The offence of trafficking in persons, as a modern form of slavery, was introduced in Croatian Criminal Code four years ago. During this time there have been nine criminal procedures running against perpetrators who were charged with trafficking of minors. According to the official criminal records of Croatian National Committee for the Suppression of Trafficking in Persons the Public Prosecutor desisted from prosecution after investigation in the 2006 case in front of the County Court in Zadar. In the same year the Public Prosecutor decided not to prosecute a case in front of the County Court in Zagreb bearing in mind the accused were already being prosecuted for the same offence in Italy. Seven cases are still pending. Taking into account the fact there have been no final court judgments, and therefore, that these cases could have various outcomes, the main aim of this article is to analyze pending cases and to determine the modalities for committing the offences. Consideration will be given to cases with excessive threats or use of force against the minors and cases in which minors were deceived by perpetrators. Special attention will be given to endogenous and exogenous causes of trafficking of minors in Croatia. Impact and possible consequences of the offences on victims will be detected.

* Author’s note: an earlier version of this article was presented at the HUMSEC Conference, Belgrade, the Republic of Serbia, 3-5 October 2008.
1. Introductory Remarks

According to diverse criminological studies human trafficking\(^1\) has become a plague of the twenty first century. As a growing phenomenon extended beyond boundaries and jurisdictions it is one of the most profitable illegal businesses worldwide. For years such criminal activities have maintained a stable third position among gainful crimes after trafficking in drugs and arms.\(^2\) The profit of trafficking is estimated in high numbers because it consists of long lasting exploitation of individuals with minimal costs, little risk resulting with a permanent income.\(^3\) Recent International Labour Organization publications suggest that global profits of trafficking in human beings are around 31.6 billion U.S. dollars annually.\(^4\) According to the UN official statistics, in terms of purpose trafficking for sexual exploitation dominates other forms of human trafficking. Sex trafficking has been viewed as a considerable issue in many countries bearing in mind that 87% of victims are trafficked to provide

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\(^1\) In scientific literature it is possible to find different terms related to trafficking. To address the subject, authors have adopted the term “trafficking of minors/trafficking of children”, “human trafficking”, “trafficking in human beings”, “trafficking in persons, especially women and children” and in recent articles the “child laundering/baby laundering”. For example, Smolin points at different press articles and US government investigator’s statements where the same term has been used in order to express the claim that “the current inter-country adoption system frequently takes children illegally from birth parents, and then uses the official processes of the adoption and legal systems to ‘launder’ them as ‘legally’ adopted children.” D.M. Smolin, “Child Laundering: How the Inter-country Adoption System Legitimizes and Incentives the Practices of Buying, Trafficking, Kidnapping, and Stealing Children”, The Wayne Law Review 52 (2006), 113-200, pp. 115, 136.


\(^3\) Due to the clandestine nature of trafficking crime, its secrecy, lack of unanimous definition in diverse state legal systems, scarcity of systematic empirical research, no uniform methods of data collection and insufficient knowledge about the crime itself, it is impossible to present official statistics of trafficking incidence, gained profits and number of victims. Experts usually use different methods to enlighten the trafficking phenomenon, nevertheless, their conclusions are based on estimations and they mostly agree the real numbers could be significantly higher.

sexual services. The majority of identified trafficking victims are women and female children and according to the recent available estimates some one million children are trafficked worldwide every year. Consequently, it is no surprise that women and child sexual exploitation gains between five and seven billion U.S. dollars per year. Scientific literature contains information according to which criminal organizations use these profits to engage in other lucrative illicit activities and create new criminal groups spreading corruption and undermining the rule of law. The United Nations Office on Drugs and Crime surveyed 40 organized criminal groups in 2002 and found out that eight of them were involved in human trafficking. Human trafficking was a major exclusive activity of 25% of criminal groups; nevertheless, the remaining 75% were involved in human trafficking as well as in other diverse criminal activities. Alarming findings call for immediate, multidisciplinary and comprehensive actions to raise awareness, strengthen prevention, support and protect the victims and improve law enforcement mechanisms at the international level. The creation of uniformed criminal law standards has to be inevitably taken into consideration as a part of a common framework for human trafficking prohibition and suppression.

The offence of trafficking in persons has been universally recognised as a criminal act against basic human rights and freedom which denies recognising a person as a human being with inherent rights and their existence as an equal member of a community. Nowadays, to protect the person, individual rights is considered a jus cogens (the absolute obligatory norm), and therefore, it presents an obligation erga omnes imposed upon states. This obligation became a part of the International Customary Law and was enforced by enacting numerous international agreements.

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9) See i.e. League of Nations Conventions (1926 Slavery Convention to Suppress the Slave Trade and Slavery, 1933 International Convention for the Suppression of the Traffic in Women of Full Age),
In 2001, the new step towards better protection from trafficking in humans and slavery was made during the World Conference against Racism, Racial Discrimination, Xenophobia and Intolerance in Durban, South Africa. The Conference members agreed that slavery and trafficking in persons are special type of criminal offences, the offences against humanity. Croatian legislator has followed this conclusion and with the 2004 Criminal Code Amendments altered the past offence of “Establishment of Slavery and Transport of Slaves” from Article 175 according to the model given by Article 3, Paragraph a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children


12) Article 175, Paragraph 1 of the Criminal Code of the Republic of Croatia, Official Gazette No. 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03.

supplementing the UN Convention against Transnational Organised Crime.14 Endorsing the amendments Croatia fulfilled one of the obligations accepted by ratifying the Protocol in 2002.

2. The Offence of Trafficking in Persons According to the Croatian Criminal Code

Currently, Article 175 is titled “Trafficking in Humans and Slavery” and it refers to the infringement of the International Law rules with recruitment, transportation, transfer, buying, selling, delivering, instigation of or mediation in buying, selling or delivering, concealment or receipt of a person by means of force, or threat to use force, deception, abuse of position of power or of vulnerability of a person or by any other means for the purposes of establishing slavery or slavery-like practices, forced labour or servitude, sexual exploitation, prostitution or illicit removal of parts of the body.15 The wording “for the purpose of …” indicates a subjective element of the offender’s intent. The offender infringes the international legal rules with one than more explicitly stated illegal actions applying the means of force or trickery, knowingly and willingly, because his/her final aim is to exploit a trafficked victim. Therefore, the trafficking offence will be committed even in cases where exploitation subsequently does not occur. Trafficking in humans and slavery also means keeping a person in slavery or in practices similar to slavery.


