



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

La Strada International welcomes the renewed commitment of the European Commission to a strategic and coordinated EU approach to addressing Trafficking in Human Beings and is happy to provide input for the planned new EU strategy towards the Eradication of Trafficking in Human Beings, expected to be adopted in 2021.

La Strada International, European NGO Platform against trafficking in Human Beings, has advocated for the rights of trafficked and exploited persons in Europe for the last 25 years. The La Strada Platform comprises 26 Member Organisations and two Associate Members in 23 European countries. Many of these organisations also participate in the EU Civil Society Platform against Trafficking in Human Beings, established by the European Commission. This submission is also made jointly with PICUM, of which La Strada International is a member.

In May 2020, La Strada International contributed with a [submission](#) to the European Commission's Third Report on the Progress made in the fight against trafficking in human beings. That submission also included recommendations for EU strategic actions for both the European Commission and separate EU Member States, reference is therefore made below to that earlier submission.

General Feedback

While La Strada International strongly supports the elaboration of a new EU strategy for the coming years, the NGO platform would like to stress that the priority actions established in the first EU Strategy (2012 – 2016) and the follow up Communication adopted in 2017 remain valid and require continued attention. Reflecting back on these two strategic policy documents, we have noted that several planned actions have still not been realized.¹ La Strada International therefore calls upon the Commission to ensure and commit to a proper evaluation and monitoring process of the new EU Strategy, including a clear time frame for targets to be reached and a mechanism to effectively monitor results and impact. The same goes for the evaluation of joint European actions and strategies, coordinated by the Commission as well as for the evaluation of EU Member States' compliance with relevant legislation.

EU Member States Compliance with existing EU legislation

Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, next to a number of other EU instruments in this and other policy areas, clearly contribute to addressing trafficking in human beings. However, we note with concern that the Directive and other relevant EU legal instruments are still not adequately implemented by EU Member States at national level. We continue to see serious gaps in the prevention and prosecution of human trafficking, as well as the protection and support for the rights of trafficked persons. In addition, we note that policies and actions, including those which aim to address migration, and sex work as well as human trafficking, can seriously

¹ This goes for example for the planned stronger cooperation with the private sector through the establishment of a Private Sector Platform, or European Business Coalition against trafficking which was – according to our knowledge and information - not realized. The same goes for some studies tendered that have not been published yet.



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

infringe upon the rights of the trafficked and exploited persons and other groups at risk. For example, policy measures related to trafficking for sexual exploitation often focus on criminalizing sex work, and not on promoting the rights of sex workers, while measures to address the employment of irregular migrants often lack effective mechanisms to protect undocumented workers' rights.

In addition it is seen that much (policy) action by the Commission and EU MS has been focusing mainly on trafficking for sexual exploitation, while – as also indicated in our input for the EU 3rd progress report² - in many EU Member States adequate policy measures or strategies to address trafficking for labour exploitation, or for forced criminality, forced begging or trafficking for organs, remain absent.

While we acknowledge that the main responsibility for addressing trafficking in human beings lies with the Member States, the European Commission should do more to ensure that all European Member States fully comply with existing legal instruments and take further action. When evaluating anti-trafficking responses, it is important that the Commission also look at efforts made by EU MS to comply with related legislation and strategies. For example the implementation of legislation and policies related to victims rights', labour rights (including those in the Employers' Sanctions and Seasonal Workers directives as well as other EU employment standards that apply to all workers regardless of status), as well as legislation related to financial investigation, assets recovery and money laundering, non-financial reporting and public procurement, trade instruments and sector-specific measures, which all remain very relevant in this respect. We gladly follow the current evaluation of the implementation of the EU Anti-trafficking Directive, but regret that the evaluations on EU Members States' compliance with the Victims' Rights Directive and the Employers' Sanctions Directive are long overdue. This requires urgent attention.

