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PRACOVNÍ DOKUMENT

o zvláštní zprávě Evropského účetního dvora č. 9/2017 (udělení absolutoria za rok 2016): „Podpora EU boji proti obchodování s lidmi v jižní a jihovýchodní Asii“

Výbor pro rozpočtovou kontrolu

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Introduction

Trafficking in human beings is a gross violation of human rights and a global security threat. It involves the recruitment, transportation, transfer, harbouring or receipt of persons through the use of force, fraud, or coercion for the purposes of exploitation. The most prevalent types worldwide are forced labour and sexual exploitation. Other forms include child labour, organ removal and forced marriage.

Human trafficking is a highly profitable crime. The European Police Office (Europol) estimates that annual proceeds from human trafficking exceed 29 billion euro. While a lack of reliable statistics makes it difficult to ascertain the extent of human trafficking, it is estimated that 46 million people are trapped in situations of modern slavery.

While human trafficking is a global problem from which no country is immune, the EU is particularly vulnerable as it is an attractive destination for victims from a wide range of countries. Asia, the world's most populous region, is a significant region of origin for victims of transregional trafficking. Human trafficking cannot be isolated from poverty, education and health access, gender discrimination or minority injustices. It is commonly accepted that poverty, gender discrimination and conflict are among the most important root causes of this reprehensible practice.

Fighting human trafficking remains the Member States' responsibility, but the EU is also committed to eradicating it and has adopted several actions to support Member States in this regard¹. The entry into force of the Lisbon Treaty reinforced the Commission's role in coordinating and steering the EU response. A Directive was adopted in 2011 and a human-trafficking strategy (THB Strategy 2012-2016) was issued shortly after². This strategy is complemented by a number of other policy documents which, taken as a whole, set out the EU's approach to fight human trafficking. A post-2016 anti-trafficking strategy has not yet been presented.

There is no EU funding instrument that specifically targets human trafficking. This means that funding is provided by a dispersed range of instruments, from security-driven programmes to purely development instruments. Overall, it is difficult to produce comprehensive data about the overall funding granted by the EU to address the human trafficking.

Audit scope and approach

The Court examined whether EU support for the fight against human trafficking in South/South-East Asia has been effective. For this purpose, the audit assessed the comprehensiveness of the EU's approach to fighting human trafficking in relation to these regions and whether EU human trafficking projects in South/South-East Asia during the 2009-2015 period contributed effectively to the fight against human trafficking.

The Court identified and examined all 35 human trafficking-related projects implemented in

¹ An EU strategic framework to combating human trafficking in third countries was introduced in 2009 and confirmed by a broader multiannual programme regarding the areas of freedom, security and justice for 2010-2014 ('the Stockholm programme').

² The THB strategy includes the five following priorities: protecting victims, preventing exploitation of vulnerable persons, prosecuting traffickers, enhancing coordination and cooperation, and knowledge-sharing.

South/South-East Asia over the 2009-2015 period with total funding of 31 million euro. The audit work consisted of a desk review of Commission and European External Action Service (EEAS) documentation, interviews of staff from the Commission and the EEAS, and a visit to Thailand, which is the main centre of UN activity in Asia and the Pacific.

European Court of Auditors' findings and observations

I - The EU human trafficking policy framework largely provides for a comprehensive approach to address human trafficking, although some aspects are not yet fully developed

The EU human trafficking policy framework is set out in a number of interlinked documents. The Court observed that the THB Strategy provides limited guidance on the external dimension of the fight against human trafficking as only one of its 40 actions deals with it. The preparation of a reliable strategy lacked sufficient and comparable statistical data, also due to the absence of human trafficking intelligence-sharing with countries in South/South-East Asia. The Court further noted that the Commission had not published a comprehensive evaluation of the results achieved under the THB strategy.

The THB Strategy did not include specific objectives and targets, which would have been helpful for preparing focused actions on the ground and evaluating the results achieved; neither the geographical prioritisation was sufficiently specific for guiding action, as most developing countries were included either individually or as part of a geographical region.

The THB Strategy is complemented by other policy documents. As regards the human rights perspective, relevant documents are the European Agenda on Migration, the European Agenda on Security, the EU Action Plan against Migrant Smuggling 2015-2020, the Action Plan on Human Rights and Democracy 2015-2019, the new framework for the EU's activities on gender equality and women's empowerment in the EU's external relations for 2016-2020 and the EU's Strategic Engagement for Gender Equality 2016-2019.