15 In recent years experts have reported new emerging forms of human trafficking and it is still doubtful whether the forms fit within or go beyond enumerated purposes. For example, exploiting the new methods and treatments in medicine traffickers engage in harvesting and trafficking of human eggs to be used in InVitro fertilization treatments. The European Union responded to such disturbing practices by enacting the 2005 European Parliament Resolution on the Trade in Human Egg Cells, Official Journal of the European Union, C 320 E, 15.12.05. On the other hand, in some traditional countries traffickers are exploiting customary law to establish trafficking. For example, in some countries of the Middle East traffickers “employ” 3 to 7 year old children to serve as camel jockeys keeping them emaciated to maintain low weight in slavery like conditions. Temporary marriage allowed under the Islamic law has been used to disguise trafficking for prostitution. Regarding this, see, for example, Y.M. Mattar, “Trafficking in Persons, Especially Women and Children, in Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses”, Fordham International Law Journal 26 (2002-2003), 721-760, p. 729 and pp. 731-732.
Perpetrators of the mentioned basic acts of trafficking prescribed in the Paragraph 1 will be sentenced with imprisonment of one to ten years.16

A careful scrutiny of the cited norm reveals that it covers a variety of illegal actions, means and methods committed by perpetrators. In most cases the definitions of international legal instruments are broad because of efforts to combine different definitions of state parties and to reach a mutual consensus over their meaning.17 Thus defined, a criminal offence of trafficking in persons presents an “umbrella definition” or an “umbrella term”.18 In contrast, the most praised characteristics of criminal legal instruments are conciseness and clarity as an imperative imposed by the principle of legality. The legal framework of trafficking offences has to be established in accordance with the principle of legality to become effective and enforceable.19 Consequently, it is not surprising that criminal justice professionals have repeatedly drawn the legislator’s attention to the complexity and vagueness of the norm caused by a desire to put as many words as possible in one paragraph as it was done in international legal instruments.20 Considering the complexity of the norm and its legal blanket character, it is necessary to interpret it with the highest attention and caution using the explanations already given in international documents which were normative models for Article 175.

16) Article 175, Paragraph 1 of the Criminal Code of the Republic of Croatia, Official Gazette No. 110/97, 27/98, 50/00, 129/00, 51/01, 111/03, 190/03, 105/04, 84/05, 71/06, 110/07.
19) Croatian struggle to enact the trafficking criminal offence as precise and clear as possible is not an isolated case. According to their analysis of different legal systems in regards to trafficking offence Gallagher and Holmes conclude that effective and enforceable trafficking legal frameworks are the exception rather than the rule. To become effective and enforceable “the laws should reflect the realities of the criminal justice system and not simply copy an externally generated model.” A. Gallagher, P. Holmes, “Developing an Effective Criminal Justice Response to Human Trafficking: Lessons from the Front Line”, International Criminal Justice Review 18 (2008), 318-343, p. 323.
2.1. Basic Elements of the Criminal Offence

According to the careful analysis of the Article’s basic aspects, there are four prohibited conducts prescribed: 1) establishment of slavery or slavery-like practices, 2) transportation of slaves, 3) forced labour or servitude and 4) human trafficking. Nevertheless, the Criminal Code gives no definition of any of these conducts and therefore the existing relevant international acts and court decisions on related subjects should be taken into consideration.

Slavery is defined as a status or condition of a person over whom any or all of the powers attached to the right of ownership are exercised and the slave is an individual with such a status.21

“Slavery-like practices” encompasses debt bondage arrangements, that is slavery as a debt sanction or a mode to pay a debt, serfdom, child adoption for exploitation, selling of children by their parents or guardians, promising or giving into marriage women who have no right to refuse on payment, exercising ownership rights over a woman by her father or husband.22 According to the Supreme Court of Croatia (SCRC I Kž-741/2004) slavery-like practice also includes forcing a person to go begging.23

Forced labour is considered to be a work or service which is exacted from any person under the menace of any penalty and for which the said persons has not offered his/herself voluntarily.24 The European Court of Human Rights has taken stand that two cumulative conditions have to be satisfied to consider certain

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21) Article 1, Paragraph 1 of the League of Nations 1926 Slavery Convention to Suppress the Slave Trade and Slavery, Convention No. 778, 25.09.1926; The Convention can be retreated from Yale Law School, Slavery Convention to Suppress the Slave Trade and Slavery (New Haven 1998). URL: <www.yale.edu/lawweb/avalon/league/lea001.htm> (29.09.08). The same definition of slavery was adopted by the European Court of Human Rights in case of Siliadin v. France, application no. 73316/01, 26.07.05.


work as forced labour. Not only must the labour be performed by the person against his or her will, but either the obligation to carry it out must be “unjust” or “oppressive” or its performance must constitute “an avoidable hardship”; in other words it must be “needlessly distressing” or “somewhat harassing”.25 According to the European Convention on Human Rights and Fundamental Freedoms, forced or compulsory labour does not consist of work performed during compulsory detention or conditional release, service of a military character and service exacted instead of compulsory military service, service exacted in case of an emergency or calamity threatening the life or well-being of the community or any work of service being a part of normal civic obligations.26 Moreover, case law of the Court has rejected considering as forced labour, work which is not overburdening and which is performed according to the usual professional obligations27 as well as work conducted in a limited time, according to the nature of service and with proper compensation.28

2.2. Qualified Offences of Trafficking

Under Article 175 there are two qualified offences of slavery and trafficking. In the case of trafficking in children and minors there is no need for the perpetrator to act using force, deception and other explicitly enumerated means of coercion or trickery.29 The present rule is the outcome of a commonly accepted stand that

27) Case of Van der Mussel v. Belgium, application no. 8919/80, 23.11.1983.
28) Iversen v. Norway, application no. 1468/62, Commission decision of 17.12.1963. The application was held inadmissible on the basis of being “manifestly ill-founded”. See F.C. Amerasinghe, Jurisdiction of International Tribunals (Hague/London/New York, 2003), 769 and R. Blackburn, J. Polakiewicz (eds.), Fundamental Rights in Europe, the ECHR and Its Member States, 1950-2000 (Oxford, 2001), 642. The same conclusion was reached by the Court in case of Solovyev v. Ukraine, application no. 29439/02, 26.04.05 as well as in Sokur v. Ukraine, application no. 4878/04, 14.12.06.
29) The cited criminal legal standard is in harmony with the Article 1, Paragraph (3) and (4) of the 2002 Council of Europe Framework Decision on Combating Trafficking in Human Beings which explicitly states that in case of trafficking in persons below 18 years of age, the offence “shall be a punishable trafficking offence even if none of the means set forth in Paragraph (1) (coercion, force, threat, abduction, deceit, fraud, abuse of authority or position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved) have been used”. Council of the European Union, Council Framework Decision on Combating Trafficking in Human
children and their parents or legal guardians cannot under any circumstances, give valid consent to be trafficked for the purpose of exploitation.\textsuperscript{30} Children lack capacity to accept obligations because they cannot comprehend consequences emerging from such acts. Due to the fact that their consent is not an informed one, any accepted obligation is not legally binding.\textsuperscript{31} Further on, the Supreme Court practice shows, and academics agree, that there are different standards of the level of coercion when children and adults are forced to be victims of criminal offences.\textsuperscript{32} Considering the physical and psychological inferiority of a child in relation to the offender,\textsuperscript{33} a smaller amount of force and intensity of threats are needed to