Ratification and compliance of other relevant international legal instruments

For an adequate strategic and coordinated EU approach, also other international legal instruments are relevant. Many EU Member States have not ratified all relevant available legal instruments to address human trafficking, forced labour and gender-based violence and abuse. For example the additional ILO Protocol on Forced labour of 2014³ has still not been ratified by Bulgaria, Croatia, Greece, Hungary, Italy, Luxembourg, Portugal, Romania, Slovakia and Slovenia. Ten years since the adoption of ILO Convention 189 on domestic workers' rights, it has not yet been ratified by Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Romania, Slovakia, Slovenia, and Spain. The new ILO Convention on Violence and Harassment at work of 2019⁴ has not been ratified yet by any EU country. The Istanbul Convention addressing Violence against Women⁵ has not been ratified by Bulgaria, Czech Republic, Hungary, Latvia, Lithuania and Slovakia. Moreover Poland recently indicated to aim to withdraw from its earlier ratification of this Convention.

As this is a concerning situation, the European Commission should urge the EU Member States to ratify these and other relevant international instruments, agreements and legal obligations which will make the work against trafficking in human beings more coherent and effective. We support the clear and

² La Strada International submission for the European Commission's Third Report on the Progress made in the fight against trafficking in human beings, submitted to the European Commission in May 2020.

³ P029 - Protocol of 2014 to the Forced Labour Convention, 1930

⁴ C190 - Violence and Harassment Convention, 2019 (No. 190)

⁵ Istanbul Convention Action against violence against women and domestic violence



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

continued commitment from the Commission to push for the EU itself to accede to the Istanbul Convention, and call for similar attention to the above mentioned ILO Conventions. Close EU monitoring is further required when gender discrimination, gender-based violence, labour rights violations, forced labour and human trafficking are not seriously addressed by EU Member States.

For example, the recently published 2020 edition of the US TIP Report⁶ placed Bulgaria, Croatia, Germany, Greece, Hungary, Italy, Latvia, Malta, Poland and Slovakia in Tier 2 and Ireland on the TIER 2 Watch list. Also the Council of Europe monitoring expert group GRETA reported gaps in EU countries' anti-trafficking programmes and measures, including in the 'identification of victims, in the protection of the rights of victims and assisting them in their recovery; as well as the application of the recovery and reflection period, access to compensation and legal aid, as well as compliance with the non-punishment provision'.⁷ The UNODC also brings attention to various gaps in their global anti-trafficking reports, and noted that European countries reported fewer convictions than in the past⁸. Similarly, CEDAW, GREVIO, FRA and ILO report about gaps in the protection of women and labour rights in EU countries.

If the European Commission wants to effectively and consistently address human trafficking, is it important that these monitoring reports – including the future UNODC Review mechanisms reports – are taken into account, next to (shadow) reports by civil society - and that all EU Member states are strongly encouraged to take serious actions against these severe crimes, in line with the values of the European Commission and its commitments to gender equality, victim's rights, labour rights, fundamental rights and social inclusion.

Focus on all forms and all victims from a human rights point of view

Policies and measures to address human trafficking must be based on a human rights approach – instead of the current European criminal justice approach. The new EU Strategy should also equally prioritize all forms of human trafficking by including specific measures for all different types of exploitation and its victims, including trafficking for sexual exploitation and labour exploitation, trafficking for forced criminal activities and forced begging but also organ trafficking for which there is very little European attention and awareness at the moment.

The new EU Strategy should further equally focus on - and ensure that appropriate measures are in place for - all victims of severe exploitation. This includes men and boys trafficked for sexual exploitation and other forms of exploitation, and both EU nationals – including those trafficked at domestic level - and non-EU nationals.

⁶ Trafficking in Persons Report 2020 by the US State Department <https://www.state.gov/trafficking-in-persons-report-2020/>

⁷ 9th General Report on the activities of the Group of Experts on Action against Trafficking in Human Beings (GRETA), covering the period from 1 January to 31 December 2019.

⁸ UNODC, Global Report on Trafficking in Persons, 2018



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

I Prevention

For effective prevention it is essential that root causes of human trafficking are seriously and effectively addressed. While this need was already acknowledged in the former EU anti-trafficking Strategy (2012 – 2016) we still see that preventive actions mainly focus on short term impact actions, including awareness campaigns, of which the long lasting impact remains unclear.

