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with a proposal for a European Parliament recommendation to the Council on fighting trafficking in human beings - an integrated approach and proposals for an action plan
(2006/2078(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Edit Bauer

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on Fighting trafficking in human beings - an integrated approach and proposals for an action plan (2006/2078(INI))

The European Parliament,

- having regard to the 1948 Universal Declaration of Human Rights, especially to Articles 4 and 5 which highlight that the slave trade shall be prohibited in all their forms,
- having regard to the 2000 Charter of Fundamental Rights of the European Union¹, particularly to Articles 1, 4, 5 and 6,
- having regard to the 1989 UN Convention on the Rights of the Child, particularly Articles 1, 7, 32, 34 and 35; and to 2000 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in particular Article 3,
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women² (CEDAW), particularly Articles 5 and 6,
- having regard to the 2000 UN Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime,
- having regard to the Council of Europe Convention on Action against Trafficking in Human Beings adopted by the Committee of Ministers on the 3 May 2005,
- having regard to the Brussels Declaration on Preventing and Combating Trafficking in Human Beings adopted on 20 September 2002 at the European Conference on Preventing and Combating Trafficking in Human Beings - Global Challenge for the 21st Century,
- having regard to the Council Framework Decision 2002/629/JHA on combating trafficking in human beings³ adopted on 19 July 2002,
- having regard to the Council Framework Decision 2004/68/JHA on combating the sexual exploitation of children and child pornography⁴ adopted on 22 December 2003,
- having regard to the Council Directive 2004/81/EC on the residence permit issued to 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 cooperate with the competent

¹ OJ C 364, 18.2.2000.

² <http://www.un.org/Overview/rights.html>.

³ OJ L 203, 1.8.2002, p. 1.

⁴ OJ L 13, 20.1.2004, p. 44.

authorities⁵ adopted on 29 April 2004,

- having regard to the Council Information 2005/C311/01 on an EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings⁶,
- having regard to the Council Conclusions on Trafficking in Human Beings of the 2725th Justice and Home Affairs Council meeting of 27 and 28 April 2006⁷,
- having regard to the Hague Programme⁸ on freedom, security and justice that invites the Council and the Commission to develop a plan on best practices, standards and mechanism in the fight against trafficking,
- having regard to the report and the recommendations of 22 December 2004 of the Experts Group on Trafficking in Human Beings, set up in 2003 by the European Commission,
- having regard to the DAPHNE programmes to combat violence against children, young people and women⁹,
- having regard to the Report from the Commission to the Council and the European Parliament based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings,¹⁰
- having regard to Europol's reports on trafficking in human beings, particularly to its 2005 EU Organised Crime Report,¹¹
- having regard to the Council of Europe Organised Crime Situation Report 2005 - Focus on the threat of economic crime,
- having regard to the International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour (1930) and No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour adopted by the conference at its eighty-seventh session (1999),
- having regard to the 2005 ILO "A Global Alliance Against Forced Labour" Global Report Under the Follow-up to the ILO Declaration on Fundamental principles and Rights at Work 2005,
- having regard to the 1997 European Convention on Human Rights and Biomedicine and the Article 22 of the 2002 Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin,

⁵ OJ L 261, 6.8.2004, p. 19.

⁶ OJ C 311, 9.12.2005.

⁷ <http://www.cosilium.europa.eu>.

⁸ The Hague Programme endorsed by the European Council in November 2004.

⁹ Decision No. 293/2000/EC, Decision No. 803/2004/EC.

¹⁰ COM(2006)0187.

¹¹ www.europol.eu.int

- having regard to the Council of Europe Recommendation 1611/2003 on trafficking in organs in Europe,
- having regard to the proposal for a recommendation to the Council by Barbara Kudrycka on behalf of the PPE-DE Group on fighting trafficking in human beings - an integrated approach and proposals for an action plan (B6-0613/2005),
- having regard to Rule 114(3) and Rule 94 of its Rules of Procedure,
- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs, the Committee on Employment and Social Affairs and the Committee on Women's Rights and Gender Equality (A6-0000/2006),
 - A. Whereas trafficking in human beings is committed not only with the purpose of sexual exploitation, but also labour exploitation, illegal adoptions, forced domestic servitude, selling organs, which means combating trafficking must go far beyond combating forced prostitution and take all related forms of exploitation and oppression into account,
 - B. Whereas human trafficking is not necessarily a gender-specific crime, however, the prevailing part of victims of trafficking are still women and girls,
 - C. Whereas in spite of the fact that the UN Convention on the Rights of the Child says that each child shall be registered immediately after birth, according to UNICEF¹² over half of all births in the developing world - excluding China - are unregistered (more than 50 million children); these invisible children, together with millions of orphans and street children are the most vulnerable to trafficking, becoming an easy prey for illegal adoption or for use in the trade of human organs,
 - D. Whereas access to the labour market of the EU is complicated or even restricted and overregulated, and meanwhile the demand for labour force is obvious, it results in illegal migration, smuggling and trafficking,
 - E. Whereas the high profits from trafficking are often subject of money laundering, enabling other criminal activities and allowing perpetrators to gain economic, social or even political power,

