

Brussels, 25 March 2009

Proposal for a Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA

Today the European Commission adopted a Proposal for a new Framework Decision on trafficking in human beings, aimed at further approximating legislation and penalties, ensuring successful prosecution, better protecting and assisting victims, favouring effective prevention.

What is the problem to be addressed?

Trafficking in human beings is considered a new form of slavery. Victims are mostly women and children, who are trafficked for various illegal purposes such as sexual exploitation, labour exploitation, domestic servitude, begging, and the removal of organs. A major root cause of trafficking is social vulnerability, which can derive from extreme poverty, dysfunctional families, domestic violence and gender discrimination. Organised crime networks take advantage of these vulnerability factors to coerce, deceive or abuse victims, and subsequently exploit victims. In fact trafficking is an extremely profitable business for organised crime, the third source of illicit profits after drug trafficking and traffic of weapons. Victims of such trafficking suffer psychological and physical consequences of the crime to which they have been subjected. Often they suffer trauma; victims of trafficking for sexual exploitation are exposed to the risk of acquiring HIV and other sexually transmitted diseases causing serious health risks.

What is the scale of the problem?

It is not easy to estimate the extent of this crime, since criminal activities related to trafficking are hidden behind widespread phenomena such as prostitution or immigration. According to ILO¹, globally 1.225 million people are trafficked for the purpose of forced labour every year, transnationally or within their own countries. Most people are trafficked into forced labour for commercial sexual exploitation (43%) or mixed reasons (25%). The remainder (32%) are victims of trafficking for economic exploitation. Women and girls represent 56% of victims of forced economic exploitation, while men and boys represent 44%. Regarding forced commercial sexual exploitation, an overwhelming majority (98%) are women and girls.

¹ Patrick Belser, Michaëlle De Cock, Fahrad Mehran, ILO *Minimum Estimate of Forced Labour in the World*, ILO, Geneva, April 2005.

Trafficking in the EU is mostly a criminal phenomenon coming from third countries, but especially since the last enlargement there are now flows of trafficking within the EU area. Cases of internal trafficking are also reported by national monitoring mechanisms.² Estimates which have been attempted for Europe are scarce and unreliable. However, as one of the most significant destinations in the world, it is reasonable to estimate from the available figures that several hundred thousand people are trafficked into the EU or within the EU every year.

What are the results of EU policy?

In October 2008 the Commission issued a Commission Working Document on the evaluation of the implementation of anti-trafficking policy in the EU. The main findings were that the number of criminal proceedings and victims assisted were not high enough compared to the estimated scale and the gravity of the crime. About 1,500 criminal proceedings for trafficking have been carried out in 2006, and about 3,000 victims have been assisted in the EU, mostly in Italy, Belgium and Austria. Therefore, more ambitious and binding legislation is needed, in order to make anti-trafficking policy more effective. The protection and assistance to victims needs significant improvement, especially as it is an obligation under human rights standards, and also being the best means to secure an essential source of evidence in criminal proceedings.

What's new in the proposal for a Framework Decision?

The proposal builds upon the 2000 United Nations Protocol on trafficking in persons especially women and children, and the 2005 Council of Europe Convention on action against trafficking in human beings, and brings added value.

The new Framework Decision would provide for:

- SUBSTANTIVE CRIMINAL LAW PROVISIONS, including definition of the crime, aggravating circumstances and higher penalties, non-punishment of the victims for unlawful activities such as the use of false documents in which they have been involved for being subjected to by traffickers.
- PROSECUTION OF OFFENDERS, including extraterritorial jurisdiction (the possibility to prosecute EU nationals for crimes committed in other countries), use of investigative tools typical for organised crime cases such as phone tapping and tracing proceeds of crime.
- VICTIMS' RIGHTS IN CRIMINAL PROCEEDINGS, including specific treatments for particularly vulnerable victims aimed at preventing secondary victimisation (no visual contact with the defendant, no questioning on private life, no unnecessary repetition of the testimony etc.), police protection of victims, legal counselling also aimed to enable victims to claim compensation; special protective measures are envisaged for children such as the taking of interviews in a friendly environment.

² For example, cases of internal trafficking have been reported by the Sixth Report of the Dutch National Rapporteur, 2008.

- VICTIMS' SUPPORT, including national mechanisms for early identification and assistance to victims, based on cooperation between law enforcement and civil society organizations, providing victims with shelters, medical and psychological assistance, information, interpretation services. A victim shall be treated as such as soon as there is an indication that she/he has been trafficked, and will be provided with assistance before, during and after criminal proceedings.
- PREVENTION, including measures aimed at discouraging the demand that fosters trafficking, i.e. employers hiring trafficked persons and clients buying sexual services from victims of trafficking, and training for officials likely to come in contact with potential victims.
- MONITORING, providing for the establishment of National Rapporteurs or equivalent mechanisms, which should be independent bodies, in charge of monitoring the implementation of the measures foreseen by the Framework Decision. Such bodies should have further tasks including giving advice and addressing recommendations to governments.