\textsuperscript{31} Different legal systems acknowledge certain exceptions from this rule when minors are in question. For example, according to the Article 26, Paragraph 2 of the Croatian Family Law a minor between the ages of 16 and 18 can enter into a marriage in exceptional cases. A court must determine that the minor is mentally and physically mature for the marriage and that a good reason exists to allow such marriage. Once when being married, a minor gains a legal capacity. Moreover, the Article 120, Paragraph 1 and 3 proclaims an underage person of the same age legally capable if he or she becomes a parent. (The Family Law of the Republic of Croatia, Official Gazette No. 116/03, 17/04, 136/04, 107/07.) The Article 20, Paragraph 1 and 2 of Croatian Law on Health Care Measures for the Exercising of the Right to Free Decision-Making about Giving Birth allows abortions on demand to female minors being 16 and over. (Law on Health Care Measures for the Exercising of the Right to Free Decision-Making about Giving Birth of the Republic of Croatia, Official Gazette No. 18/78.) In certain organ donating cases minors in France, Luxemburg and Quebec can consent to donate an organ if they are capable of reaching an independent decision or of discernment, nonetheless their decision must be approved by legal representative and authorised by an independent committee or the Superior Court. (M.N. Morelli, \textit{“Organ Trafficking: Legislative Proposals to Protect Minors”}, American University Journal of International Law and Policy 10 (1994-1995), 917-554, pp. 939-940.

\textsuperscript{32} The Supreme Court of the Republic of Croatia judgments, SCRC I Kž-518/92, 16.09.1992; SCRC I Kž-853/01-7, 11.04.02; SCRC I Kž-477/02-3, 5.02.04 and SCRC I Kž-336/03-3, 20.05.04. See also D. Rittossa, \textit{Seksualni delikti na štetu djece u Hrvatskoj} (Sexual Offences against Children in Croatia) (Zagreb, 2007), 51-54.

\textsuperscript{33} Scholars agree with this concept and explain that children are particularly susceptible to criminal conducts due to their age, physical and mental conditions, and consequently, they should be addressed as vulnerable victims. Y.M. Mattar, \textit{“Incorporating the Five Basic Elements of a Model Anti-Trafficking in Persons Legislation in Domestic Laws: From the United Nations Protocol to the European Convention”}, Tulane Journal of International and Comparative Law 14 (2005), 385; As vulnerable victims, children who were trafficked have special rights. All of the legal instruments
traumatise the child. The described distinction is particularly evident and persistent in sexual and violent offences. Except from physical and psychological inferiority, the vulnerability of a child victim can derive from other circumstances in such cases. A victim is highly vulnerable if he or she is trafficked in a foreign country. In such cases most victims do not know the local language, have no income or other monetary means, and as a result, they are helpless and desperate, being isolated from society and totally dependent upon a perpetrator. The described vulnerability has influenced trafficking sentencing policy, and therefore, in cases of trafficking of children and minors a court can sanction the offender with imprisonment of not less than five years. The second qualified offence is trafficking committed by a group, criminal organisation, or committed against more persons, or if the trafficking causes death of one or more victims. Due to the presence of more intensive criminogenic factors, a prescribed sanction in this particular case is the imprisonment of not less than five years or long term imprisonment.

2.3. Special Provisions on Trafficking

Paragraph 4 of Article 175 was introduced in the 2006 Amendments of the Criminal Code. For the first time, the Croatian legislator has prescribed as a criminal offence, taking advantage of a victim's position or enabling a third person to take advantage of it. To be punished with imprisonment of not less than three months and not
exceeding three years the perpetrator must act with intent, that is, he or she must act willingly and must be aware of the fact that a trafficked person is in forced labour, or performs forced services, or is sexually exploited or is exploited for the illegal removal of organs. In Paragraph 5 of the same Article special attention has been given to the victim’s consent to be exploited. The wording of the Paragraph is clear stating that it is of no significance for the existence of the criminal offence if the victim consented to the previously described inhuman treatment.\textsuperscript{38}

The position according to which the victim’s consent was not a defence to the crime of trafficking was already taken in the 1933 League of Nations’ International Convention for the Suppression of the Traffic in Women of Full Age.\textsuperscript{39} The same standing was repeated in the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others\textsuperscript{40} and 2005 Council of Europe Convention on Action against Trafficking in Human Beings.\textsuperscript{41} The reasons for it are diverse, having different theoretical origins. First of all, constitutional legal theories recognise different groups of basic human rights and freedom enjoying different levels of protection. For example, certain rights can be restrained by state, such as a freedom of speech or assembly or right to privacy, and they do not enjoy the full level of protection. On the contrary, the right to dignity and to be treated as a human being is an essential right, and in cases where

\textsuperscript{38} The Article 175, Paragraph 5 of the Criminal Code of the Republic of Croatia, op. cit., note 16.


\textsuperscript{41} Article 4, Paragraph b) of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, 16.05.05. See Council of Europe Treaty Office, \textit{Council of Europe Convention on Action against Trafficking in Human Beings} (Strasbourg, 2005). URL: \texttt{<conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>} (30.09.08).
it is erased, all other human rights cease to exist.\textsuperscript{42} Criminal Law theory is in line with the presented constitutional thinking. Bearing in mind that a person cannot renounce his or her right to dignity, consent to be a victim of trafficking is of no criminal legal effect and cannot exclude the illegality of the criminal offence in question.\textsuperscript{43} Moreover, criminal offenders have been criminalised and prosecuted not only to protect a victim; the state through its criminal legal instruments also protects its legal order and security of citizens. Therefore, certain basic social values cannot be erased by any individual interest even when it directly concerns the person who is the titular of the right in question.