More focus is needed on structural information provision; access to services, safe reporting and complaint mechanisms for all workers and potential crime victims - regardless of residence status; facilitated access to residence and work permits; empowerment of workers; training and awareness of first line professionals; public (consumer) awareness on potential actions to address endemic labour exploitation in key sectors; and binding legislation and measures for employers and the private sector such as mandatory Human Rights Due Diligence.

More focus on vulnerable workers

So far not much progress has been made in Europe to reduce risks associated with victims' vulnerabilities and the factors that foster them. During the COVID-19 situation, it became particularly visible how much vital work in Europe is conducted by (low paid) migrant workers, both from within the EU by EU mobile workers as well as by workers from third countries, of which many lack access to adequate information on their rights, adequate housing and support and secure residence status.

'Migrant workers with precarious, dependent or irregular status frequently experience conditions below those required by minimum labour standards and collective bargaining agreements, in terms of pay, working time, rest periods, sick leave, holiday, and health and safety'.⁹ For effective anti-trafficking prevention, a strong focus is on reducing the vulnerability of these migrant workers is essential. In that respect, EU MS should take into account the short- and long term impact of the Covid 19 pandemic and measures taken and ensure sufficient resources to reduce vulnerability of marginalized groups.

Information provision and safe reporting and complaint mechanisms

The primary role of labour inspection as per ILO regulations (Convention 81) is enforcing legal provisions relating to conditions of work and the protection of workers. Labour inspectors have a key role in identifying situations of labour exploitation and trafficking and in securing payment of due wages and compensation, as well as tax and social security payments by employers. However, PICUM's recent publication 'A Worker is a Worker' reveals that many EU countries lack secure and effective complaint procedures for exploited workers.¹⁰ Labour inspectors are usually required to check validity of work permits and often report this information to immigration, if they do not carry out a joint inspection with police officers who do so directly. This makes it extremely difficult to detect and build effective cases, because workers with a precarious, dependent or irregular status – a large proportion of migrant workers in low-wage sectors - do not dare to report violations due to risks of facing immigration enforcement. The lack of Unionisation together with an absence of secure and robust mechanisms to ensure that all people can engage with labour inspection authorities as workers – as well as with law

⁹ A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice– PICUM 2020

¹⁰ Idem



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

enforcement as victims or witnesses of crime - without any risk of immigration enforcement, represents a major barrier to access rights, and for authorities to investigate and respond to violations of labour and criminal law.

In addition, first responders, including labour inspectorates and law enforcement actors, do not provide information to those at risks of exploitation and abuse, in a coherent and systemic way. Information is often also not provided in a manner and language migrant workers can well understand, despite provisions in the EU Victim Rights Directive and EU Anti-Trafficking Directive that require this. As acknowledged by the Commission, when adopting the EU Strategy on Victim Rights 'too often victims are not aware of their rights or are afraid to report the crime for fear of the offender or negative consequences'.¹¹ Also the new EU Strategy on the eradication of human trafficking should take this into account and reflect the need to raise awareness about victims' rights, regardless of residence status, and promote specialist support and protection for the victims with specific needs.

Next to ensuring adequate and structural information provision to workers on their rights, safe reporting, effective complaint mechanisms and remedies for all workers, including undocumented ones, should be established. The Strategy should commit to supporting the initiatives under the Victims' Strategy to 'improve reporting of crime and access to support services for migrant victims independently of their residence status', including through exchange on good practices 'aimed at disconnecting the reporting of crime from the return procedure' as well as effective labour complaints mechanisms, as crucial to anti-trafficking efforts (as also recognized for example in the ongoing monitoring round of GRETA on access to justice and remedies).

It is essential that the systems in place to monitor and enforce labour standards, work for all workers, regardless of sector and status of the work or worker, and that every worker can stand up for their rights without risking immigration detention or deportation.