Whereas demand for services provided by trafficked people is the main driving force of trafficking in human beings and without strengthening the political will and joint effort in order to break it down, it will be hardly possible to stop or even substantially reduce trafficking,¹³

- F. Whereas the quick identification of victims is crucial in the fight against trafficking,

¹² The State of the World's Children 2006: Excluded and invisible , UNICEF 2005

¹³ Gabal, I. Potírání obchodu s lidmi v ČR a možnosti optimalizace bezpečnostní politiky státu., Policy paper of the MHA of the Czech Republic, 2006, Praha

1. Addresses the following recommendations to the Council :

Legal framework and law enforcement

- (a) trafficking in human beings must be tackled by means of a coherent policy approach (migration, employment, social, development, external, neighbourhood and visa policy) and consequent criminalisation, at least reaching the standards of EU legislation in accordance with the Council Framework Decision on Combating Trafficking in Human Beings adopted on 19 July 2002;
- (b) the Council and Member States should strengthen the human rights-based and victim-centred approach in implementing the Action Plan on combating trafficking in human beings;
- (c) Member States should, if they have not already done so, ratify and implement the UN Convention against Transnational Organised Crime, its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Council of Europe Convention on Action against Trafficking in Human Beings;
- (d) Member States should implement as soon as possible the Council Framework Decision on Combating Trafficking in Human Beings and the Council Directive on the residence permit and ensure access to short term residence status, including a reflection/recovery period for victims lasting no less than 30 days;
- (e) Member States should make full use of Council Framework Decision 2005/212/JHA on Confiscation of Crime-related Proceeds, Instrumentalities and Property¹⁴ as a part of fight against trafficking in human beings;
- (f) Member States should adopt legal provisions with a view to granting a residence permit of limited duration to the victims of trafficking whether they cooperate or not with the competent authorities during investigations and as witnesses in criminal procedures;
- (g) Member States should minimise the risk of organ trafficking in Europe including reducing demand, promoting organ donation more effectively, maintaining strict legislation in regard to living unrelated donors;
- (h) Member States should improve the analysis of the current situation by implementing uniform methods to collect comparable data related particularly to the routes of trafficking and victims' profiles;
- (i) Member States should implement consistently Article 4 of the Council Framework Decision on combating trafficking in human beings to ensure that legal persons can be held liable for offences committed for their benefit;
- (j) Member States should consider establishing a transnational network of labour

¹⁴ OJ L 68, 15.3.2005, p.49, Art.3.

inspectorates to combat labour exploitation; Member States should strengthen cooperation and coordination at an EU level in this area;

- (k) Member States should better control the activities of labour agencies and agencies for recruitment of seasonal workers;
- (l) Measures to tackle trafficking in human beings should become a Community competence so that more rapid and substantial progress can be achieved;

Prevention and reducing demand

- (m) Education in schools, providing information and raising public awareness of trafficking as an unacceptable crime should be recognised as vital elements of combating trafficking;
- (n) The Commission should evaluate and disseminate best practices on reducing demand for services provided by trafficked persons based on labour, sexual exploitation or on other types of trafficking in Member States of the European Union;
- (o) Member States should implement measures to reduce demand on the basis of best practices;
- (p) The Commission should establish an anti-trafficking day on the 25th of March, starting from 2007, to mark the abolition of the slave trade in many countries across the world;¹⁵
- (q) Measures should be taken to improve legal mechanisms for safe migration, to ensure access to information about safe migration opportunities and to guarantee transparency of procedures as being the best ways of reducing trafficking;
- (r) The Commission and the Member States should, in their neighbourhood, development and aid policies, consider measures which address the root causes of trafficking in human beings in the countries of origin, including measures to encourage registration of children to reduce their vulnerability to illegal adoptions, forced marriages and trade with human organs;

Protecting victims

- (s) The Commission and the Member States should establish a multilingual hotline with a single European number with the aim of providing first assistance for the victims;
- (t) Measures are required to ensure the protection not only of victims of sexual exploitation but also victims of labour exploitation and other types of trafficking;
- (u) The Commission and Member States should establish and implement clear European standards and guidelines on assistance and protection for victims, irrespective of their ability or willingness to act as witnesses, including special standards for the protection of children's rights and a victim referral mechanism ensuring that identification of victims is an integral part of support and assistance;