3. Case Study on Trafficking of Minors in Croatia

3.1. Phenomenological Data on Trafficking of Minors

Since the last four years when the Croatian legislator recognised the offence of trafficking in persons as a modern form of slavery, there have been nine criminal procedures running against perpetrators who were charged with trafficking of minors. More precisely, in two cases the victims were children, youngsters under 14 years of age.\textsuperscript{44} None of the offenders acted as members of a criminal group although according to the facts of two indictments a certain interstate cooperation was detected.\textsuperscript{45} According to the official criminal records of Croatian National

\textsuperscript{42} In case of \textit{Siliadin v. France} the European Court of Human Rights expressly stated that Article 4 of the European Convention for Human Rights and Fundamental Freedoms prohibiting slavery, servitude and forced labour enshrines one of the fundamental values of democratic societies. Therefore, unlike most of the substantive clauses of the Convention and of its 1 and 4 Protocols, Article 4 makes no provision for exceptions and no derogation from it is permissible even in the event of a public emergency threatening the life of the nation (\textit{Siliadin v. France}, application no. 73316/01, 26.07.05). In \textit{Zarb Adami} case Court reaffirmed that mentioned prohibitions are cast in absolute terms (\textit{Zarb Adami v. Malta}, application no. 17209/02, 20.06.06).

\textsuperscript{43} Criminal Law recognizes the victim's consent as a legal instrument to exclude illegality of criminal offences in a limited number of cases. For example, in case of a smaller physical injury in sport game or competition it is presupposed that the player with mere entering in it consents to possible injuries. Informed consent of a patient who is facing surgery excludes also lesser criminal offences against life and limb committed by a performing physician.

\textsuperscript{44} During the trafficking incidence the victims were of 11 and 12 years of age. The described age is labelled as a common age for a child to be trafficked for sexual exploitation. According to Lazaridis' research findings the youngest trafficking victims in Greece are between 12 and 14. G. Lazaridis, “Trafficking and Prostitution: The Growing Exploitation of Migrant Women in Greece”, \textit{European Journal of Women's Studies} 8 (2001), 67-102, p. 83.

\textsuperscript{45} Indictment K-DO-28/05-III and K-DO-113/06-III of the County Public Prosecution Office in Rijeka. The first offender was a Croatian citizen, while the second offender had Serbian citizenship. Both of them illegally transported a victim from Croatia to Serbia and sold her to a Serbian citizen.
Committee for the Suppression of Trafficking in Persons two cases were closed before entering into the trial phase in 2006. The Public Prosecutor desisted from prosecution after investigation in the KMP-DO-16/06 case in front of the County Court in Zadar.\textsuperscript{46} The official public prosecutor’s records show there was no substantial evidence that the offence of trafficking had indeed occurred. It can only be suspected that one of the reasons for this outcome was the normative complexity of the offence which caused a lack of clarity related to basic normative terms and definitions. Consequently, it would be highly difficult to prove the offender’s intent with regard to all the elements of the offence itself. The Public Prosecutor also decided not to prosecute the KMP-DO-19/06 case in front of the County Court in Zagreb due to the fact that the accused were being already prosecuted for the same offence in Italy.\textsuperscript{47} Seven cases are still pending. In two of them the first instance judgments were delivered, however, both judgments have been appealed in front of the Supreme Court. Taking into account that there have been no final court judgments, pending cases will be carefully analysed, bearing in mind that the cases could have different outcomes once the final court judgement is reached. This imposes considerable limitations on the extent to which research findings can be generalized. Although it is not be possible to make any final conclusions, the results of the research are a valuable starting point to comprehend trafficking of minors in Croatia and to perceive the future development of one of the most deviant social phenomena.

In the above researched cases the public prosecution office has charged the offenders with trafficking in minors and children and in one case with rape of a minor according to Article 188, Paragraph 4 of the Criminal Code.\textsuperscript{48} It is not an isolated case that victims of trafficking are physically and sexually abused.\textsuperscript{49} who ran a brothel and was already involved in trafficking of women for prostitution. Although according to the Public Prosecution Office the trafficking of humans by organised groups does not exist in Croatia, empirical researches show differently. See A. Kalaitzidis, “Human Smuggling and Trafficking in the Balkans: Is It Fortress Europe?”, \textit{5 Journal of the Institute of Justice and International Studies} (2005) p. 8. (pp. 1-9.)

\textsuperscript{46} Indictment KMP-DO-16/06 of the County Public Prosecution Office in Zadar.

\textsuperscript{47} Indictment KMP-DO-19/06 of the County Public Prosecution Office in Zagreb.

\textsuperscript{48} Indictment K-DO-14/06-III of the County Public Prosecution Office in Gospic.

Being deprived of liberty and utterly under the offender’s control they are highly vulnerable, helpless and therefore, any additional use of force must be perceived as excessive. In the Gospic case, the first act of force occurred by the time the victim and perpetrator passed the Croatian border. The victim’s passport was confiscated and she was informed that the real purpose of her stay in Croatia would be sexual exploitation.\textsuperscript{50} Afterwards, the victim was locked in a wardrobe, exposed to daily threats and deprived of sufficient meals by the first and third offender. They were constantly trying to win her over so she could start to perform services as a

Graph 1: Criminal offences indicted by the Public Prosecution Office in Croatia in the period of 2000-2006

\begin{itemize}
\item Article 175, para. 2 (trafficking of minors and children)
\item Article 188, para. 4 (rape of a minor)
\end{itemize}


prostitute as security for debts incurred for transporting her to Croatia.\footnote{The described scheme constitutes a debt bondage agreement which is a slavery-like practice prohibited by the Article 1 of the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, \textit{op. cit.}, note 22. The same scenario has been applied in numerous trafficking cases across Europe and within the USA. For example, upon their arrival to Italy, Nigerian young women and girls have been forced to engage into prostitution to pay off debts that range from about \(62000\) to \(124000\) Euros for being “helped” to come to Europe. For more details see E. Aghatise, \textit{op. cit.}, p. 1129, p. 1131. Traffickers also demand significant fees to bring their victims into the United States illegally. In the \textit{United States v. Gasanov} case the prosecution showed that traffickers claimed \(300,000\) US dollars from three female Uzbekistani victims in the name of transportation expenses and document fees. See J.E. Schauer, M.E. Wheaton, “Sex Trafficking Into The United States: A Literature Review”, \textit{Criminal Justice Review} 31 (2006), \textit{146-169}, p. 156.} In the following days she was seen by numerous witnesses in the perpetrator’s company several times. They attended different local bars, went to the beach and not even once did the victim dare to escape from her perpetrator’s custody, being constantly supervised by the perpetrator. On the last day of captivity the perpetrator sexually abused the victim threatening her with a gun and punching her all over the body. From the stand point of the Criminal Law it is highly important to stress that there is no consumption between the offences of trafficking and sexual offences, regardless of the fact that the purpose of trafficking can be a sexual exploitation. One criminal act does not erase the other one. Therefore, the prosecution made the right decision to press charges for both offences.