Also more proactive outreach is needed among all workers working in sectors that have a high proportion of EU mobile and migrant workers (including also refugees and asylum seekers) and are prone to exploitation; like domestic and care work, agriculture, construction and sex work. Also, men trafficked for sexual exploitation remain often unnoticed and would need special attention. Outreach actions should include online outreach via social media and other digital information channels. Funding is needed for organisations providing non-discriminatory services and support to participate in complaints mechanisms, doing outreach and organising with migrant workers. In practice we see that many persons that experience severe forms of exploitation – with clear indications for human trafficking – are still not recognised as victims. Early identification among migrants and refugees is often not mandatory or not part of formal procedures, neither linked with existing National Referral Mechanisms (NRM) or National Action Plans on trafficking in human beings of EU countries.

Trainings

As stated in our 3rd Progress report contribution¹², it is noted with concern that the awareness, knowledge and capacity of all those responsible for the (early) identification, including Investigation

¹¹ See EU Press release 24 June 2020 Victims' Rights: New Strategy to empower victims https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1168

¹² La Strada International submission for the European Commission's Third Report on the Progress made in the fight against trafficking in human beings, 20 May 2020. <http://lastradainternational.org/lisidocs/3359-Submission%20La%20Strada%20International%203rd%20EU%20progress%20report%20THB%20-%202020%20May%202020.pdf>



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

Services and Public Prosecution Services does not lead to adequate identification and referral of trafficked persons. Labour inspectorates and law enforcement should be further trained and made more aware of the need to provide adequate information, to refer people who indicate that they have been a victim of exploitation or show indications for being a potential victim to appropriate support services and procedures. In many European countries, screening and identification procedures remain insufficient and incomprehensive and civil society is still not engaged by the authorities in the identification of trafficked persons. It is therefore very important that joint training and awareness initiatives are further developed, involving actors from different fields, including specialized NGOs.

We further believe that identification should not be the responsibility of a single government agency only but should be carried out by multidisciplinary teams including organisations providing services to trafficked persons and should provide for pathways to needs led support. These pathways should also exist for individuals who are identified as potentially trafficked but who receive a negative decision in order to prevent their situation deteriorating to the point of trafficking or modern slavery. Indeed training mechanisms and targeted, specialized programmes on trafficking in human beings must become more uniform and consistent, and it should be ensured that people who regularly have to deal with human trafficking issues are regularly trained.

Address Demand by structural and sector-specific measures and incentives for the private sector

While the Commission in the earlier strategy plan acknowledged the responsible management of global supply chains and stated that ‘attention to due diligence and high risk sectors is key to discourage the demand’ it is noted that much of the ‘demand actions’ currently taken by EU Member States have been mainly pointing at the sex industry, while it is acknowledged that many other sectors, including agriculture, the clothing industry and construction, regularly rely on exploitative labour practices. In general there are very limited initiatives to address structural and sector-specific drivers of wage compression and exploitation nor incentives for the private sector to take more action. Instead Member States have been mainly encouraged to criminalize the use of sexual services, as these might be exacted from victims of trafficking. While there is no evidence that this is effective in reducing trafficking, this approach has been found to increase violence and other human rights violations of sex workers.¹³

Labour rights protection and public (consumer) awareness

It is essential that the new EU Strategy will include stronger measures for companies to ensure that their supply and value chains involve no exploitative labour including forced labour and trafficking. Such measures include, for example, implementing (binding) due diligence procedures, revisiting business models, including improving purchasing practices and non-financial reporting obligations, regulating recruitment agencies, conducting audits raising awareness among employees and consumers, and ensuring that all public procurement contracts and government financial support given to businesses include binding and enforceable requirements on labour standards. While some EU Member States initiated binding legislation at national level on due diligence, it is important that, further to the European Commission’s commitment to introducing a proposal for a binding EU instrument on business and human

¹³ Beyond Trafficking and Slavery - The fight to decriminalise sex work, May 2020.
<https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/fight-decriminalise-sex-work/>



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

rights in 2021, work is put into ensuring that the proposal for legislation is fit for purpose.

