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Trafficking in Human Beings in the EU

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Introduction

Trafficking in human beings is a crime, a serious violation of human rights, often perpetrated within the framework of organised crime. It is the slavery of modern times, turning the victims into commodities to be bought and sold (some of the victims were even tattooed with bar codes). The problem affects all EU countries, whether as countries of origin, transit or destination. The increasing extent and seriousness of the problem are alarming although the exact dimension of human trafficking in the European Union remains unknown.

Internationally, the instruments put in place by the UN, the Council of Europe and OSCE are important steps towards the intensification of international cooperation against this form of crime. Unfortunately, the data available is not yet comparable with those gathered by Member States and the EU, and not all Member States have ratified all relevant international instruments, agreements and legal obligations which will make the work against trafficking in human beings more coherent, coordinated and effective.

The fight against trafficking in human beings is a priority for the EU. Since the 1990s the EU has developed many initiatives, measures and funding programmes, and Article 5 of the Charter of Fundamental Rights of the European Union prohibits specifically trafficking in human beings. A European legal framework is already in place, with the Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, to be fully transposed by the Member States by 6 April 2013, as a major step forward. In addition, the Commission has recently presented on 19 June, a strategy that defines, in this area, the major policies and measures for the period 2012-2016¹.

The European Parliament has been very active to support the fight against trafficking in human beings and has discussed it on several occasions, with contributions aimed not only at making the EU policy against this crime more effective, but also at strengthening prevention, the gender approach, as well as the protection of victims and children rights.

A complex and changing phenomenon that should be considered socially unacceptable

Although very often links can be drawn, the differences between trafficking in human beings and illegal migration or smuggling of illegal migrants are clearly set out in international law. Trafficking in human beings has as its main objective the exploitation of an individual for profit. It is a very lucrative form of crime. The victims are often recruited, transported or harboured by force, coercion or fraud with the purpose of sexual exploitation, forced labour or services, including begging, slavery, servitude, criminal activities (pick pocketing, street theft or robbery), domestic service, adoption or forced marriage, or the removal of organs.

Whether they are sold for sexual exploitation (including pornography, massage parlours or modelling agencies), or for forced labour (mainly in agriculture/farming,

¹ COM(2012)286 final

construction, tourism and service sector, the textile sector, domestic service), the victims are exploited seven days a week, obliged to pay back huge debts to their traffickers; they are often deprived of their passports or identity papers, and locked-in, in many cases only allowed out for work. Isolated from their families, they are threatened by their exploiters and live in fear and retaliation; with no money and having been made fearful of the local authorities, they lose any hope of escaping or going back to normal life.

Although trafficking in human beings evolves with changing socio-economic circumstances, the victims come mainly from countries and regions which are subject to economic and social hardship and the vulnerability factors have not changed for years: high unemployment and poverty, lack of democracy, gender inequality and violence against women, conflict and post-conflict situations, lack of opportunities and of social integration, human rights violations, child labour and discrimination,... The other causes of trafficking in human beings include a booming sex industry and the consequent demand for sexual services, as well as the demand for cheap labour and products.

Greater freedom of movement and travel, low cost international transport and global communications links, combined with previously unavailable opportunities to work overseas and self confidence are also factors found to contribute to the recruitment by traffickers of persons who would not normally be thought of as vulnerable. The common factor for people from diverse background to become victims of trafficking is deceit, usually via the promise of education, employment, good working conditions, a salary that does not exist, in general terms, the promise of a better quality of life and existence.

CONCLUSION

Given the unacceptable conditions and devastating consequences suffered by the victims of trafficking in human beings which constitutes a criminal violation of Human Rights, the EU shall make it socially banned through strong and sustained awareness-raising campaigns, both at EU level and at Member States level (best practices and examples already ongoing as the ones related to road safety or the fight against drug or tobacco consumption), with clear and scheduled reduction targets to be evaluated annually within the European Anti-Trafficking Day, every 18th of October, as well as after five years from now during the Anti-trafficking European Year to be created.

Estimates and statistical data

Given the complex and illegal nature of this phenomenon, as well as the lack of a harmonised data collection across the EU, it is impossible to know the exact extent of human trafficking in Europe.

The latest estimates from the International Labour Organisation (ILO) of June 2012 covering the period 2002-2011 put the number of victims of forced labour, including forced sexual exploitation, to 20.9 million at a global level, with an estimated 5.5 million children being trafficked. However, this estimate is also believed to be conservative.

