



Presentation for High Level Conference Zero Tolerance for Child Labor, Forced Labor and Human Trafficking, March 2022

– Suzanne Hoff, International Coordinator, La Strada International

Thank you very much for the opportunity to speak and reflect on behalf of civil society today. We are happy that France and the other 5 path finder countries¹ of the Alliance 8.7 are strengthening efforts to address Child Labour, Forced Labour and Human Trafficking.

La Strada International is a European NGO Platform representing 30 organisations in 24 European countries including CCEM and ALC in France and CoMensha and Ban Ying present in this panel. We work on European monitoring and advocacy and our members support victims, conduct outreach and run helplines and prevention programmes.

We also represent La Strada in Ukraine, and I would like to make use of this opportunity to raise our concern about the situation in Ukraine and our worries about the well-being of our colleagues there, as well as the persons that they aim to support in the country. We all know that wars make more persons vulnerable to such severe forms of exploitation and abuse. And we count on all European governments that they will receive the needed support.

We follow the situation and actions taken related to human trafficking and forced labour in Europe closely on the ground. In particular also the implementation by European countries of the Council of Europe Convention and the EU anti-trafficking Directive and other EU law and international legislation. We believe there is a good legal framework in place to address forced labour and human trafficking effectively in Europe.

Nevertheless we call upon European countries to still ratify other relevant legal instruments including the ILO Additional Protocol on Forced labour, as well as the important ILO Conventions on Domestic Work (C189) and on Violence and Harassment in the field of Work (C190).

The same goes for the CoE Istanbul Convention – which France is also pushing for under its EU presidency – and as it is not yet adopted by all European countries, we hope that the European Commission accedes to this Convention. We also hope that the new EU directive on violence against women, of which the first draft is soon expected to be launched will ensure that also those not yet supported by anti-trafficking and victim rights legislation can claim their rights.

We see on a daily basis, that many workers in Europe work without adequate protection or decent minimum wage, and those in irregular work or in an irregular situation are especially at risk of severe labour exploitation and abuse, including human trafficking and forced labour. Especially over the last two years – during COVID times - we received an increasing amount of calls and requests for support from those workers in very vulnerable conditions. Many have no access to a legal stay or legal work in Europe.

We also see that businesses find legal loopholes to avoid compliance with labour rights standards, like abusive subcontracting practices and making use of letter box companies to deny responsibility for the exploitation and abuse and or use of posted workers to avoid paying minimum wages and or social security payments. Unfortunately there are still limited successful prosecutions against

¹ Albania, Côte d'Ivoire, France, Germany, Morocco and the Netherlands

businesses for their involvement in severe forms of labour exploitation and also remedies paid by businesses are still quite rare.

This should be effectively addressed and better monitored. We are content that the EU under the French presidency - just launched this month a new proposal for a Directive on Corporate Social Responsibility including binding due diligence. We however echo regrets that only 1% of all European companies would fall under this law and companies do not have to investigate their entire chain for abuses.

Next to ratification and alignment of international legislation, it is even more important that existing legislation is well implemented. It is good to hear that this virtual meeting will contribute to the effectivity and evolution of the EU Directive on THB.

While we follow the current evaluation of the EU anti-Trafficking Directive and the evaluation of the EU Victim Rights Directive with great interest, we believe that better implementation of these instruments is more needed than their revision.

I will now highlight five recommendations, in relation with gaps we see in the implementation of existing legislation by European countries and thus we call for more action on the following issues:

Identification and access to a reflection period

The number of identified trafficked persons in Europe remains low. Only a small percentage of the estimated high number of victims is recognised as such. Many persons facing severe forms of exploitation are not recognised as victims. Moreover, we continue to see a narrow focus on persons trafficked for sexual exploitation with a correlating lack of commitment and attention to other forms of human trafficking.

Also we see increasingly that victims of trafficking that are identified are not offered the reflection period. This in particular also goes for persons with a Dublin claim. This is worrying as we know that persons need time to recover, before they can decide to press charges and cooperate with the authorities. Moreover the reflection period is currently the only possibility for potential victims to receiving unconditional support in Europe, which brings me to my second point.

Unconditional access to assistance and support

We see that all over Europe, access to assistance and support for those identified as trafficked or in a situation of forced labour, is nearly fully made conditional on cooperating with the authorities. Those not able to cooperate with the authorities for whatever reason are not assisted or protected, except for NGOs support through private funding. We believe victims of trafficking should have access to unconditional support as victims of a severe crime.

Access to residence – also on personal grounds

Currently laws or policies determining which trafficked persons are granted residence permits, vary substantially between different European countries and generally identified trafficked persons do not have much access to regular stay. We do therefore call for access to residence on personal grounds, and a revision of the 2004 Residence Permit Directive, which is in line with the Council of Europe Convention on Action against trafficking in human Beings.

Access to Justice and compensation

For many victims access to justice is lacking in Europe. Options for safe reporting to report exploitation and abuse for persons that are undocumented or in irregular work is not available in most European countries, and people face arrest, detention and deportation if they approach the police. We also see a lack of structural information provision and availability of complaint mechanisms for victims.

Further we note that access to compensation and back wages are very difficult to realise in practise. While this right is established in various international and European instruments, there are structural obstacles to access compensation, including difficult access to free legal aid and obtaining specialised legal assistance, due to which the actual receipt of a compensation payment is extremely rare in practice.

Non punishment

Lastly, a major gap is the poor implementation of the non-punishment provision. Despite international and European legally binding standards on non-punishment and the adoption of specific legislation in several European countries, trafficked persons in Europe are often still wrongly detained, prosecuted and punished for offences they have been compelled to commit in the course, or as a result, of having been trafficked. This is a serious human rights violation and a denial of justice. It also leads to distrust towards the criminal justice system by victims and others.

For sure, all these gaps in the protection and support to victims, I highlight here are not new, we have been advocating for adequate implementation for these right provisions, for quite some time. However, it remains very important that these gaps are adequately addressed, next to as well the tackling of root causes of exploitation, including also the strict EU migration policies, which we note create huge vulnerabilities and are often inconsistent with other European legislation.

We believe that only when we protect the rights of victims, we can effectively address forced labour and human trafficking in Europe.

Thank you for your attention