The EU is committed to promoting human rights in all areas of its external action without exception. When working with bilateral partners, the EU's preferred mechanism is to develop tailor-made approaches that are reflected in local human-rights country strategies. The EU has developed human rights strategies for all the countries covered by the audit. The Member States have actively contributed to these strategies - they had their representatives in the Council's Asia-Oceania Working Party (COASI) and the Working Party on Human Rights (COHOM). The participation in both working groups safeguarded regional and thematic consistency.

The EU policy framework is supported by a variety of tools. The Court noted that human rights dialogue is particularly useful, while other tools could be used on a broader scale. The EU provided financial assistance to fight human trafficking in South/South-East Asia, but the programming did not include an overall rationale and direction, and was not used to its full potential.

As there is no EU funding instrument that specifically targets human trafficking, existing instruments need to be used in a coordinated way to fund activities in this area. The audited projects were funded through the Development and Cooperation Instrument (DCI) and the European Instrument for Democracy and Human Rights (EIDHR).

The Commission, EEAS and Member States participate in the definition of aid strategies, priorities and allocations of financial instruments through the programming process. Whereas all the reviewed countries included at least one strategy paper adopted after the THB Strategy, the programming documents for the ten countries covered by the audit did not include any references to the THB Strategy or the Council geographical priorities.

Furthermore, there are no comprehensive data on EU financial support provided for the fight against human trafficking in the 2009-2015 period. Although the Commission maintains a database of human trafficking projects, the Court found that it was not complete as a source of information on funding. This is due to the lack of clear criteria defining what constitutes a human trafficking-relevant action. Therefore, the database cannot efficiently support relevant decision-makers and practitioners in setting priorities and steering actions.

On the other hand, human rights dialogue has proven to be a useful tool for addressing human trafficking. For the ten countries covered by the audit, human rights dialogue has been held at regular intervals, providing the EU with opportunities to raise relevant human trafficking issues. The internal reporting on the discussions held during human rights dialogue is used by the EEAS as a reference for EIDHR programming.

For all ten countries, there was at least one dialogue which included at least one aspect related to human trafficking. The Court acknowledged that the participation of the relevant EEAS human rights departments at headquarters facilitated consistency between multilateral human trafficking initiatives and the EU's strategic human rights objectives for countries in South/South-East Asia.

The EU has supported regional initiatives at the highest level (ASEAN Convention Against Trafficking in Persons, Especially Women and Children, Working Group on Trafficking in Persons within the Bali Process), but has not yet entered into dedicated partnerships to fight human trafficking with any of the countries in South/South-East Asia.

The THB Strategy calls for the use of partnerships to combat human trafficking beyond the EU's borders. The EU uses the ASEAN and Asia-Europe Meeting (ASEM) fora, in addition to bilateral dialogues, as structures for combatting human trafficking. However, no new partnerships dedicated to tackle this practice have been created between the EU and any of the countries in South/South-East Asia. The absence of a strong community of experts on the fight against human trafficking has affected the promotion of knowledge sharing as well.

II - Despite identified weaknesses, most human trafficking projects produced positive results, although sustainability was a concern

The framework for selecting projects did not facilitate a comprehensive approach and project design had weaknesses, particularly in the formulation of objectives and indicators. All the 35 human trafficking related projects were consistent with the overall THB Strategy. Nevertheless, by choosing projects mostly through calls for proposals, each selection was a one-off exercise where the Commission had limited opportunity (in terms of time and guidance) to ensure that its portfolio of projects addressed all the priorities stated in the THB Strategy. The Court pointed out that none of the sample projects concentrated primarily on prosecution or knowledge-sharing, while the majority focused on prevention and/or protection, and only one addressed the criminal component of human trafficking.

Other shortcomings were connected with the definition of project objectives and indicators (23 projects concerned). The objectives were often not specific or measurable enough while indicators were particularly weak in terms of robustness, credibility and ease of use, and were occasionally quantified in a way that was not meaningful. Although 21 projects planned baseline studies, the effectiveness and value-added of these studies were mixed.

Some project design weaknesses were not corrected by the Commission in good time, in particular before signing the grant contract. Risks and lessons learnt were reflected in the design of most projects but only seven projects assessed risk likelihood scenarios. For several projects, log frame weaknesses were noted by the evaluators at the proposal stage but were not fully taken on board when the project was implemented. On the contrary, the expected results of most projects were reasonably realistic at the design stage.

