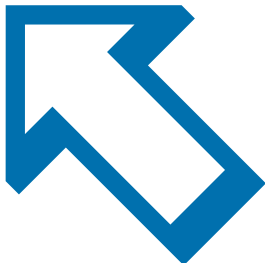
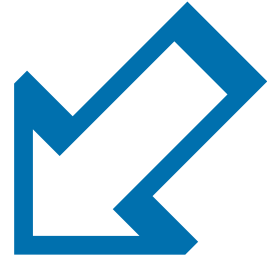
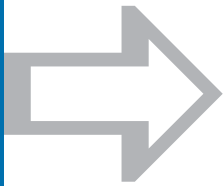


# **Recommendations to the government of the Czech Republic**





on the issue of trafficking in human beings  
perspective of a non-governmental non-profit  
organization La Strada Czech Republic





**L**a Strada Česká Republika, o. p. s. is a non-governmental non profit organization that since 1995 has been working in the Czech Republic. All activities of the organization are targeted at finding solutions to the problem of trafficking in human beings. The very activities of La Strada comprise awareness raising and prevention of trafficking in human beings, provision of direct social assistance to trafficked women and influencing legislation.

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**L**a Strada uses in its work the definition of trafficking included in The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime (Palermo 2000):

“Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or the forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having the 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 service, slavery or practices similar to slavery, servitude or the removal of organs.”

In these recommendations, the term trafficking in human beings is used in the sense of the above mentioned definition.


**T**hese recommendations were drafted with the objective of offering inspiration and assistance in designing policies aimed at the prevention of trafficking in persons and to help focus attention to protection and implementation of trafficked persons' human rights. The recommendations reflect almost ten years experience of La Strada Czech Republic with work in the area of combating human trafficking, offering this experience for discussion to the general and professional public.



**The recommendations are divided into six parts.**

The first part formulates general principles representing the philosophical basis for both the everyday work of the organisation and the concept of the recommendations. The second part focuses on legislation, offering concrete suggestions that, if implemented, would lead to better compliance of the Czech Republic with relevant international documents, as well as more efficient implementation of rights of trafficked persons and prosecution of traffickers. The third part concentrates on prevention and education, presenting possibilities for effective prevention and reduction of the risk of human trafficking among different target groups, and pays attention to the necessity of targeted education of professionals who come into contact with at-risk-groups. The fourth part concerns social assistance, containing recommendations aimed at the prevention of secondary victimisation of trafficked persons, and improvement of the system of social assistance available to trafficked persons supporting their reintegration into society. The fifth part focuses on the cooperation of actors which either come in contact with trafficked persons or may influence their position or implementation of their rights. The last part contains recommendations inspired by best practices, and offers alternatives and suggestions, especially for the work of governmental institutions.

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**III**  
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These recommendations include measures that may be implemented in the near future, as well as those whose implementation may be a long term assignment. However, in no case should they be regarded as a handbook whose aspiration is to solve the problem of human trafficking through exhaustive enumeration of measures to be carried out. Quite the contrary, it is very likely that only after most of the suggested measures are implemented it will be possible to begin to deal with the issue of human trafficking responsibly and thoroughly.

# I. Principles

## 1./ Mainstreaming Human Rights

The Czech Republic is obliged to uphold human rights, and now it must work to implement those rights in the mainstream. The general public must internalize human rights in order to practice them. Once people internalize human rights, those rights will appear in everyday attitudes, actions and relationships between people, institutions, and organizations in such a way that these attitudes, actions and relationships will reflect the fundamental principles of human rights, such as honoring the interests and dignity of other people, including those who have been marginalized.

## 2./ The Interest of Trafficked Persons is Public Interest

A clearly defined problem affecting a particular group of people is considered to be of public interest provided that it is seen by society as a serious problem and solving it serves the interests of the state. In this sense, the Czech Republic has recognized human trafficking as a public interest. Therefore, the interest of victims of trafficking is also public interest and should be paramount in guiding efforts to solve this problem.

## 3./ Equal Opportunities

Equality based on human rights is one of the achievements of modern democracy. The process of moving from theoretical equality to de facto equality is based on developing real equal opportunity in the mainstream. Being aware of the existence of disadvantaged groups of people and individuals is crucial in efforts to eliminate obstacles that prevent these groups and individuals from active participation in the social, political and economic life of society.