During the trial in case K-74/01-104 the prosecutor withdrew from pressing charges for trafficking of minors and accused the offender for instigating sexual intercourse with a child.\footnote{Judgment K-74/01-164 of the County Court in Pula, 18.12.07.} The main reason for this decision was the difficulty in proving that the offender intentionally gave a certain sum of money to the victim’s father as payment for the promised marriage with his son.\footnote{The difficulty to prove a father’s intention to sell his daughter also occurs in trafficking offences for the purpose of prearranged marriage in rural China. Zhao argues that in “the sale of marriage” cases a head of family coerces his daughter to marry and receives gifts and other property in exchange. However, it is hard to tell whether this constitutes a trafficking offence or a custom with the primary purpose to marry off a daughter. See G. Ming Zhao, “Trafficking of Women for Marriage in China: Policy and Practice”, \textit{Criminal Justice} 3 (2003), \textit{83-102}, p. 95.} The involved parties are Roma, and according to the offender’s defence and witnesses’ testimony, it is customary for the bridegroom’s family to offer a monetary gift to the bride’s family. The purpose of the gift is financial participation in the wedding organisation. The facts of the case show that Roma traditions pose significant difficulties for judicial bodies to differentiate between giving into marriage a girl on payment and honouring the bride’s family. It is more likely that the offender acted according to the Roma custom of buying a bride bearing in mind the custom is commonly recognised between Roma according
to the prosecution findings in the DO-KS-3/2000 case. Moreover, in this case the Roma girl did not accept the arranged relationship. After two days upon her arrival in Croatia she escaped from her fiancé, however, her father did not return the monetary gift regardless of the fact that there was no occasion to celebrate.

The court and public prosecutor did not recognise a criminal legal institute of the mistake of law in the present case. It is of no significance whether the monetary amount would be used for wedding organisation or any other purpose. The fact of payment cannot be disregarded, hence, the mode of trafficking is exercised and the element of exploitation remains. For example, according to Article 1, Paragraph (i) of the 1956 Supplementary Convention on Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, the purpose of payment is not a constitutional element for marriage to become an institution of slavery. A similar legal solution exists in the 2002 Council of Europe Framework Decision on Combating Trafficking in Human Beings. Under Article 1, Paragraph 1, Subparagraph (d) of the Framework Decision it is punishable to give or receive payments or benefits to achieve the consent of a person having control over another person for the purpose of mail-order bride business. For that reason, the court had to but failed to investigate whether the offender believed his actions were performed in accordance with Roma traditions, and therefore legal, and if so, whether his beliefs were justifiable according to the Croatian criminal law standards. Due to the court findings the offender could have been released of the charges or his sentence mitigated. Nevertheless, the mistake of law is one of the rarest institutes

54 Indictment DO-KS-3/00 of the County Public Prosecution Office in Cakovec.
55 According to the Article 46, Paragraph 1 of the Criminal Code “the offender who, for justified reasons, does not know and could not have known that the offense is prohibited shall not be culpable.” The Paragraph 2 allows the judge to mitigate a sentence if the offender's mistake has been avoidable. The precise determination of the standard of avoidability is given in the Paragraph 3 that reads as follows: “a mistake shall be deemed avoidable if anyone, and thus also the perpetrator, could have easily grasped the unlawfulness of the conduct, or if the perpetrator was supposed to know the relevant regulation because of his profession, occupation or service.” Article 46, Paragraph 1-3 of the Criminal Code of the Republic of Croatia, op. cit., note 16.
56 Article 1, Paragraph (i) of the 1956 Supplementary Convention on Abolition of Slavery, the Slave trade and Institutions and Practices Similar to Slavery reads as follows: “A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or groups.”, op. cit., note 22.
57 Article 1, Paragraph (i), Subparagraph (d) of the 2002 Council of Europe Framework Decision on Combating Trafficking in Human Beings, op. cit., note 29.
in Croatian court practice, and therefore, it was more acceptable to rewrite the charges and prosecute for child sexual abuse than trafficking in children.\footnote{According to the research done at the County Court in Rijeka, in the last seven years there were only two cases with the institute of mistake of law in Criminal Law. In the first case the offender defended himself stating that he did not know that planting marihuana for medical purposes was not a criminal act. The court did not accept such defence on the basis of mistake of law. In the second case the Court decided differently acquitting the accused who possessed pirate CDs without authorization. The accused did not have any knowledge that unauthorized possession of the pirate audio has been the criminal offence under the Article 230, Paragraph 4 of the Criminal Code. He has never questioned legality of his actions because all his friends have also possessed pirate CDs.}

3.2. Etiological Findings on Trafficking of Minors

3.2.1. Causes Related to Victims

The causes of trafficking in minors and children are complex and multifaceted, but even so, it is possible to single out mutual patterns and similarities. According to the research findings all of the cases share certain common characteristics. The trafficking of minors is distinguished from other crimes committed against minors in Croatia due to the gender characteristics of victims, their origin, abuse perpetrated against them, recruitment, means of deception and coercion, purpose of trafficking and personal data related to their families and life conditions. All of the victims of trafficking were female.\footnote{King notes that boys and men are routinely trafficked in regards to female victims. T.S.C. King, “The Modern Slave Trade”, U.C. Davis Journal of International Law and Policy 8 (2002), 293-321, p. 302. According to the Europol statistics, the vast majority of trafficking victims are also female, however, it has been estimated that there is a significant increase of males who are trafficked in Europe. Europol, Trafficking in Human Beings: A Europol Perspective (2008) p. 2. URL: <www.europol.europa.eu/publications/Serious_Crime_Overviews/Trafficking_in_human_beings_2008.pdf> (24.10.08).} Six girls were allegedly trafficked by nine perpetrators due to the fact that in two cases the offenders acted together committing the offence against the same victim, however, charges against them were brought separately after the investigation. In six cases damages were caused to one victim, and in one case two Roma girls were victimised by the same perpetrator. As shown in Graph 2, it is significant that 50% of the victims had Roma origin and Romanian citizenship. Victims also had their permanent addresses in Serbia, Bosnia and Croatia.