The European Commission should make a clear stand against exploitative labour conditions in Europe and also take steps to ensure that the Commission and other EU institutions do not make use themselves of the services provided by trafficked persons or persons working in exploited conditions¹⁴. The Commission and EU Member States should be transparent about government' procurement policies and critically assess own supply chains and services to ensure these are free of forced and exploitative labour. Additional care should be taken for monitoring and preventing human rights abuses by business enterprises owned, controlled, or subcontracted by the state.

More awareness that exploitation of persons is not acceptable should be raised among the general European public. European consumers should be informed about the risks of buying products that are made with exploitative labour and information should be provided about the origins of products and services, to enable European customers to make informed decisions about their purchases. Products and services made without labour exploitation and human trafficking should be strongly promoted.

II Countering the Culture of Impunity

The total number of trafficking investigation cases and prosecutions remains low, in part due to the difficulty in proving exploitation; the use of the vulnerable position or the use of force according existing legislation. Countering the culture of impunity and increasing accountability indeed requires intensifying the number of investigations, prosecutions and convictions. Evidence gathered from money flows might provide the necessary additional proof, particularly in high-risk sectors, thus relieving victims of the burden of testifying in court. Moreover it can enhance the identification of victims. Efforts are further needed in seizing and confiscating criminal proceeds, which is a deterrent means against trafficking and also improves the chance that compensation can be paid to victims.

To address impunity, the focus should not only be put on organized crime groups; we know from providing assistance to trafficked and exploited persons, that also individuals and legal entities operating in legal sectors exploit persons in such a way, that we can speak of forced labour and human trafficking. More focus is therefore needed on reforming specific vulnerable sectors, adequate enforcement of labour standards and prosecution of malpractices by the private sector, including informal and formal recruitment agencies, labour market intermediaries supplying labour in specific sectors or subcontractors in global supply chains, as well as travel agencies.

It is important that loopholes in enforcement of labour rights and working conditions are addressed, the same for the misuse of the EU posted workers directive. Further, to counter the culture of impunity, close cooperation of all relevant EU agencies, such as Europol (including EMPACT and the newly established European Financial and Economic Crime Centre (EFECC); Eurojust, the European Police College (CEPOL) and European Labour Authority (ELA) is needed.

¹⁴ See EU Parliamentary questions on the exploitation of construction workers, working on the new EU Council building https://www.europarl.europa.eu/doceo/document/E-9-2020-000080_EN.html



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

III Protection of victims of trafficking in human beings

Early identification is crucial for enabling victims to exercise their rights meaningfully. EU legislation provides for the assistance, support and protection of victims, ensuring that they are rights' holders. However we continue to see major gaps in implementation of rights and in the identification of all victims regardless their age, gender and the sector or type of exploitation, as well as in the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate. Currently victims cannot count on adequate shelter and protection, across all EU countries. The absence of adequate assistance and support may prevent trafficked persons from reporting to the authorities and may subject them to further trauma and re-victimisation.

A Human Rights based approach to Human Trafficking also means unconditional access to assistance and support. Currently most EU MS provide hardly any unconditional access to assistance and those not able or willing to cooperate with the authorities - often out of fear for the risk this entails - are left without even basic support, while risking deportation or detention. The New EU Strategy needs to emphasize and propose measures to ensure safe access to shelter and protection for all victims, on a tailor-made approach, with specific regard to particularly vulnerable and overlooked groups of victims, across all EU Member States. Funding for direct assistance and shelters should also be provided by all Member States.

Access to Compensation

Although trafficked persons have an established right to compensation and various compensation mechanisms are in place in EU Member States, in practice the actual receipt of a compensation payment by a trafficked person is extremely rare. Recent studies, including by the former EU Advisor on Compensation for victims of Crime have noted that huge differences remain to exist across Member States in the access to compensation, while for victims in cross-border situations it is even 'more difficult to receive compensation from the State in which they were victimized despite of the existence of the EU rules in this area'.¹⁵

Information, legal aid and legal representation are essential to enable trafficked and exploited persons to seek and obtain compensation successfully via court procedures. Trafficked persons should be informed about their rights to compensation in a timely and appropriate manner and need to be consulted on what compensation should look like and how this compensation needs to be provided. Criminal and civil law compensation options should be adapted for those affected in order to make them more effective and promote training and awareness among all relevant stakeholders, including prosecutors, judges and social workers about the possibilities for claiming and granting compensation. Money claimed should be used to compensate victims directly or used for funds supporting victims.