## 4./ Non-Discriminatory Approach

Discrimination is incompatible with the ideals of modern societies. In order to ensure development of a democratic society, it is necessary to guarantee the right of all people to equality before the law and protection

against discrimination and the instigation of discrimination. Discrimination based on whatever grounds shall be eliminated from all areas of human life. Socially disadvantaged groups are likely to suffer from discrimination based especially on race or ethnic origin, gender, sexual orientation, age, disability, religion or creed, language, nationality, social origin and possession of property.

## 5./ Empowerment

The ability of a person to make informed decisions about his or her life is based mainly on two prerequisites: To have access to necessary information connected with a particular life situation and to be able to understand the extent of his or her own potential. Thorough implementation of empowerment principle and ensuring access to relevant information expands a person's ability to take action and, in this way, to have more power over his or her life and life conditions. Empowerment and access to information is a key factor in self-actualization, especially in cases of socially disadvantaged groups and individuals. Implementation of empowerment principle prevents social exclusion.

# II. Legislation

## 1./ Development and implementation of internal regulations for identification of trafficked persons among illegal migrants and establishing exemption of trafficked persons from punishment for violation of the alien law

Trafficked persons that are not identified as survivors of trafficking have no access to social or other relevant assistance. If survivors are of foreign nationality they are in most cases immediately deported or placed in detention centers for violating aliens legislation. Punishment for violation of the alien law without exception for trafficking survivors multiplies the traumatization of trafficked persons and hinders application of their rights. At the same time, this undifferentiated punishment increases the risk of re-trafficking. Therefore, timely and thorough identification is crucial.

## **2./ Development and implementation of internal regulations for treatment of trafficked persons by the law enforcement authorities**

Cases of trafficking are rather complex. The situations of trafficked persons are very specific; hence it is necessary to reflect these specifics during criminal proceedings. All law enforcement bodies should have a unified approach to trafficked persons in order to eliminate their secondary victimisation. The approach should consider above all: the impact of the trafficking experience on the psychological state of trafficked persons; the fact that trafficked persons might have difficulty communicating due to fear, feelings of guilt or traumatic experiences; the health conditions of trafficked persons; possible relations of dependence or romantic relations with the traffickers; vulnerability of illegal migrants; cultural specifics; gender biases and economic needs of trafficked persons.

## **3./ Legalisation of residence of trafficked persons in the Czech Republic**

Residence status of trafficked persons in the Czech Republic should include temporary, long term and, in justified cases, also permanent residence. Cooperation or non-cooperation with law enforcement should not have an influence on the granting of residence permission. The fact that a person may only receive residence permission on the condition that they cooperate in legal proceedings is sometimes misused during the proceedings themselves to discredit trafficked persons. Further, legalisation of residence conditioned by cooperation with law enforcement often, in practice, means only postponing expulsion in the interest of criminal proceedings. Thereafter, the trafficked persons are returned to the country of origin regardless of danger connected with their role as witnesses.

Temporary residence or so called “reflection delay” provides trafficked persons with an opportunity to recover, stabilise and consider without pressure their possibilities with the aim to making informed decisions about their lives. For the sake of stabilisation of trafficked persons, it is necessary that they have access to professional help and services, such as medical care, psycho-

social help, legal assistance, safe housing and financial support.

Long-term residence shall enable the trafficked persons on one hand to participate in criminal proceedings should they decide to do so, and on the other hand to participate in the proceedings for compensation. Possibility of long-term residence for trafficked persons also enables the help centers to provide assistance with a long-term perspective.

Permanent residence should be provided depending on the degree of integration of the trafficked person into Czech society and as a part of long-term protection of victims whose life or health could be endangered in the country of origin as a result of having been trafficked.

## **4./ Ensuring protection of trafficked persons**

Trafficking in human beings is largely connected with organized crime. Therefore, those persons who decide to testify against traffickers are endangered. Not only are those survivors who cooperate in criminal proceedings in danger, but also those who decide not to cooperate with law enforcement or who law enforcement authorities are not interested in cooperating with are in danger. In addition to trafficked persons who are witnesses in criminal proceedings in the Czech Republic, persons trafficked within the Czech Republic and persons who are returning to the Czech Republic after being trafficked abroad need protection also. The main criteria for the provision of protection should be the level of danger to a person’s life and health or to the life and health of their families. The protection should not be limited only to witnesses. In this context, practices that prove to be successful abroad are less formal measures, like twenty-four hour direct telephone links with police, police escorts, emergency alarms etc.