The total number of forced labourers in the EU Member States is estimated at 880.000 (1.8 per 1000 inhabitants), of which 270.000 (30%) are estimated victims of sexual exploitation, and 610.000 (70%) are victims of forced labour exploitation. Women constitute the majority of victims in the EU.

The 2010 report of the United Nations Office on Drugs and Crime (UNODOC) states that worldwide 79% of identified victims of human trafficking were subject to sexual exploitation, 18% to forced labour and 3% to other forms of exploitation. Of these victims, 66% were women, 13% girls, 12% men and 9% boys.

Preliminary results of data collected by the Commission in September 2011 on victims of human trafficking appear to be consistent with the statistics in the UNODOC report: 3/4 of registered victims were trafficked for sexual exploitation (an increase from 70% in 2008 to 76% in 2010) and the rest for labour exploitation (a decrease from 24% in 2008 to 14% in 2010), forced begging (3%) and domestic servitude (1%). Only 21 EU Member States were able to give gender-specific information: over the three years, female victims accounted for 79% (of whom 12% were girls) and male victims for 21% (of whom 3% were boys).

While this first data collection based on a small agreed number of indicators shows the right way to develop an EU-wide system to ensure comparable, reliable data on human trafficking in the EU, there are still several obstacles to overcome: divergence of national systems, the sensitivity of the information to be gathered and shared and the challenges involved in agreeing on a common set of indicators. Another challenge is to make this incipient EU data collection system comparable with other data systems at international level (OCDE, UN, ILO,...).

The exact levels of human trafficking in the EU are still not easy to identify as this phenomenon is often hidden within other forms of criminality (prostitution, illegal immigration and labour disputes), but also because instances of trafficking are still not being recorded or investigated. Moreover, although sexual exploitation is the most widely reported form of trafficking, labour exploitation is a common crime that often goes undetected due to a lack of general awareness of the subject.

CONCLUSION

It is urgent to develop an EU comparable and reliable data collection system, based on common and agreed solid indicators, together both with the Member States and with the international institutions involved in the fight against human trafficking. To raise the visibility and urgency of this data system, it could be useful to set up an Anti-Trafficking Observatory within the EU Anti-Trafficking website already ongoing, with the obligation for all EU Institutions and the seven involved Agencies to introduce their data, and the invitation to NGOs and other institutions to do the same.

How to strengthen the protection and assistance to victims, with special care to children

Trafficking does not necessarily involve the crossing of a border, but it is predominantly a transnational type of crime, extending beyond individual Member

States. While many victims come from non-EU countries, internal trafficking (EU citizens trafficked within the EU) appears to be the rise.

The enlargement of the EU since 2004 has resulted in this respect in a new situation. The extension of the external borders and the removal and easing of border controls to some extent explains the unprecedented inner disclosure of the Union to organised crime. Countries reported to be the origin of most trafficking victims such as Romania, Bulgaria and Hungary, are now part of the EU.

Moreover, since 2004 the EU has neighbouring borders with other countries of origin, representing important sources of trafficking, such as Russia, Ukraine, Belarus, Turkey, Moldavia or the Western Balkans. The number of victims of trafficking coming from Asia, Africa and South America has increased, specially victims coming from Nigeria, Vietnam and China.

The existing instruments to fight against human trafficking both at international and at EU level are mainly setting up not only for the punishment of this criminal activity, but mainly trying to establish the best possible means to protect and assist the victims:

United Nations

The international community has made a great step forward in the fight against human trafficking with the adoption in 2000 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("Palermo Protocol "). It supplements the United Nations Convention against Transnational Organized Crime. The "Palermo Protocol" is the first international instrument that addresses the problem of trafficking in its entirety and lays the foundation for international action in this field. The text contains the first legally binding common definition at international level of the term "trafficking in persons". It requires states to criminalise all forms of this practice and contains provisions on prevention and protection of victims.

Council of Europe

In 2005, the Council of Europe adopted the Convention on the fight against human trafficking, which came into force in 2008. This convention is a global treaty aimed at preventing trafficking, protecting the human rights of victims and prosecute traffickers. It should be noted that its scope is broader than that of the UN Protocol, as it applies to both national and transnational processes, whether or not related to organised crime, while the Protocol applies to crimes of a transnational nature and involves an organised criminal group.

OSCE

The Action Plan of the OSCE in the fight against trafficking in human beings, adopted in 2003, is the key document that provides the framework for the work of the organisation in this field.

European Union

Since the fight against human trafficking is a priority for the Union, the Stockholm Programme (2010) stressed the need for the EU to develop a comprehensive policy in

this area. The Treaty on the Functioning of the EU (TFEU) contains references to the material (articles 79 and 83). In addition, the Charter of Fundamental Rights (Article 5, paragraph 3) specifically prohibits trafficking in persons.

