



PRO-tukipiste



PICUM
PLATFORM FOR INTERNATIONAL COOPERATION ON
UNDOCUMENTED MIGRANTS



Udruženje "Novi put"

FIZ
Advocacy and support
for migrant women and
victims of trafficking



Input from LSI NGO Platform and GAATW to the 2015 European Commission report on trafficking trends

The La Strada International NGO Platform-*United against trafficking in Europe*¹ and Global Alliance against Traffic in Women - Europe (GAATW-EU)², of who several members are also represented in the EU Civil Society Platform against Trafficking in Human Beings, thank the European Commission for the opportunity for civil society to provide input for 2015 European Commission report on progress made by Member States in the fight against trafficking in human beings.

The issue of trafficking in human beings has seen increased attention in the past decade in the European Union and globally, which resulted in a range of EU legislative measures and policies, such as Council Directive 2004/81 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 authorities; the 2011/36/EU Directive on preventing and combatting trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA; and the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016.

¹ The LSI NGO Platform - *United against trafficking in Europe* comprises of 27 NGOs working on trafficking in human beings in Europe (EU and Non-EU). The Platform aims to strengthen the cooperation in Europe among civil society organisations combining practical work with trafficked persons and affected groups with political advocacy for human rights based policies to eradicate trafficking in human beings

² The Global Alliance against Traffic in Women is an Alliance of more than 100 non-governmental organisations, of which 24 in Europe. GAATW promotes and defends the human rights of all migrants and their families against the threat of an increasingly globalised labour market and calls for safety standards for migrant workers in the process of migration and in the formal and informal work sectors.

We have welcomed the high priority that has been given to the issue of trafficking in human beings and the increased awareness for the position of victims, which resulted in the so-called victim-centred approach.

For the process of ensuring the adequate and effective implementation of this legislation on the national level and for the responsibility of the Commission to evaluate these efforts by members states, LSI NGO Platform and GAATW-EU have formulated a number of recommendations. Evaluation should, in the first place be directed to establish victims' rights are respected and affected groups are protected from exploitation and abuse. We also strongly recommend the Commission to take on a holistic approach to human trafficking and to establish effective processes, ensuring that action in other EU policy areas reinforces the protection and assistance of trafficked persons, as required by the Directive, rather than undercutting it because priority is afforded to other policy concerns, such as migration control or labour laws.

Include the implementation of EU legislation in related policy fields in the evaluation report

Trafficking in human beings is recognised as a gross violation of human rights and therefore the fight against this crime needs to be focused on the protection and restoration of the rights of trafficked persons. The first and utmost priority is the early identification of victims of human trafficking and ensuring that all protective measures, assistance and support provided for in the EU legislation are in place and offered to trafficked persons. EU research shows that there is still a huge discrepancy between the number of identified and reported victims and the estimates of human trafficking in the EU. The result is that the vast majority of persons who have been subjected to exploitation, abuse and violence (the core of the crime of human trafficking) are not being identified as trafficked persons. Consequently, they are not granted the support and assistance they are entitled to and even worse, they are often simply detained or deported as irregular migrants.

Even when identified as victims of trafficking, often trafficked persons are not granted the rights that they are entitled to.

Not all people who have been experienced abuse, violence and exploitation can be identified as victims of trafficking in human beings as they might not fulfil all the criteria of trafficking. But they for sure are victims of crime and should therefore have access to all the provisions that the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, provide for irrespective of their residence status.

Also, exploited undocumented workers whose employer is sanctioned should be able to claim compensation for unpaid wages according to Article 6 of the Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, provides with good tools for the implementation of the mentioned policies and measures and for the necessary capacity building for responsible professionals. LSI NGO Platform and GAATW-EU recommend that the Commission follow closely the transposition and implementation of *all* relevant legislation, support Member States with the implementation of measures and take adequate action when they do not comply.

Ensure adequate monitoring, including involvement of civil society

It is important that the monitoring of the implementation of legislation and policies not only investigates the transposition of the legislation on paper, but especially focusses on how the policies and measures work out in practice. Important measures that protect the rights of trafficked persons and provide them with the tools they need to rebuild their lives, such as the non-punishment provision and the right to compensation, are often included in national legislation, but are scarcely realised in practice. Also, monitoring is needed to ensure that the measures taken, really have the intended effect. Sometimes well-intended policies can have adverse effects on the rights of those they are meant to protect, especially when it concerns marginalised groups such as undocumented migrants, ethnic minorities and sex workers. Therefore, we thank the commission for including the

observations of civil society as vital elements in the monitoring and evaluation processes of anti-trafficking policies. The input of NGOs working with trafficked persons is crucial in acknowledging and recognising the needs of trafficked persons as well as in strategising and helping to shape policies to address them.