In addition to specific protection of witnesses, it would also be advisable to consider introducing formal measures that may ensure the security of trafficked persons regardless of their participation in criminal proceedings. Experience with providing assistance to trafficked persons shows that their security can

be better ensured if we can stop contact between trafficked persons and their traffickers. Stopping these contacts may at the same time decrease the risk of re-trafficking. In the US, when there is a similar case of undesirable contact, legislation against stalking is invoked. Stalking is when a perpetrator can be held liable under criminal law for constant persecution and harassment of another person by telephone, correspondence, personal visits, etc. In such cases, a restraining order can also be used. These provisions are usually used in connection with domestic violence, but with the same intentions, they could also be used in trafficking cases.

#### **5./ Access of trafficked persons to state funds for compensation of victims of crime**

A large percentage of persons trafficked in the Czech Republic are foreign nationals. According to the law on provision of pecuniary assistance to victims of crime, their access to this kind of assistance is significantly limited. (It is limited to cases where the terms and extent of assistance is provided for by an international treaty that is binding upon the Czech Republic.) Also, the lack of information about the existence of pecuniary assistance under this law prevents Czech nationals from benefiting from this assistance as well. Therefore, in the current situation, this law and advantages stemming from it are almost wholly inaccessible for trafficked persons.

#### **6./ Immediate confiscation of property of perpetrators (traffickers) and its use for remedy of trafficked persons**

By exploiting others, traffickers gain enormous amounts of money. Nevertheless, only a minimum of trafficked persons actually receive compensation for harm or unpaid salaries, because the means of perpetrators are not found or confiscated. If this were changed, the confiscated property of traffickers could be used for compensation of trafficked persons and for funding of assistance.

#### **7./ Criminal liability of legal entities**

Trafficking is often carried out by legal entities, such as bars, clubs, agencies etc. According to the present legislation it is not possible to prosecute these entities, which are often connected with organized crime. Hence, criminal liability of legal entities should be an important part of strategies targeted at combating trafficking in human beings.

#### **8./ Application of definition of trafficking in human beings according to the Protocol to Prevent Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the UN Convention Against Transnational Organized Crime into the Czech legislation**

The present definition of the crime of trafficking in human beings prosecutes only trafficking for the purposes of sexual intercourse. Other purposes, such as forced labour, slavery, slavery-like practices and removal of organs are disregarded. Also, one of the characteristics of the criminal offense of trafficking in persons according to the current definition is the border-crossing element. However, trafficking occurs also within the national border. The definition of trafficking in persons should be adjusted in a way that provides for the punishment not only for trafficking for the purpose of sexual intercourse, but also for purposes of forced labour, slavery, slavery-like practices, and for the purpose of removal of organs, and also so that it punishes trafficking in persons within national borders. The definition under the Protocol meets these criteria.

#### **9./ Development and approval of special legislation on trafficking in human beings**

The issue of trafficking touches upon several areas of law, including criminal law, administration law, civil law, social security law and others. Introduction of a specific law on trafficking itself would enable a complex and clarified approach to the issue. This would have positive consequences for trafficked persons, who would then have better orientation to the provision themselves and hence would be able to better and more actively promote and protect their rights.



Existence of such a law will further contribute to overall simplification and more effective work of professionals dealing with this issue.



## **III. Education and Prevention**

### **1./ Systematic education and guidance of police at all levels**

The police are, at many times, the first body in the process of identification of trafficked persons. It is key that the police are able to identify possible survivors of trafficking and actively inform them about their rights and the possibilities for help, or even mediate help. An obligation to have information materials visibly displayed on the public police premises, together with requiring targeted offers of assistance and information, is a way of preventing re-trafficking and secondary victimization of trafficked persons.