We recommend that the new trafficking Strategy includes actions promoting the provision of free legal assistance and representation of trafficked persons. Further we hope the Strategy will further promote: the establishment of a compensation fund - a state fund that covers, and advances, the compensation

¹⁵ Strengthening Victims' Rights, from Compensation to Reparation. Report of the Special Advisor J. Milquet to the President of the European Commission Jean-Claude Juncker, March 2019



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

payment when the perpetrators are declared insolvent and the victim is therefore, unable in practice, to collect the compensation that has been awarded to her/him - in those countries that currently do not have one, as well as a more uniform approach to determining compensation amounts.

Financial and non-financial compensation should also be accessible, when businesses have been involved in cases of labour abuses.

Access to Residence

Directive 2004/81/EC regulates the granting of a residence permit to third-country nationals, who are victims of trafficking in human beings or who have been the subject of an action to facilitate irregular migration and who cooperate with the authorities against suspected traffickers. However, the laws or policies determining which trafficked persons are granted residence permits vary substantially between different EU countries. Huge differences are noted between the numbers of identified victims and issued residence permits.¹⁶

Victims may be issued a renewable residence permit if their personal situation requires so, or if they need to stay in the country in order to co-operate with the authorities in the investigation of the trafficking offence. In general, there are only few possibilities to obtain (permanent) residence on personal grounds or transition to another kind of permit in the different European countries.¹⁷ The extremely limited possibilities for trafficked and exploited persons to access longer-term residence status, beyond the duration of ongoing criminal procedures is a major barrier to identification, reporting, investigation and prosecution efforts. It can lead to repeat victimization and re-trafficking.

In the COVID-19 situation, several EU Member States have recently extended periods of working permits or offered residence or regularization to specific groups of vital workers. We would welcome more of such actions and the EU to promote such regularization programmes in the new EU strategy. In particular, while going beyond the requirements of the Directive, the new strategy should actively promote good practices of Member States' that provide special permits to victims of crime regardless of whether or not the person cooperated with law enforcement, long-term status to trafficked persons, as well as clear pathways to longer-term residence status on various grounds (including, length of residence, employment, human rights considerations) if a long-term permit has not been initially granted.

Many difficulties are currently faced to ensure adequate support to (presumed) trafficked persons who have to return to other European countries, when they have not been able or willing to cooperate with the authorities or not identified as trafficked persons and therefore not provided a residence permit.

When applying the Dublin Convention, EU MS should take in consideration the right of safe return or referral and ensure that persons with a Dublin claim can report the crime of human trafficking in any European country and receive access to a protection and support.

A human rights approach calls for placing the protection of the rights of the person at the centre and

¹⁶ Idem

¹⁷ Insecure Justice? Residence permits for victims of crime in Europe, PICUM May 2020



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

for taking the best interests of the person as the point of departure in providing support. This also means exploring how to use and combine the anti-trafficking framework and the international protection one to complement each other and increase the protection of rights of people and the chances for them to receive a long term residence permit and an opportunity of integration in the job market. States should ensure that trafficked persons have fair and effective access to asylum procedures and that both victim protection standards and asylum procedural guarantees are systematically applied.¹⁸

Non-punishment of victims

Non-compliance with the non-punishment provision is another severe gap noticed at European national level. It is reported that victims still are punished – e.g. through administrative detention and the imposition of fines amongst other means - and prosecuted for crimes which were committed as a direct consequence of their trafficking, such as for immigration offences, the use of false documents and drug cultivation. As the monitoring body GRETA stressed: ‘the criminalisation of victims of trafficking not only contravenes the state’s obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state’s obligation to investigate and prosecute those responsible for human trafficking there is no specific legal provision or guidance on the non-punishment provision, and there are indications that victims of trafficking are punished for unlawful activities committed by them while they were under the control of their traffickers’.¹⁹

There is a clear need for all European countries to have a specific legal provision or guidance on the non-punishment provision and to ensure that this provision is adequately implemented. This provision should not only be applied when victims commit crimes in the framework of trafficking, but also when they are forced to violate administrative or other type of regulations in the context of their trafficking situation. This legal provision needs to go hand in hand with training to prosecution services, lawyers, police officers and other relevant officials on trafficking indicators and how crimes may be committed as a consequence of trafficking.