Harmonise the tools and procedures for data collection with data protection provisions

We acknowledge the need for structured data collection in order to understand the changing trends, patterns and working methods of traffickers in all different forms of trafficking in human beings. In order to protect the safety, integrity and privacy of trafficked persons it is of utmost importance that tools and procedures for data collection are harmonised with European data protection provisions. Data collection should never jeopardise the privacy and safety of trafficked persons. Civil society organisations that provide services to trafficked persons should never be compelled to disclose personal data of their clients or be pressured to do anything that can harm their confidentiality.

In addition, in order to have a broader understanding of the phenomenon of trafficking in human beings, it is important to acknowledge that statistics on the victims and the perpetrators only provide a limited scope for information. Developments in migration policies, the (de)regulation of labour and global economic forces influence the supply and demand for cheap and exploitative labour which is often met by human trafficking. These developments should be acknowledged and researched.

Adopt an impact-oriented prevention strategy

The EU and intergovernmental organisations have for many years supported prevention campaigns in the countries of origin. The majority of the campaigns warn people of the dangers of human trafficking. At times, these campaigns seem to have a hidden goal, not just to prevent human trafficking but to prevent (irregular) migration. Some bi-lateral cooperation to prevent trafficking in human beings between member states and third countries merely aim to stop people vulnerable to human trafficking from migrating.

LSI NGO Platform and GAATW-EU believe that prevention of trafficking should primarily be about addressing the root causes. Next to the root causes in the countries of origin, such as poverty, unequal gender relations, traditional social structures, there are root causes during the migration process, such as the lack of safe and regular migration channels and there are root causes in the countries of destination, such as the demand for cheap and exploitative (irregular) labour in combination with strict immigration and increased repressive policies towards undocumented persons.

The EU must adopt an impact-oriented prevention strategy, covering both EU internal and external policies. Specific measures should be incorporated into Country Strategy Papers, also reflecting, where appropriate, regional strategies. All EU programmes should be based on measured good practices and regular examination of their effectiveness.

In addressing the issue of demand, focus on all economic sectors

In the agenda on prevention, much focus is put on the demand that fosters exploitation, with an emphasis on the demand for sexual services. The LSI NGO Platform and GAATW-EU recognise that the sex industry is one of the economic sectors in which human trafficking occurs, as it does in other sectors where workers are invisible, unprotected, excluded and disempowered. It is important though not to conflate trafficking in human beings with prostitution as it leads to inadequate counter-trafficking policies and to counter-productive prostitution policies. The two issues are both complex and need their own individual approach and policy. By equating sex work to trafficking in persons, the very complex phenomenon of human trafficking is narrowed down to a moral issue, an approach that fails to address the economic, political and social root causes of trafficking. Furthermore, it distracts the attention from human trafficking in other industries which could leave victims there unrecognised and unprotected. Hence, when tackling the demand side of trafficking in

human beings, all economic sectors that are vulnerable for exploitative situations, should be addressed.

In order to understand why some economic sectors are more vulnerable, research is needed into the connections between deregulation of labour, the decrease in wages, labour migration and demand for cheap and exploitative labour.

Take on a holistic approach including the whole spectrum of EU internal and external policies

Human trafficking is not an isolated phenomenon that occurs outside of the normal society and economy. On the contrary, trafficking in human beings is intertwined in today's society. Global economic forces and policies in the fields of labour, migration, asylum and justice affect the vulnerability of people to exploitative situations. These policies might even have more impact than counter-trafficking policies do.

To implement the policies and measures to end trafficking in human beings, there is a need for a strong coherent EU approach, which addresses the human rights issues arising at each stage of the trafficking cycle through the whole spectrum of EU internal and external policies - including *inter alia* EU policies on labour, development cooperation, children rights, social affairs and social inclusion, anti-discrimination, migration, and asylum. EU policies with a potential impact on the rights and safety of trafficked persons, such as external and security policies and policies on return and migration more generally, need to be developed with due regard to international human rights standards and good practices for the protection of the rights of trafficked persons and affected groups.

La Strada International NGO Platform- *United against trafficking in Europe*

Global Alliance Against Traffic in Women- Europe

And their member organisations:

Member of the EU Civil Society Platform against Trafficking in Human Beings

Platform for International Cooperation on Undocumented Migrants in Europe (PICUM)

Lefö - Intervention Centre for Trafficked Women, Austria

PAG-ASA, specialized centre for victims of human trafficking, Belgium

La Strada Czech Republic

Ban Ying e.V., Germany

Fairwork, the Netherlands

La Strada Poland

La Strada Ukraine

Member of EU Civil Society E-Platform against Trafficking in Human Beings

La Strada International

Comensha, the Netherlands

Pro Tukipiste, Finland

Supporters

Gender Perspectives/La Strada Belarus

Novi Put, Bosnia

Animus Association Foundation/La Strada Bulgaria

Migrant Rights Centre Ireland

Associazione On the Road, Italy

Astra - Anti Trafficking Action, Serbia

FIZ - Advocacy and Support for Migrant Women and Victims of Trafficking, Switzerland

Human Resource Development Foundation, Turkey