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on the future EU Strategy concerning the prevention and control of trafficking
in human beings

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Introduction

According to the 2005 Trafficking in Persons Report by the US Department of State Office an estimated 600 000 to 800 000 men, women and children are trafficked across international borders each year. Approximately 80% of those are women and girls and up to 50% are minors. The majority of transnational victims are trafficked with the aim of commercial sexual exploitation. Other estimates even higher - the UN estimates over 1 million victims yearly, ILO speaks about more than 1,2 million trafficked children. The United Nations Organization believes that the trafficking in human beings is the third largest source of money produced by organized crime, after arms and drugs.¹ However, the 2005 Trafficking in Persons Report points out the alarming enslavement of people for purposes of labour exploitation too.

The number of victims of trafficking in the EU is over 100 000. (However, we should deal with the statistics very carefully, because there are no reliable data concerning the trafficking of human beings).

It is important to stress that the most vulnerable are women and children. "Children are particularly vulnerable to trafficking in human beings, due to their lack of experience, dependence and trust of adults, notably relatives and people in positions of authority and have fewer possibilities to escape exploitive situations."²

This report is based on the internationally accepted definition of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. According to the Article 3, "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or removal of organs.

The IOM stresses the growing frequency of other forms of child trafficking or trafficking in families such as for begging, or criminal activities.³

In spite of the fact, that much efforts has gone into to adopting and implementing measures to combat this extremely dangerous crime eroding society, this modern form of slavery continues to increase in many parts of Europe.⁴

Trafficking in human beings is a multi-dimensional phenomenon: on one side it is a serious crime (organised or not) connected with exploitation either sexual or labour; on the other side it is a fundamental violation of basic human rights.

Article 5 (3) of the Charter of Fundamental Rights of the European Union declares:

¹ F. Frattini ,19 August 2005

² Resource book for Law Enforcement Officers on Good Practices in Combating Child Trafficking, IOM, Vienna, 2006

³ Ibid.

⁴ Organised Crime Situation Report 2005, CE, December 2005

"Trafficking in human beings is prohibited."

There are several legislative provisions that aim at aggravation of the criminal impeachment of traffickers and the proper protection of victims:

- The Framework Decision on combating trafficking in human beings (deadline for implementation: 01 August 2004)
- The Framework Decision on combating sexual exploitation of children and child pornography (deadline for implementation: 20 January 2006)
- Directive on the residence permit issued to the third-country nationals, who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperates with the competent authorities (deadline for implementation: 6 June 2006)

1. General principles

- Even though trafficking in human beings is generally considered as a "horrendous" crime¹, ratification and implementation of international conventions, mainly the COE Convention on Action against Trafficking in Human Beings as well as directives is not satisfactory and just slowly proceeding.
- As the decisive part of trafficking in human beings has an international character, it is necessary to strengthen the international cooperation in the field of investigation, exchange of information, identification of victims, law-enforcement and reintegration. In this cooperation Europol, Eurojust, Frontex and Police Chiefs Task Force have to play a more significant role
- International documents stress the human rights approach, focus on victims' protection. Since seriousness of human rights abuse is not always transposed into prosecution, some doubts might occur, mainly in labour exploitation as if trafficking is considered primarily as a human rights abuse, the prosecution will weaken.²
- Definitions of trafficking make a clear distinction between trafficking in human beings and smuggling. Some experts consider such a distinction as illusory; the real consequences appear often at the end. "What we know about both smuggling and trafficking suggests that it would be more accurate to view them as a continuum, shading into and out of one another across a number of dimensions".³ In this context the clear identification of the victim has a very important role as it enables to distinguish trafficking from smuggling. Experiences show that police organs in consequence of not making a difference between the two terms, often deal with the victims of trafficking as with smuggled persons.
- Human trafficking includes both supply and demand forces. On the supply side are reported mainly poverty, gender based discrimination, lack of education, and corruption.