The Court also observed that project implementation was hampered by local constraints and delays. The Commission monitored the projects adequately and generally took timely corrective action to support their smooth realisation. However, the ongoing assessment of sustainability for fourteen projects was weak, even though, at least in some cases, this was already clear at the design stage. Moreover, the implementation period for ten projects was extended by between three and twelve months, because of either external factors (late approvals by authorities, political unrest and security concerns) or internal project constraints related to the partners' capacity.

A change in the logical order of the activities in eight projects affected the execution of related activities, which made it impossible to exploit the full potential for synergies. The Court stressed as well that baseline studies and assessments were not available when needed, training activities took place too late and the prioritisation of related activities was not ideal. Meanwhile, in ten of the examined cases some important activities had not been carried out as planned due to lack of commitment, either from the government, the implementing partner or both.

Another setback, which hampered budget implementation, was the local partners' limited capacity. For some projects, partners' initial proposal for the contract value was unrealistic (too ambitious/overestimated) compared to their capacity. Seven cases of significant underspending were detected and five other cases where budget consumption required time extensions.

Finally, the Court noted that projects produced some positive results in the fight against human trafficking, although sustainability was a concern. Since 2009, the fight against human trafficking in the regions covered by the audit has improved overall, although there are significant differences between countries with only two fully meeting best standards. For all the projects examined, the Court was able to identify some positive results that contribute to the fight against human trafficking. It also found that EU support, in particular targeted EIDHR funding, has helped to strengthen community-based NGOs dedicated to fighting human trafficking.

Nevertheless, these results cannot be linked to the overall progress on the fight against human trafficking in the regions concerned. In addition, it is difficult to identify the impact of human rights-driven initiatives, as they are supporting long-term changes which by their nature are often difficult to measure.

Sustainability of project results was not systematically ensured. The prospects were assessed for 25 projects and for fourteen of them, insufficient further contributions by donors and insufficient commitment by partners or government are likely to affect sustainability. The underlying factors of this negative perspective could have been better addressed at the design stage. In particular, projects did not include an exit strategy for the handover of project practices and delivered outputs, and exogenous factors/threats were not sufficiently mitigated and thus persisted during the implementation phase. The Commission's ongoing assessment of sustainability was also hampered by insufficient documentation on the impact of changes during implementation.

Summary of the Commission's and the EEAS' replies

The Commission welcomes the positive assessment of the Court and although it agrees that it is difficult to link specific projects to the overall improvement on THB, it is clear that a combination of political dialogue, advocacy and complementary actions with important local actors have created a momentum that led to changes in several countries.

The EEAS would like to stress that the path to dedicated trafficking in human beings partnerships goes through increasingly constructive dialogues with the countries, and regional formats as ASEAN and ASEM, on broader issues such as human rights and/or cooperation assistance, within which trafficking in human beings issues are currently being discussed. It is a process that requires time, resources and strong cooperation with the counterparts in the region.

With regard to the Recommendation 1, the Commission and the EEAS accept it. In particular, the recommendation to propose to the Council a potential updated list of priorities (either geographical or thematic) will be considered when developing a post-2016 policy framework and interventions related to trafficking in human beings.

The Commission and the EEAS accept the Recommendation 2 as far as the audited countries are concerned. The Commission and the EEAS consider all the measures listed by the Court as very relevant. An even greater focus will be put on these operational steps when preparing and implementing actions in the area of trafficking in human beings in the potential priority countries and regions in South/South-East Asia.

European Court of Auditors' recommendations

In the light of its findings and in order to improve the effectiveness of the EU support to fight human trafficking in South/South-East Asia, the Court recommends that:

1. The Commission, in coordination with the EEAS and considering the implications of the mid-term review on the external financing instruments, should develop the human trafficking strategic framework further, in particular by:
 - proposing to the Council an updated list of priorities, which is based on the results achieved so far, the pervasiveness of human trafficking in individual countries/regions and thematic policy priorities;
 - ensuring that sufficient and comparable data on supported anti-trafficking activities is available to decision-makers and practitioners;