Framework Decision 2002/629/JHA introduced a framework of common rules at EU level to address issues related to trafficking such as criminalisation penalties, prosecution, and protection and assistance to victims.

In 2005, an EU plan for prevention and fight against trafficking was developed. Its aim is to strengthen the fight against trafficking for exploitation, of any kind whatsoever, and to protect victims by focusing on vulnerable groups such as children and women.

Although Member States have generally complied with the obligations of the Framework Decision of 2002, the Commission considered that an effective fight against trafficking, would require more efforts. The Framework Decision was thus replaced by Directive 2011/36/EU², the aim being to further align the laws of Member States relating to offences and penalties, by providing better support for victims and tougher prosecution against the perpetrators. This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the area of trafficking in human beings. It also introduces common provisions, taking into account the gender perspective, to strengthen the prevention of this crime and the protection of the victims thereof. The Member States should transpose the Directive before 6 April 2013.

It should be added that Directive 2004/81/EC requires Member States to grant a stay of short duration (less than six months) to victims who are nationals of a third country willing to cooperate with the competent authorities. The Directive provides for giving them access to medical care and legal advice. The residence also provides access to the labour market, education and vocational training. In addition, Directive 2009/52/EC provides for measures against employers of illegally resident third-country nationals, even if they have not been charged with trafficking, using the work of a person knowing that it is a victim of trafficking.

An EU Strategy towards the eradication of trafficking in human beings 2012-2016 was adopted by the European Commission on 19 June 2012 (COM (2012) 286 final).

In this strategy the Commission proposes concrete measures that complement legislation and the efforts undertaken by governments, international organisations and civil society in the EU and third countries. It is a practical instrument addressing the main needs and challenges in the EU for the next five years from a human rights and gender-specific perspective. The aim is to involve and ensure better coordination between all possible actors working towards the eradication of trafficking, such as police officers, border guards, immigration and asylum officials, public prosecutors, lawyers, housing, labour, health, social and safety inspectors, social and youth workers, consumer organisations, trade unions, employers organisations, temporary job agencies, recruitment agencies, etc. Concrete actions would include the funding of research studies and projects, the establishment of platforms, coalitions and partnerships, the development of guidelines and best practices, awareness-raising

² OJ L 101 15.4.2011, p.1.

campaigns and trainings, etc. The strategy identifies five priorities and outlines a series of initiatives for each of them.

In 2010, the Commission appointed a European coordinator of the fight against trafficking in persons. The role is to provide overall policy and strategic direction in this area.

Since 2007, a "European Day of Action against Trafficking in Human Beings" is held each year on 18 October. It provides an opportunity to raise public awareness to this problem.

Although all these instruments adopted and implemented both at international and at EU level are very helpful in the fight against trafficking and to give support and protection to victims, the problem still exists of the need of victims to be witnesses in trials against the traffickers. We could say that these are still first generation instruments and that more developed instruments are needed in order to free victims of this added pressure.

CONCLUSION

Although the main trend of all existing instruments to fight human trafficking is to strengthen the protection and assistance of the victims, there is still a lot of indicators, measures, programmes and resources which could be perhaps put together in a coherent and more efficient and useful way for all stakeholders involved by means of an EU Charter for Protection and Assistance of Victims of Trafficking. The European Parliament proposed the setting up of a European helpline for victims of trafficking which still needs some conditions to be fulfilled, but which can be a very important means, 18 Member States currently have a similar helpline for victims of trafficking in human beings.

Reinforcing the resources for specialised NGOs, media and research is also very important in order to increase not only support, protection and assistance to victims, but also visibility and awareness-raising of the vulnerability and needs of the victims with the aim to provoke social rejection of this criminal abuse and decrease the demand, with a 'zero vision' both for sexual and labour exploitation.

Special treatment should be given to children who are victims of trafficking, as well as to improve the protection of unaccompanied minors or trafficked children by their own families (cases to be taken into account when proposing return to countries of origin, identification of guardians,...). It is also important to take into account not only the gender specific approach, but also the role of health problems and disabilities.

Trafficking as organised crime

EUROPOL pointed out that human trafficking remains one of the most lucrative businesses for organised crime in the EU the profits thereof amounting to several million euros each year. UN estimates that human trafficking is the second biggest source of illicit profits after the trafficking of drugs at a worldwide level.

As trafficking in human beings is driven by profit, the traffickers, who are professional and organised criminals look at market forces in the same way that legitimate businesses do.

