	0%
Thailand	-	-	-	-	1	1	0%
Tunisia	-	-	1	-	2	3	0%
Turkey	10	7	5	4	17	43	6%
Ukraine	-	-	4	4	1	9	1%
United Kingdom	-	-	1	-	-	1	0%
Yugoslavia	16	17	8	18	-	59	9%

\* Because of low numbers, the percentages per year have been left out.

Table B6.19 Country of origin of victims, per annum\*

Country of origin	1998	1999	2000	2001	2002	Total	
	N	N	N	N	N	N	%
Albania	1	-	1	1	4	7	3%
Azerbaijan	-	-	-	1	-	1	0%
Belarus	-	-	-	4	5	9	4%
Belgium	-	-	-	1	-	1	0%
Brazil	-	-	-	1	-	1	0%
Bulgaria	2	2	-	6	19	30	12%
Colombia	1	-	-	-	-	1	0%
Czech Republic	4	3	3	2	2	14	6%
Dominican Republic	-	2	-	-	-	2	1%
Estonia	-	-	-	2	1	3	1%

Hungary	1	-	1	4	3	9	4%
Indonesia	-	-	1	1	-	2	1%
Italy	-	-	-	1	1	2	1%
Latvia	-	-	1	4	2	7	3%
Lithuania	-	-	3	3	3	9	4%
Malawi	-	1	2	-	-	3	1%
Moldova	-	-	-	7	3	10	4%
Morocco	1	-	-	-	-	1	0%
Netherlands	3	6	8	12	16	45	19%
Nigeria	-	1	6	6	3	16	7%
Poland	3	1	3	1	6	14	6%
Romania	2	1	2	2	4	11	5%
Russian Federation	2	-	2	6	6	16	7%
Sierra Leone	1	-	2	-	-	3	1%
Slovakia	-	1	3	2	-	6	3%
Thailand	-	-	1	1	1	3	1%
Ukraine	1	-	2	6	2	11	5%
Yugoslavia	1	-	-	1	-	2	1%

\* Because of low numbers, the percentages per year have been left out.

*Table B7.4 Country of suspects' birth, per year of registration\**

Country of birth	1998	1999	2000	2001	2002	Total	
	N	N	N	N	N	N	%
Afghanistan	-	-	-	-	1	1	-
Albania	10	-	2	4	25	41	6%
Angola	-	-	-	1	-	1	-
Belgium	1	2	3		2	8	1%
Brazil	-	-	1	1	-	2	-
Bulgaria	5	6	-	12	27	50	7%
Cape Verde Islands	-	-	-	1	-	1	-
China	-	-	-	-	1	1	-
Colombia	1	-	-	-	1	2	-
Czech Republic	3	3	3	5	2	16	2%
Dominican Republic	2	-	-	-	-	2	-
Dutch Antilles	2	2	4	1	1	10	1%
Egypt	-	-	-	2	1	3	-
Estonia	-	-	2	2	1	5	1%
France	1	-	1	-	-	2	-
Germany	-	2	-	1	-	3	-
Ghana	-	1	4	3	1	9	1%
Gold Coast	-	-	1	-	-	1	-
Greece	-	-	-	-	2	2	-
Guinea	-	-	1	-	-	1	-
Hungary	1	-	-	1	1	3	-
Indonesia	-	-	3	3	1	7	1%
International territory	-	-	1	-	-	1	-
Iraq	-	-	-	1	6	7	1%
Iran	1	-	-	2	-	3	-
Ireland	-	-	-	1	-	1	-
Italy	1	1				2	-
Jordan	-	-	1	-	-	1	-

Lebanon	1	-	-	2	-	3	-
Liberia	1	1	2	1	-	5	1%
Lithuania	1		2	2	-	5	1%
Morocco	4	7	17	5	3	36	5%
Netherlands	30	40	38	30	53	191	27%
Niger	-	-	-	1	-	1	-
Nigeria	8	7	17	3	7	42	6%
Poland	2		1		4	7	1%
Romania	2	1	3	2	8	16	2%
Sierra Leone	-	-	-	-	1	1	-
Somalia	-	-	-	-	1	1	-
Soviet Union	3	5	2	6	7	23	3%
Sudan	2	4	4	-	2	12	2%
Suriname	4	3	6	4	5	22	3%
Syria	-	-	-	1	-	1	-
Thailand	1	-	-	-	1	2	-
Tunisia	-	-	1	-	-	1	-
Turkey	17	4	9	8	26	64	9%
Vietnam	-	-	-	1	-	1	-
Yugoslavia	25	13	9	22	6	75	11%
Country unknown	5	1	-	-	4	10	1%
Total	134	103	138	130	201	706	93%

\* Because of low numbers, the percentages per year have been left out.

## Appendix 5 A few (provisional) figures for the year 2003

In advance of the more comprehensive statistical additions for the year 2003, this appendix sets out a number of provisional figures. They concern victims of THB (based on the STV registration), police investigations into THB (based on provisional results from the BNRM police study) and suspects of THB (based on a provisional analysis of data from the PPS's database).

### *Victims of THB*

The STV received 257 reports of possible victims of THB in 2003. In 84 cases the victim reported to the police, and in 41 cases a period of reflection was given. Most victims originate from Central and Eastern Europe (52%; especially Bulgaria and Romania) and Africa (25%; especially Nigeria).

The majority of victims are aged between 18 and 30 years (65%). 21 victims are underage.<sup>398</sup>

The police report most of the cases to the STV (accounting for 59% of the cases reported).

### *Police investigations into THB*

In 2003, the police completed 42 investigations (provisional information), i.e. 'referred' them to the PPS.

### *Suspects of THB*

In 2003, 157 suspects of THB were registered with the PPS; more than three-quarters of them are men. The most frequently occurring country of birth is the Netherlands, followed by Romania, Bulgaria, Turkey, the (former) Soviet Union and Surinam. Most suspects are aged between 18 and 40 years (75%), 4% are underage.

In almost 80% of cases, the suspected offence was Article 250a paragraph 2 of the Criminal Code, and in the other cases Article 250a paragraph 1 of the Criminal Code.

In almost a quarter of cases, according to the paragraphs and subparagraphs on which the charges were based, an underage victim was involved.

In 85% of cases, THB was the only or the most serious offence registered. In the other cases an even more serious offence was involved in addition to THB, usually sexual violence (9%) such as rape.

In 83% of cases, the suspects were taken into preventive custody.



## **Colophon**

### **Reference:**

**Dutch National Rapporteur on THB (2005).** *Trafficking in Human Beings - Third report of the Dutch National Rapporteur* The Hague: Bureau NRM.

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