The facts of origin and citizenship are closely related with routes of trafficking. Two victims were trafficked from Romania to Croatia with the final destination in Italy. A minor was deceived and illegally smuggled to Bosnia and Herzegovina, then to Serbia where she was forced into prostitution. After a month she was illegally transferred to Italy and afterwards to France.\footnote{Indictment K-DO-28/05-III and K-DO-113/06-III, op. cit., note 45.} A minor almost faced a similar...
destiny according to the facts of the IV KZM-16/06 case at the County Court in Zagreb. The victim was a citizen of Serbia, however, she was trafficked from Bosnia to Croatia without reaching the final destination in Italy for the purpose of sexual exploitation.\(^6\) Italy was also predicted as a place of destination in the indictment DO-KS-3/00. Nevertheless, girls were sold by their mothers for an undefined sum of money in Romania following Roma tradition of prearranged marriages of minors.\(^6\) In the K-DO-14/06 case the victim also came from Romania, however, she was supposed to prostitute in the Republic of Croatia.\(^6\) Therefore, it can be concluded that in most cases Croatia has been a transit country for traffickers which is in accordance with the general public opinion.\(^6\) Nonetheless, research findings

\(^6\) Indictment KMP-DO-14/06 and KMP-DO-24/06 of the County Public Prosecution Office in Zagreb; Judgment IV KZM-16/06 of the County Court in Zagreb, 28.02.08.

\(^6\) Indictment DO-KS-3/00, op. cit., note 48.


show that Croatia must also be considered as a country of trafficking destination and trafficking origin.

Most of the victims came from a poor social environment. According to the research results poverty is a significant criminogenic factor which is consistent with previous research findings on trafficking. For example, a witness in the K-DO-

Graph 3: The most persistent criminological causes related to victims of trafficking

- 14% being in a bad company
- 22% poverty
- 22% qualitatively and quantitatively dysfunctional families
- 14% Roma customs
- 23% school problems
- 5% prostitution

Poverty has also been perceived as a strong criminological cause which pushes families into prostitution and increases the risk of trafficking of female children and women in the Philippines. (For more details see N.C. Vilches, “Trafficking of Women and Children”, International Legal Practitioner 29 (2004), 195-199, p. 195. Orlova holds the view that transitional economy characterized with a high level of employment instability, unemployment compensation, inadequate salaries, “washing out of female jobs”, economic decentralization and privatization, as well as a lack of proper parental supervision drive Russian women and children to turn to traffickers who promise employment (A.V. Orlova, op. cit., p. 160, pp. 163-167). Farrior acknowledges that traffickers pray on families who need income for basic survival, nevertheless, the author also stresses different views according to which the poverty argument has been overplayed because there are many poor societies that do not exploit children (S. Farrior, op. cit., p. 214, p. 230). Similarly, the authors of the 2006 OSCE Report on trafficking concluded that root causes of it should not be limited to economic disparity. Rather, researchers should explore poverty within the context of social and economic exclusion, marginalization and discrimination (Organization for Security and Cooperation in Europe, From Policy to Practice: Combating Trafficking in Human Beings in the OSCE Region (2006) p. 8). Smolin also makes a similar conclusion stating that the incidence of extreme poverty is not in itself a predictive factor of child trafficking for adoption (D.M. Smolin, op. cit., p. 126), nonetheless later in the text declares that “many poor nations also suffer from a high incidence of child trafficking, generally conducted for purposes of sex and labor” (D.M. Smolin, op. cit., p. 130). Thus, poverty as a predictor could have a different impact in child trafficking cases depending on trafficking purposes.
14/06 case during the pre-trial described the victim’s family as financially deprived and living in extremely poor conditions. Poverty influenced the parents’ decision to give their consent to the offender to take their daughter to Croatia, deceived by offender’s false promises. They hoped for a better life for their daughter who was supposed to work as the offender’s employee. Escape from poverty and prostitution was also the main motive for a victim to agree to illegally cross the Bosnian border with the offender hoping for any kind of job in Croatia.\textsuperscript{66} Searching for a better future and acting following Roma customs were the main motives for victims to leave their place of residence with the offender in the DO-KS-3/00 case.\textsuperscript{67} Research findings indicate that half of the victims were deceived by perpetrators and abused because of their poor social status and economic situation. It would be wrong to conclude that trafficking has been, first of all, a social problem, not a criminal one.\textsuperscript{68} Rather, research results show that poverty puts minors at risk of trafficking because the victims’ motive is in strong correlation with the offenders’ means to go through with trafficking.

Almost in every case the public prosecutor established that the victims’ families were qualitatively and quantitatively dysfunctional. Solidarity among family members was reduced because of low family income and lack of parental attention and affection. The disintegration of family structure and emerging conditions thereof influenced the victim’s behaviour. Victims were described as socially inadaptable, problematic, ending up in bad company and having problems with schooling. Regardless of their young age, victims occasionally escaped from home.\textsuperscript{69}

\textsuperscript{66} Indictment KMP-DO-14/06 and KMP-DO-24/06 of the County Public Prosecution Office in Zagreb; Judgment IV KZM-16/06 of the County Court in Zagreb, \textit{op. cit.}, note 61.
\textsuperscript{67} Indictment DO-KS-3/00 of the County Public Prosecution Office in Cakovec.
\textsuperscript{68} Adelman criticises US lawmaking policy according to which a trafficking issue has been, first of all, an issue of “third world”, “backward” countries facing economical problems. Such countries promote women and young girls for export within the global sex industry to gain profits and attract monetary means. M.R. Adelman, ”International Sex Trafficking: Dismantling the Demand”, \textit{Southern California Review of Law and Women’s Studies} 13 (2003-2004), 387-413, pp. 402-403.
\textsuperscript{69} Indictment KMP-DO-14/06 and KMP-DO-24/06 of the County Public Prosecution Office in Zagreb; Judgment IV KZM-16/06 of the County Court in Zagreb, \textit{op. cit.}, note 61; Indictment K-DO-28/05-III and K-DO-113/06-III, \textit{op. cit.}, note 45.

Due to described criminological findings, a body of literature does not consider children engaged into prostitution as victims, rather they are treated as juvenile delinquents. See N.A. Boxill, J.D. Richardson, “Ending Sex Trafficking of Children in Atlanta”, \textit{Journal of Women and Social Work} 22 (2007), 138-149, p. 138; and C. Hanna, “Somebody’s Daughter: The Domestic Trafficking of Girls for the Commercial Sex Industry and the Power of Love”, \textit{William & Marry Journal of Women and the Law} 9 (2002), 1-29, p. 3. Completely opposite, in Sweden prostitution is officially recognised as a form of male sexual violence, and therefore, prostituted women and children are seen as victims of such violence who have a right to be assisted to escape from prostitution. Such standing is the
described criminological causes have been perceived in scientific literature as principally strong victimological factors. The deprivation of the basic rights to education, parental care and affection, social security, adequate standard of living and physical and mental health make minors particularly vulnerable to being trafficked. Moreover, minors who did not have a caring childhood, in particular those who lived in neglecting and abusive families are recognised as potentially prone to be revictimized. Trying to fulfill their emotional emptiness, victims enter hazardous situations. The inability to assess the risks drives them into potentially dangerous situations, and therefore, it is not an isolated case when victims find themselves in the centre of a new criminal offence. Being sold in Belgrade and trafficked in Italy, a minor escaped from her “owners” after a police raid. She made her own decision to live with one of her customers who ended up in prison within a short time. Without being influenced by anyone, she decided to join her customer's friend, who was also their roommate, and to go to France with him regardless of the fact that he had had a suspicious past. After she arrived in Paris, she was once more sold and forced to engage in prostitution. In another case, a young girl was giving her sexual services for money in Bosnia. She willingly followed one of the accused hoping to work in Croatia. After her arrival in Zagreb she realised she had been sold and the only job she was “offered” was as a sex worker. In the K-74/01-164 case, the County Court in Pula established that a young Roma