### **2./ Systematic education and guidance of persons working with foreigners**

Foreign women are one of the at-risk groups for trafficking; persons/organizations who work with this group could play a key role in the transfer of information about trafficking or about the possibilities for help. Requiring these organizations to visibly display informative material at their offices in combination with actively offering information and assistance to target groups, is a tool for the prevention of re-trafficking and secondary victimization.

### **3./ Systematic education and guidance of employees of local governments (heads of social affairs departments)**

Employees of local governments, especially its social departments, could contribute significantly to the dissemination of information about threats from trafficking in their respective regions. They could also contribute to the identification and assistance of survivors. The role of local governments is invaluable in dissemination of prevention material, since these offices have information about the situation in each region, know risk areas there and can use, free of

charge, their own public information services for providing the information.

### **4./ Systematic education and guidance of all law enforcement bodies**

Respect for the rights of trafficked persons and their needs creates a positive motivation for cooperation. In the course of criminal proceedings, several actors participate in different phases. All actors have to be competent to communicate with survivors of trafficking and understand their needs. This will make the proceedings easier, and will also serve as prevention of secondary victimization of trafficked persons.

### **5./ Incorporate prevention information about trafficking in human beings into activities of employment offices. Systematic education and guidance of employees of the employment offices**

Employment offices work with at-risk groups. Young unemployed people and those who have finished their educations should receive information that can lower the risk of trafficking. During consultations about work abroad, information should be provided by trained employees, both directly and indirectly in a written form.

### **6./ Inclusion of information on human trafficking in curricula of relevant subjects in the last grade of elementary schools and special schools and in relevant subjects in secondary schools including vocational high schools**

One of the tasks of a school as an institution that shall prepare its students to be able to face different life situations is to disseminate information on issues relating to human rights. Persons leaving schools are one of the at-risk groups for trafficking. In addition to general information on trafficking, school curricula should also include “safety tips” i. e. information on, for example, what to pay attention to when looking for a job abroad or where to turn for help in a crisis situation.





## IV. Social Assistance

### 1./ Application of the principle of informed consent

In the course of trafficking, the persons are dealt with without their consent or knowledge. This experience should not be repeated after their rescue from the trafficking environment. Trafficked persons have the right to know all information which concerns them during the provision of social assistance. Trafficked persons have to consent with all steps taken in the process of assistance. All involved institutions and organizations should ensure them these rights (right of information, right of protection of personal data).

### 2./ Provision of social and medical help

Trafficked persons are often outside any social and health system, due to reasons beyond their control. These people went through traumatizing experiences and in most cases suffer from post-traumatic stress syndrome. Their health state also reflects the traumatic experience. When entering into contact with help-centers, these persons often do not have basic financial means and are not able to cover the basic living needs for themselves. Ensuring basic living needs as well as ensuring adequate medical care is one of the main tasks of the welfare state. Governments should also support and motivate participation of individuals, non-governmental and other organizations in establishing and maintaining such services.

### 3./ Ensuring provision of gratis legal assistance to trafficked persons

After being rescued from a trafficking environment, trafficked persons usually find themselves in a very complex life situation, which they can hardly manage without outside help. One of the first preconditions for a trafficked person to be able to make informed decisions about her future is to understand her legal status and be aware of her rights and obligations resulting from it. To achieve this, ensuring access to free legal assistance is necessary. Making

legal assistance available would also give trafficked persons access to information about legal measures that could protect them against traffickers and about obtaining compensation for harms suffered. Although legal assistance is especially important when a trafficked person participates in criminal proceedings, it should not be limited to these cases and should be available to trafficked persons irrespective of their participation in the criminal process.

### 4./ Protection of personal data

Trafficking in human beings is a serious crime that is often connected with organized crime. Protection of personal and sensitive data about trafficked persons is important for their security, especially during criminal proceedings.

### 5./ Development of general standards of social services

The government should ensure the development and approval of a legal norm for general standards on social services. Such a norm should provide a basis for the development of guidelines for standards of social services for trafficked persons. Existence of such standards would unify, clarify and provide for better evaluation of the quality of services, as well as provide for a more effective process of assistance.

### 6./ Inclusion of police in mediation of social assistance

Police are at many times the first point of contact for trafficked persons after they get out of the trafficking environment. Therefore, it is key that police be able to identify trafficked persons and ensure mediation of assistance to them. Social assistance should be offered on a non-discriminatory basis, regardless of the legality or illegality of stay of trafficked persons, persons' prior experience of being trafficked into sex-business, gender, race, nationality etc.