Social inclusion and longer term support

Social inclusion of trafficked persons is of major importance and needs to be realized, whether in countries of destination or after return to the country of origin or another third country. Comprehensive support and integration programs should include empowerment through vocational training and job placement or start-up support. Access to employment and economic independence is key in the mental well-being and health of trafficked persons, as it impacts personal identity, self-esteem, and social recognition and contributes to social integration. Regrettably we see that many victims of trafficking, including those with a valid residence permit, still have no adequate access to regular employment.

Overall, there is a need to intensify and multiply systems offering long-term support to meet the specific

¹⁸ See also LSI’s submission to the new EU Pact on Migration and Asylum, 27 August 2020 <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12544-New-Pact-on-Migration-and-Asylum/F546805>

¹⁹ 9th GENERAL REPORT ON GRETA’S ACTIVITIES GRETA Group of Experts on Action against Trafficking in Human Beings covering the period from 1 January to 31 December 2019 Council of Europe, April 2020



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

needs of all trafficked persons, including those of more recently identified forms of trafficking and to support their re/integration into society. Sustainable funding for this long-term support has to be increased. Best practices that support the reintegration of trafficked persons and other vulnerable groups, including regularization programmes, information desks for migrants and employment and integration programmes for migrants and refugees should be promoted.

IV Coordination

As the LSI Platform reported earlier²⁰ there is a lack of adequate European and national coordination, even though the European Commission acknowledged that 'Joint efforts by a wide range of relevant actors at all levels and a coordinated and coherent approach in all relevant policy areas and in EU internal and external action, under the horizontal mandate of the EU Anti-Trafficking Coordinator' is required. We repeatedly raised concern about the absence of an EU Strategy since 2017 and the delays in appointing a new EU Anti-Trafficking Coordinator, as well as the lack of information and transparency around these issues.

We believe that the mandate of the EU Anti-Trafficking Coordinator ('ATC') would be one important way to ensure coordination. We would like to repeat our earlier call for more information on the continuation of the mandate and the procedure to appoint a new person, while recommending an open and transparent process for the selection and appointment of a qualified person, who should bring vision and new forward looking strategies and ideas for addressing this pressing issue of human trafficking in all its facets at the European level.

In addition we support the European Commission call that 'more coherence is needed both at EU and national level, to ensure that related policies incorporate anti-trafficking policy, while fundamental rights in anti-trafficking policy and legislation should be mainstreamed; ensuring consistency and complementarity with the priorities and programming identified in migration, security and human rights areas and the 2030 Sustainable Development Goals Agenda'. Clearly repressive border management fuels irregular migration and increases the risk for people to become victims of human trafficking.

Cooperation should be strengthened with the EU Parliament, and the FEMM, LIBE and DROI committees, with the EU Network of National Rapporteurs and Equivalent Mechanisms on trafficking in human beings; the contact points in EU Justice and Home Affairs agencies with the Coordination Group on Trafficking in Human Beings, Europol, Eurojust, CEPOL and the European Labour Authority (ELA), FRA as well as other agencies and civil society including the EU Civil Society Platform against trafficking in human beings, as well as NGOs and NGO networks that are not part of this platform.

There is further need for improved coordination and cooperation among key actors working in the field of trafficking in human beings, based on a multi-sectoral, multi-disciplinary approach. The Commission should strengthen and further formalize cooperation with international organisations active in the field of trafficking in human beings to improve the exchange of information and ensure cooperation, in particular with the UNODC, other UN bodies, the UN Special Rapporteur on Trafficking in Persons, especially women and children and the Special Rapporteur on contemporary forms of slavery, including

²⁰ See LSI contribution for the 3rd EU Progress report, May 2020



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

its causes and consequences; the OSCE and the Special Representative and Coordinator for Combating Trafficking in Human Beings, as well as with the Council of Europe and its monitoring body GRETA.