According to some experts the main drive of trafficking is demand. Market demand - particularly from sex-buyers - creates strong profit incentives for traffickers, boosting the

¹ High-level Conference on Combating Trafficking in Human Beings, Especially Women and Children: Prevention-Protection-Prosecution, Vienna, March 2006

² Gabal, I. Potírání obchodu s lidmi v ČR a možnosti optimalizace bezpečnostní politiky státu. 2006, Praha

³ Kelly, L. A Critical reflection in research... In: Data and research on Human Trafficking: A global survey, 2005, IOM

growth of trafficking in human beings. The US State Department Report¹ stresses, that where prostitution flourishes, so does an environment that fuels trafficking in persons. Other studies emphasized the high level of tolerance toward labour exploitation of trafficked workers, as a socially accepted way of making services or goods cheaper.² It seems that without changing the tolerance and ambivalence of public opinion towards the demand of services, offered by the victims of trafficking in human beings we will hardly achieve significant improvement in the fight against trafficking in human beings.

Even though comprehensive knowledge and data about the demand are missing, it seems that there is mainly helplessness, and probably also lack of political will, how to break down demand and to make a definitive step toward a solution. Some of the reports speak even about high corruption in decision-making process about limitation of demand.³

2. Prevention

The media has an elemental role in prevention, mainly connected with the sensibility of the public towards trafficking. However, in the presentation of cases of trafficking media has a vital importance concerning protection of victim's personal data, not to disable their reintegration into the society.

A very important aim of prevention is to help to abolish the reasons of trafficking in the countries of origin.

In this context it is important to bear in mind mainly:

- in the **countries of origin** fight against poverty, informing about the possibilities of legal immigration
- in the **destination countries** decrease of demand, decrease of tolerance of public opinion, open the labour market for legal migration, strengthen the control of the labour market. The most significant problem in this field is the forced prostitution. It is questionable, whether the instrument, with which the CE Convention on Action against Trafficking in Human Beings, Art. 19 counts⁴, would be effective enough for a significant reduction of demand.

Informing and supervising activity of the consulates and border-control is also one of the main problems in this field. Some of the experiences show, that adequate training should be provided to the employees of the consulates and border-control.

3. Prosecution

All types of measures have to be oriented to convert trafficking in human beings "from a low-risk-high reward enterprise for organised crime into high risk-low reward one."⁵

¹ Trafficking in Persons Report, June 2005, US State Department

² Gabal, I. *ibid.*

³ Gabal, I. *ibid.*

⁴ ("Each party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under internal law, the use of services which are the object of exploitation ...with the knowledge that the person is a victim of trafficking in human beings.")

⁵ EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings. Council Information, OJ, 9.12.2005

3.1. Identification

Quick identification of the victims is crucial in the fight against trafficking. IOM highlights, that currently, one of the most worrisome aspects of trafficking is the lack of identification of child victims of trafficking.

3.2. Prosecution

Strengthening law enforcement, criminalising traffickers and middlemen is a crucial point of fighting against trafficking. This has to include the possibility of confiscation of proceeds of criminal offences.

Necessity of strengthening labour inspections, including punishment of labour exploitation and illegal work, seems to be unavoidable. Creation of a network of national labour inspections, harmonising the penalisation of labour exploitation could lead to diminishing of these offences.

To ensure the effective investigation and prosecution of trafficking cases it seems to be useful to set up specially equipped and trained units within the national police and prosecutors' offices.¹

4. Protection of victims

There is a general request of speeding up the transposal of Directive 2004/81/EC on the granting of a residence permit to victims of trafficking.²

That means to provide physical, psychological, and social recovery of victims, offering housing, access to medical treatment, access to labour market and counselling in their native language, education and training. It should be appropriate to give compensation to victims.³

In protection of victims of trafficking it is necessary to apply the principle of gender mainstreaming and a child-right approach.

One of the basic forms of victim protection in countries of destination is the creation of emergency telephone hot-lines in different languages. NGOs providing services for victims of trafficking should be supported by governments to ensure their sustainability.

Combating trafficking in human beings indeed needs a coherent policy both on national and international level. For this it is inevitable for public institutions and NGOs to cooperate more intensively. What's more, it is unavoidable to appoint a coordinator on the national level and assure their cooperation with international organizations.

¹ Reference guide for Anti-Trafficking Legislative Review, OSCE, ODIHR, Vienna 2001

² F. Frattini, *ibid.*

³ A.M. Costa: *Combating Trafficking in Human beings*, Vienna , 2006