### 7./ Creation of possibilities and support for survivors of trafficking during the process of re-integration into society

One of the main elements of prevention of re-trafficking is re-qualifying survivors and hence increasing their ability to actively participate in the labour

market. Survivors of trafficking have been deprived of the opportunity to participate in the labour market for a significant time. This inequity could be remedied by creating and supporting work places for survivors.

to possible life and health danger of trafficked persons and/or their relatives and families, it is key to ensure support and assistance of help-centers in their countries of origin. Hence, cooperation between countries of origin and countries of destination is inevitable.

### **8./ Regulation of status of migrants in sex industry**

Provided that prostitution is regulated as a small business, migrants should also have a chance to apply for licenses to work in the sex industry. The fact that some migrants stay illegally in the Czech Republic increases their vulnerability to trafficking. This vulnerability will be increased even further for foreign sex workers if they are not allowed to apply for licenses. In this situation, not only will they be aliens, they will also not be able to obtain legality for their livelihood.

### **3./ International cooperation and exchange of information during criminal proceedings against perpetrators**

Perpetrators commit a wide range of crimes in the process of trafficking. Punishments for these crimes differ in different countries. This fact leads perpetrators to abuse gaps in legislation in some countries. Lack of effective mechanisms of cooperation among law enforcement bodies in different countries supports indirectly those tendencies of perpetrators and can directly contribute to failure of prosecution. Equally important is intensive communication and cooperation among different law enforcement bodies on a national level.

## **V. Cooperation**

### **1./ Formalisation of relationship between non-governmental organization and police with respect to the area of trafficking in human beings**

The main tasks of police and non-governmental organizations (with respect to combating trafficking) differ. Police focus on detection of crimes connected with trafficking in human beings, whereas the primary focus of non-governmental organizations (that provide assistance to trafficked persons) is protection of rights and interests of those persons. Quality work carried out by one side can contribute to the successful completion of both tasks. Cooperation is thus advantageous to both sides, especially when carried out within a framework of clearly defined tasks, rights and responsibilities.

### **2./ Cooperation between the countries of destination and countries of origin on development and implementation of return programmes**

In cases when trafficked persons do not receive residency permits in the Czech republic, it is necessary to facilitate a dignified and safe return to their countries of origin. With regard

## **VI. General**

### **1./ Establishing of the Bureau of the National Rapporteur on trafficking in human beings as an independent institution**

National Rapporteur on the issue of trafficking in human beings has been working, for example, in the Netherlands since 2000. Its task is to gather and analyze information about the nature of trafficking, its extent, mechanisms and developments as well as about the effectiveness of measures aimed at combating trafficking in human beings. At present, no data or research that would provide a basis for draft of effective and accurate measures are available in the Czech republic. This issue touches upon activities of different ministries and within their areas of responsibility includes several of their bodies. Therefore, monitoring of data is complicated. Some data is not gathered at all, since their direct or indirect coincidence with trafficking in human being has not been recognized. Therefore, it is necessary to establish a monitoring body that would be independent. The independence will hence provide for objectivity of research

outcomes of National Rapporteur and will eliminate possible influence of different bodies that are directly or indirectly active in combating trafficking in human beings.

## **2./ Financial support of non-governmental organizations**

By financially supporting non-governmental organizations, the government recognizes its responsibility to address those problems in society that cannot be solved with standard governmental mechanisms. Not only it is important to directly financially support the help centers, but also to support and motivate the private sector to so-called individual sponsorship.

## **3./ Reflection of the issue of trafficking in human beings in relevant research project financed from the state budget**

In order to create effective strategies to combat trafficking in human beings, in-depth analysis of all aspects of this issue is necessary. Trafficking in human beings touches upon several issues, such as protection of human rights, criminal law, status of legal and illegal migrants, social security, health care, labor law and other relevant areas. The extent of this issue requires that it be considered in research projects focusing on a broad range of subjects. If trafficking is considered in peripheral research projects, their outcomes might provide more comprehensive findings and identify new connections between trafficking and other phenomena.