- developing clear objectives and targets for the fight against human trafficking, thus facilitating the design of relevant, coherent and comprehensive actions in the agreed priority countries/regions. Objectives should be translated into more detailed operational guidance which is sufficiently clear to steer activities on the ground, e.g. by using relevant country frameworks, country strategies, programming exercises and existing management reports;
 - identifying and subsequently evaluating and reporting on which objectives are best pursued through projects, by using another tool (e.g. human rights dialogue, technical assistance instruments, dedicated human trafficking partnerships etc.), or by a combination of several tools (Target date - Mid 2018).
2. During the preparation of calls for proposals and the selection and award procedure, the Commission should aim to support projects most likely to contribute to the objectives of fighting human trafficking in the relevant priority region/country by:
- including selection criteria which support a comprehensive approach in the region/country, adequate coverage of all defined priorities and the possibility of achieving interaction and synergies between projects and other tools;
 - assessing the type and size of grants which best match the strength and capacity of civil society in the country;
 - ensuring that the design of selected projects includes SMART objectives and RACER indicators and that the expected results are realistic in terms of time, budget and partners' capacity;
 - placing greater emphasis on the sustainability of expected project results, from an early stage and throughout the entire project life-cycle, e.g. by including for instance, developing exit strategies which consider alternative sources of funding and encourage national ownership after project completion (Target date - Start 2018).

Doporučení zpravodaje pro účely případného zahrnutí do výroční zprávy o udělení absolutoria Komisi

[Evropský parlament]

1. vítá zvláštní zprávu hodnotící podporu EU v boji s obchodováním s lidmi v jižní a jihovýchodní Asii, podporuje doporučení obsažené v této zprávě a níže přidává své připomínky a doporučení;
2. uznává, že přes obtížné prostředí, v němž musela EU působit, hmatatelně přispěla k boji proti obchodování s lidmi v jižní a jihovýchodní Asii;
3. vítá pokrok v boji proti obchodování s lidmi, k němuž došlo prostřednictvím opatření, jako je jmenování evropských styčných úředníků pro migraci v konkrétních zemích, a požaduje, aby se v tomto směru dále pokračovalo;
4. vybízí EU, aby zintenzívnila svoji spolupráci s národními a regionálními vládami i s dalšími organizacemi přítomnými v této oblasti (OSN, ASEAN, příslušné nevládní

organizace) a občanskou společností s cílem získat lepší přehled o naléhavých prioritách a připravit tak lépe zacílený akční plán;

5. zdůrazňuje, že je důležité odstranit extrémní chudobu, diskriminaci menšin a genderovou diskriminaci v zemích jižní a jihovýchodní Asie i upevnit jejich demokratické a lidskoprávní základy za pomoci Evropského nástroje pro demokracii a lidská práva;
6. vyzývá Komisi, aby vyvinula souhrnné, koherentní a spolehlivé databáze o finanční podpoře boji proti obchodování s lidmi, aby byla distribuce prostředků více podložená a prostředky se dostaly k těm příjemcům, kteří jsou skutečně v největší nouzi; souhlasí s Radou, že je nezbytné vypracovat aktualizovaný seznam regionů a zemí postižených obchodováním s lidmi a že tento seznam je třeba zařadit do databáze;
7. vítá zprávu Komise o krocích v návaznosti na Strategii EU pro vymýcení obchodu s lidmi a stanovení dalších konkrétních akcí, jež Evropská komise zveřejnila v prosince 2017; vyzývá Komisi, aby navrhla konkrétní opatření, jež by měla být v každém z regionů vyvinuta;
8. vítá, že obchodování s lidmi nadále zůstává prioritou v nacházejícím politickém cyklu EU zaměřeném na organizovanou a závažnou mezinárodní trestnou činnost 2018–2021;
9. považuje za zásadně důležité posílit agentury vymáhání práva v jižní a jihovýchodní Asii, aby účinněji zjišťovaly a odhalovaly sítě pro obchodování s lidmi; požaduje zpřísnění trestů pro pachatele podílející se na obchodování s lidmi;
10. vyzývá Komisi a členské státy, aby nadále bojovaly proti obchodování s lidmi v Evropské unii prostřednictvím politické a soudní spolupráce, a tak se vypořádaly s mafiemi, které využívají Evropskou unii jako konečnou destinaci obětí obchodování lidmi, jak zaznívá ve sdělení z prosince 2017;
11. domnívá se, že pro účinnější boj proti obchodování s lidmi je nezbytné lepší propojení mezi načasováním jednotlivých opatření a zdroji spolu s lepší spoluprací mezi ESVČ, Komisí, sdružením zemí ASEAN a Organizací spojených národů;
12. vyzývá ESVČ a Komisi, aby při řešení problému obchodování s lidmi rovněž využívaly další kanály pro své akce, jako jsou bilaterální a multilaterální dohody.