UNODOC estimates the market for sexual exploitation in Europe at 2.5 billion € annually, and the total illicit profits produced in one year by trafficked forced labourers has been estimated at about US \$ 32 billion in 2005. However, we must be very aware that the estimated costs suffered by victims of trafficking made by the ILO amounts approximately to US\$ 21 billion.

In many Member States, the criminal groups and networks involved in trafficking in human beings meet most of the EU criteria for defining them as “organised crime”.

Although there are some indications of hierarchically structured organised crime groups, according to EUROPOL, human trafficking networks are more likely to be organised in small groups, which operate both independently and in cooperation with other criminal groups. The interaction between groups is often connected to the provision of a service that cannot be undertaken by another group. Bulgarian, Chinese, Hungarian, Romanian, Brazilian and Vietnamese criminal networks are the most active traffickers in the EU.

In labour exploitation, which has largely remained undetected because it has not been a priority for law enforcement action, EUROPOL has identified the involvement of not only Poles, Lithuanians, Romanians and Bulgarians but also Portuguese and British nationals in trafficking their countrymen.

The use of Internet and the social networks is rapidly expanding, both for the recruitment of victims and for advertising the services of trafficking victims. The anonymity of online services provides discretion and the mass audience improves the profitability of the service.

The total number of cases prosecuted in the EU remains low. In fact, preliminary results of recent data shows that the number of convictions on trafficking in human beings has decreased from around 1.500 in 2008 to around 1.250 in 2010.

In July 2012, EUROPOL stated that based on current reporting, intelligence, trends and patterns, it is unlikely that there will be any immediate reduction in the levels of trafficking in human beings in Europe. This crime will continue to have a major impact upon the EU and, in the current financial climate, it is highly likely that labour exploitation in Europe will rise.

CONCLUSION

As Article 18 of the Trafficking in Human Beings (THB) Directive encourages Member States to criminalise the use of services of victims of all forms of exploitation of human trafficking, some Member States have experiences in criminalising the clients of prostitutes who are human trafficking victims (such as UK, SE, FI, BG, EL). Special action will be required in major sporting events.

Businesses, together with trade unions, should have supply chains free from human trafficking and should be encouraged to take measures in the area of codes of conduct, corporate social responsibility and the introduction of grievance systems. Intermediary agencies such as temporary job agencies, recruitment agencies, marriage brokers, adoption agencies and au-pair agencies should be involved.

Developing more efficient proactive financial investigations is a key issue to reduce the pressure on victims as main witnesses in trials against traffickers. Gathering more evidence from money trails might provide additional proof, particularly in high risk sectors (agriculture, construction, textile sector, healthcare, domestic service and sex industry), thus relieving victims of the burden of testifying in Court.

Financial investigations may also be useful to feed into risk assessment, increase knowledge of the modus operandi of those who commit crimes related to human trafficking and refine detection tools. Improved training and sufficient resources should be dedicated to the main agencies involved in such criminal investigations, EUROPOL, EUROJUST and CEPOL, including cross-border cooperation and cooperation beyond borders. Special attention should be given to the different ways of money laundering.

The negative prospects of human trafficking in Europe require urgent, strong and efficient action to stop the increasing impression of impunity of this unacceptable criminal abuse and violation of human rights adopting a holistic approach, promoting multidisciplinary cooperation at a local, national and transnational level, encouraging Member States to set up, among others, a dedicated national police intelligence unit and to stimulate cooperation between administrative and law enforcement authorities.

External action on combating trafficking in human beings

Trafficking in human beings connects the EU and third countries in several ways: a) third countries are often places of origin and transit for trafficking to the EU; b) as a grave violation of human rights it is a clear objective of external action to tackle the phenomenon and c) as a cross-border illegal activity it is an important area for cooperation between the EU and third countries. Among the various instruments adopted by the EU Institutions we would like to underline the Action Oriented Paper (AOP) on strengthening the EU external dimension on combating trafficking in human beings (adopted by the Council in 2009) which recommends developing a list of priority countries and regions for future partnerships in the area of human trafficking.

The Communication Global Approach to Migration and Mobility is the overarching framework of the EU external migration policy and highlights the importance of cooperating with third countries of origin, transit and destination and identifies the prevention and reduction of irregular migration and trafficking in human beings as one of its four pillars. The Migration and Mobility Dialogues amounting to seven regional processes covering more than a hundred countries and over twenty bilateral processes.

CONCLUSION

The EU External Action should strengthen the measures and programmes, including bilateral agreements, to fight against human trafficking by preventative action in the countries of origin and transit. Special attention should be given to unaccompanied minors and children.