70) Staiger argues that children from a socially weak family background and with a lack of education are particularly at risk of trafficking. See I. Staiger, op. cit., p. 613. Poverty, gender issues, traditional patriarchal customs, scarce education and joblessness have been the main criminological factors that increase Albanian young girl’s vulnerability to sexual trafficking. See M.P. Van Hook, E. Gjermeni, E. Haxhiymeri, “Sexual Trafficking of Women: Tragic Proportions and Attempted Solutions in Albania”, International Social Work 49 (2006), 29-40, pp. 31-32. Morelli also stresses that minors who face certain above mentioned difficulties are vulnerable persons who must be protected from organ trafficking. See M.N. Morelli, op. cit., p. 935.

71) Hanna metaphorically describes such vulnerable children as “nobodies’ daughters and sons” who “are often both running away from someone and running to someone”. C. Hanna, op. cit., p. 4, p. 22.


73) Judgment IV KZM-16/06 of the County Court in Zagreb, op. cit., note 61; The facts of the case follow a common trafficking pattern described by Hodge and Lietz. The victims are commonly told what is expected from them to do upon their arrival at destination countries. For many victims, this is the first time they realize the real nature of their position. D.R. Hodge, C.A. Lietz, “The International
A girl, who was tempore criminis under 14 years of age, had already been a victim of criminal offences. She was twice engaged to different fiancés with whom she was sexually intimate and living in the same household.\(^{74}\) According to the Croatian Criminal Code the described actions have elements of a criminal offence under Article 192, a sexual intercourse with a child, and the offence under Article 214, living with a minor out of marriage.\(^{75}\)

Repeated victimisation, feeble emotional attachment to family members, emotional abuse and neglect by parents and poor living conditions are strong predictors of tertiary victimisation. The risk of victimisation impact is proportionally reversed in relations to the victim’s age: the greater the impact, the younger the victim. Taking into account that previous criminological researches show that children have more obstacles to cope with victimisation if they are emotionally, physically or sexually abused by perpetrators; trafficking in persons as one of the gravest crimes, could impose severe, long lasting consequences.\(^{76}\) Bearing in mind that trafficking usually involves prolonged and repeated trauma, the victimisation impact for victims of such a young age could be devastating. Studies indicate that children who were victims of trafficking may experience anxiety, lack of motivation, depression, alienation, aggression, concentration difficulties, social withdrawal and posttraumatic stress disorder. Such psychological consequences may persist for a long time after a criminal offence has been committed and affect the child’s future physical development.\(^{77}\) Severe emotional problems, self-inflicting injuries and suicidal attempts cannot be excluded, especially in cases where perpetrators are closely related to the victims. In the Rijeka case a minor was deceived, abused and finally sold for the purpose of prostitution by her stepbrother.\(^{78}\) In two Roma prearranged marriages trafficking cases

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\(^{74}\) Judgment K-74/01-164 of the County Court in Pula, op. cit., note 52.

\(^{75}\) Article 192, Paragraph 1 and Article 214 of the Criminal Code of the Republic of Croatia, op. cit., note 16.


\(^{78}\) Indictment K-DO-28/05-III and K-DO-113/06-III, supra note 45.
the parents had the active part in the selling of victims.79 Considering that all the above-cited cases have not yet entered their final procedural phase, the consequences of victimisation are yet to be expected.

3.2.2. Causes Related to Offenders

Data from Graph 4 indicate that traffickers of minors are of both sexes. Two traffickers are women and this presents a certain deviation from criminological findings regarding female crime in general. Women rarely commit criminal offences when compared with men. European statistics show their participation in criminal activities is between 10% and 20% of total crime.80 Possibly because female offenders participate more in the trafficking of minors than in other offences because the trafficking offence has a specific nature. Minors are going to believe female traffickers more easily, especially in cases when traffickers use deception as a means of winning over a victim.81 Moreover, the Gospic and Zagreb cases indicate that female offenders are going to take part in trafficking for the purpose of prostitution. Such a conclusion is expected taking into account that criminological literature describes prostitution as a deviant behaviour highly associated with women.82

According to the research statistics the majority of the offenders engaged in trafficking are in their thirties. The youngest offender is 21 years old and the

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79) Judgment K-74/01-164 of the County Court in Pula, op. cit., note 52 and Indictment DO-KS-3/00 of the County Public Prosecution Office in Cakovec.
81) According to recent findings, a significant number of female offenders have been involved in trafficking recruitment processes. ECPAT, Joint East West Research on Trafficking in Children for Sexual Purposes in Europe: The Sending Countries. URL: <www.childcentre.info/projects/trafficking/dbaFile11169.pdf> (24.10.08). Surtees points at an emerging trend of female recruiters detected in Moldova, Romania, Ukraine and Bosnia and Herzegovina. She quotes that 61.8% of victims were recruited by women in Moldova in 2004. In the same year female recruiting reached 57.7% percent in Bosnia and Herzegovina. Similarly, in the same year, 60% of victims trafficked for sexual exploitation to Macedonia was recruited by women. R. Surtees, op. cit., p. 44.
82) Classical criminological authors have perceived prostitution as one of the typical female deviant behaviours; nevertheless, the recent literature considers it to be a form of male violence against women. According to the feminist thinking, prostitution is a highly gendered system in which men create the demand for women in prostitution, and consequently, women are both the suppliers and the victims. S. Herzog, “The Lenient Social and Legal Response to Trafficking in Women: An Empyrean Analysis of Public Perceptions in Israel”, Journal of Contemporary Criminal Justice 24 (2008), 314-333, p. 316; P. Saunders, op. cit., pp. 349-350; and R. Weitzer, “The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade”, Politics & Society 35 (2007), 447-475, pp. 451-452.
This corresponds to the findings documented in other researches. The described age group is the most criminally active group. The offence of trafficking has a dynamic nature. It consists of different phases, and when compared with other criminal offences, its perpetrators must make an additional effort when committing it. Therefore, intensive criminal activity is directly related to the offenders’ age and mutual participation. The offenders rarely act alone, having different criminal roles. In the County Court of Zagreb case, one offender was in charge of deceiving and delivering a victim to the second offender, who according to the previously arranged agreement, bought the victim and deprived her of her liberty. A similar scenario was followed in the Gospic case where the first offender transported a victim from Romania, brought her to Croatia, illegally detained her and finally delivered her to the third offender who was charged with reception of the trafficked person. The young Romanian was illegally deprived of her liberty and passport for 11 days. During the deprivation she was controlled by the second offender, a spouse of the first offender. In the Cakovec case the