Enhance cross border cooperation

As also acknowledged by the European Commission, cross border cooperation is essential. Closer cooperation between EU countries' authorities should help to overcome the complexity of different systems to obtain justice and compensation for trafficked persons. Victims of trafficking and other severe forms of exploitation should be able to approach courts and authorities in any EU country as easily as in their own and be provided with access to legal services as soon as possible. Access to justice and compensation requires harmonized cooperation among various stakeholders.

Coordination at national level

While EU Member States have established national coordination mechanisms, national strategies and actions plans to address human trafficking, as well as established national referral mechanisms (NRMs), we see still gaps in adequate coordination, cooperation of relevant actors and the referral of victims, via established NRMs. Some EU countries still have no adequate coordination structures in place, or lack strategies, national plans or effective referral mechanisms. Moreover, while some countries have launched national actions plans on addressing labour exploitation, many European countries do not have such policy or action plans yet defined. It should be ensured that at national level a statutory coordinating body is responsible for a human rights-based approach to all forms of human trafficking (that is not a law enforcement body); and that adequate national strategies, action plans and effective referral mechanisms are in place and are financially supported.

In addition, the involvement of a more diverse group of actors is needed in national coordination bodies and for the implementation of actions and policies. Often immigration and asylum officials, housing, labour, health, social and safety inspectors, as well as consumer organisations, trade unions, employers organisations, temporary job agencies, recruitment agencies and consular and diplomatic staff are not included in national coordination bodies or not sufficiently engaged in the implementation of actions.

Where absent, EU MS should establish independent national Rapporteurs whose independent responsibilities should be clearly outlined to distinguish it from political organs and other official representatives, making it a valuable addition to the existing system. Sufficient funding for adequate implementation of national counter trafficking action plans and strategies should be ensured.

Close cooperation with all civil society

The EU Civil Society Platform against Trafficking in human beings, which was established in 2013, should continue but undergo some structural changes. Firstly, we believe that membership of this Platform should be based on a transparent selection process for membership, and it should provide opportunities for civil society to contribute to setting the agenda and inform the ongoing policy processes and actions. We hope La Strada International – the largest European NGO Platform specialised in anti-trafficking efforts - will still be invited to engage as partner in the EU Civil Society Platform²¹ and that the new EU strategy will generally strengthen the cooperation with civil society and ensure access to all relevant civil society actors to information and debates.

²¹ Since 2013 La Strada International has repeatedly been rejected to engage as partner in the EU civil Society Platform.



La Strada International submission for a new EU Strategy towards the Eradication of Trafficking in Human Beings

1 September 2020

1. **ADPARE** (Romania)
2. **Animus Association** (Bulgaria)
3. **Anti-Slavery International** (UK)
4. **ASTRA Anti-Trafficking Action** (Serbia)
5. **Ban Ying** (Germany)
6. **CCEM** (France)
7. **CoMensha** (The Netherlands)
8. **FairWork** (Netherlands)
9. **FIZ** (Switzerland)
10. **Focus on Labour Exploitation (FLEX)**
(United Kingdom)
11. **Gender Perspectives/Social
Changes** (Belarus)
12. **Hope Now** (Denmark)
13. **HRDF** (Turkey)
14. **KOK** (Germany)
15. **La Strada Czech Republic**
16. **La Strada Moldova**
17. **La Strada Poland**
18. **La Strada Ukraine**
19. **LEFÖ** (Austria)
20. **Migrant Rights Centre Ireland**
21. **Novi Put** (Bosnia and Herzegovina)
22. **On the Road** (Italy)
23. **Open Gate** (North - Macedonia)
24. **Pro Tukipiste** (Finland)
25. **Pag-Asa** (Belgium)
26. **PICUM** (Platform for International
Cooperation on Undocumented
Migrants, Belgium)