- (v) Member States should ensure access to short and/or long term assistance to victims; this support should include, among others, specialised shelters in the first instance, with the possibility to have access to housing at a later stage, medical services and counselling, legal assistance, information on their rights and the implication of victims acting as witnesses, language and vocational training courses, cultural induction courses, financial assistance and assistance to find work, including special legal guardian for children;
- (w) Member States should provide victims with access to education, training programmes and the labour market as well as protection of rights during civil, criminal and administrative procedures and access to legal remedies;
- (x) Victims of trafficking should not be immediately returned to the country of origin when it may be reasonably suspected that they may suffer further harm through stigmatization and discrimination or risk reprisals;
- (y) Member States should respect in their legislation as well as in their administrative practice the UN definition of the child, i.e. every human being below the age of 18 years;
- (z) Member States should fully implement the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption to avoid illegal adoption;
- (aa) Member States should strengthen public-private partnership in the field of victim protection, including sustainable funding of their activities;

Coordination of actions at national and EU level

- (ab) Member States should establish and strengthen national anti-trafficking coordination structures and pursue the integration of these structures into an international network;
 - (ac) The Commission and its Expert Group should initiate, promote and evaluate research about new trends of trafficking, particularly in view of the EU Action Plan against Trafficking in Human Beings;
 - (ad) Member States should strengthen cooperation within the EU in combating human trafficking by regularly involving EU bodies such as Europol, Eurojust and Frontex;
 - (ae) The Financial Task Force, especially the Working Group on Typologies, should continue the work on money laundering methods linked to trafficking in human beings;
2. Instructs its President to forward this recommendation to Council and, for information, to the Commission, the Member States and accession countries.

EXPLANATORY STATEMENT

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 estimations are even higher - the UN estimates over 1 million victims yearly, ILO speaks about more than 1,2 million trafficked children. The Council of Europe believes that trafficking in human beings is the third largest source of money produced by organized crime, after arms and drugs.¹⁶ However, the 2005 Trafficking in Persons Report points out the alarming enslavement of people for purposes of labour exploitation too.

The estimated number of victims of trafficking in the EU is over 100 000. (However, one 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."¹⁷ The latest report of the UNICEF highlights the huge number of unregistered children who are the most vulnerable to trafficking.¹⁸

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 also stresses the growing frequency of other forms of child trafficking or trafficking in families such as for begging or criminal activities.¹⁹

Even though trafficking in human beings is generally considered as a "horrendous" crime²⁰, 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

¹⁶ Explanatory Report on the Council of Europe Convention on Action against Trafficking in Human Beings, 2005

¹⁷ Resource book for Law Enforcement Officers on Good Practices in Combating Child Trafficking, IOM, Vienna, 2006

¹⁸ The State of the World's Children 2006: Excluded and invisible, UNICEF 2005

¹⁹ Ibid.

²⁰ High-level Conference on Combating Trafficking in Human Beings, Especially Women and Children: Prevention-Protection-Prosecution, Vienna, March 2006

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 based approach, mainly focusing 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.²¹

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".²² 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 in consequence of shortages in distinguishing between the two terms, often deal with the victims of trafficking as with smuggled persons or illegal migrants.

Human trafficking includes both supply and demand forces. On the supply side are reported mainly poverty, unemployment, gender based discrimination, discrimination of minorities, lack of education, and corruption. According to some experts the main drive of trafficking is the demand. Market demand - particularly from sex-buyers - creates strong profit incentives for traffickers, boosting the growth of trafficking in human beings. The US State Department Report²³ stresses, that where prostitution flourishes, so does an environment that fuels trafficking in persons. Other studies emphasize the high level of tolerance towards labour exploitation of trafficked workers, as a socially accepted way of making services or goods cheaper.²⁴ It seems that without changing the tolerance and ambivalence of public opinion towards the demand of services provided 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 the 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 the demand.²⁵

²¹ Gabal, I.: Potírání obchodu s lidmi v ČR a možnosti optimalizace bezpečnostní politiky státu, Policy paper of the MHA of the Czech Republic, 2006, Praha

²² Kelly, L.: A Critical reflection in research... In: Data and research on Human Trafficking: A global survey, 2005, IOM

²³ Trafficking in Persons Report, June 2005, US State Department

²⁴ Gabal, I. *ibid.*

²⁵ Gabal, I. *ibid.*