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83) Similarly, while conducting their study on juvenile trafficking in Toledo and Columbus, Wilson and Dalton found out that the offenders’ age ranged from 19 to 43. See M.J. Wilson, E. Dalton, “Human Trafficking in the Heartland: Variation in Law Enforcement Awareness and Response”, Journal of Contemporary Criminal Justice 24 (2008), 296-313, p. 301.
84) Judgment IV KZM-16/06 of the County Court in Zagreb, op. cit., note 61.
85) Indictment K-DO-14/06-III of the County Public Prosecution Office in Gospic.
offender also committed the offence together with another offender, nevertheless, his co-perpetrator was a foreign citizen and his identity remained undiscovered by the Croatian prosecutorial bodies.86

Research findings on the offenders’ education and working status point at poor educational background and dominant unemployment. As shown in the Graph 4, 50% of the accused completed secondary school and the rest of them received only elementary schooling (12%) or did not manage to complete it (38%). Research results concerning employment show that a vast majority of the offenders are unemployed (75%). Only one offender is employed as a truck driver and one is retired. In the professional literature criminal activity has always been associated with poor schooling and scarce employment. According to the criminologists basic social norms have been received and accepted in a young age within nuclear family and the school environment.87 Their influence is a crucial factor for the future social development of a young person. The lack of positive authority may contribute to a low ability for social adaptation, bad social functioning, emotional insecurity and immaturity resulting in distorted social inhibitors. Due to the weakened

86) Indictment DO-KS-3/00 of the County Public Prosecution Office in Cakovec.
restraint mechanisms preventing deviant behaviour, the offenders have a tendency to break social norms. Having no sufficient internal control they hardly manage to keep their jobs. Taken all together, the offenders have a strong predisposition to commit criminal acts, and consequently, there is a great probability of previous criminal activity.

Research findings have confirmed that half of the accused have already had a criminal past. Data from Graph 5 shows that in most cases they committed several different crimes (75%). The crimes against property are dominant which is in accordance with previous research findings regarding the offenders’ employment. Due to the fact of being unemployed, it seems that criminal activity is one of the offenders’ most important sources of income. It is significant that two perpetrators had previously committed offences which have been strongly associated with trafficking. According to the judgment of the County Court in Zagreb, the first offender had formerly been found guilty for illegal deprivation of liberty and international prostitution\(^88\) and the second offender for illegal transportation of persons across the state border.\(^89\) Recidivism is a circumstance which should be taken into consideration when deciding upon the length of imprisonment keeping in mind it is a strong predictor of the success of an offender’s re-socialisation.

According to Croatian courts sentencing policy, one of the most important circumstances taken into consideration by the court is the offender’s marital and parental

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\(^{88}\) Article 124 and 178 of the Criminal Code, op. cit., note 16.

\(^{89}\) Article 178 of the Criminal Code, op. cit., note 16.
status. The courts value the offenders’ social engagement only nominally determining whether they are still married and whether they have underage children disregarding the quality of such relationships. It has been noted that, sometimes, the courts accept these circumstances as a basis to mitigating a sentence even in child sexual abuse cases committed by parents.\textsuperscript{90} The present practice is one of the numerous weak points of the court sentencing policy which has been repeatedly pointed out and criticised by Croatian criminologists and criminal justice professionals.\textsuperscript{91} Hence, it can be expected that courts will pay special attention to the fact that eight perpetrators have children; however, three of them did not enter into marriage. Tendency towards antisocial behaviour probably influences the offenders’ attitudes regarding personal relationships in which they need to show commitment. A deviant past taken together with unemployment could also be a strong obstacle to maintaining a stable relationship.

4. Closing Remarks: Trafficking of Minors in Croatia – Fact or Fiction?

According to the research done there are seven pending cases of trafficking of minors and children in Croatia. The fact of not having any final court judgment points at surprisingly long criminal procedures even in cases with underage victims. One of the reasons for such situations could be the normative complexity of the criminal offence itself. Croatian legislators should consider revising it, bearing in mind that the length of a procedure directly affects the victim causing heavier secondary victimisation. It can be expected that the secondary victimisation would intensify consequences of primary victimization due to the fact that underage girls were deceived, abused, delivered, sold and received by two or more perpetrators in a foreign country. The victims were trafficked for two main purposes, prostitution and prearranged marriages according to Roma customs. There was not a single case of child trafficking for the purpose of adoption, forced labour or organ trafficking. Perpetrators did not use Internet as a modern method to recruit the trafficking victims, first of all, because they recruited victims who were known to them. Moreover, in three cases the major trafficking actors were closely related to their victims. Victims who were trafficked by their stepbrother or parent are two times victimized, first by the act of trafficking and second by the notion of being hurt and betrayed by the closest family member. Research findings also point at the perpetrator’s unemployment, poor education, social background and ability

\textsuperscript{90} D. Rittossa, \textit{op. cit.}, p. 217.

\textsuperscript{91} Croatian Association for Criminal Sciences and Practice together with the Academy of Legal Sciences conducted a comprehensive study on legal and court sentencing policy in 2004 trying to isolate the key obstacles for a successful suppression of criminal offences and recidivism. Results of the scientific project were published in \textit{Croatian Annual for Criminal Law and Practice} 11 (2004).
to maintain stable relationships. Present endogenous and exogenous causes of trafficking of minors and children should be taken into consideration by Croatian courts when creating the sentencing policy. Research has shown that trafficking is a current, complex criminological phenomenon with grave consequences. Its essential factors and causes should be closely analysed in criminological research yet to come. Future research findings have to be a valid scientific basis for government and parliamentarian decisions to implement comprehensive measures for timely detection of trafficking of minors and children and reducing its dark numbers. Moreover, research conclusions have to be used as a legitimate starting point to create the highest level of commitment; a prevention programme against such trafficking which is still missing in Croatia. Scientific research on the one hand, and the policymaker’s goodwill on the other, can result in concrete and more effective anti-trafficking initiatives to protect children and minors from trafficking.