



Organization for Security and Co-operation in Europe

Special Representative on Combating Trafficking in Human Beings

Vienna, 5 October 2005

Dear Mr. Frattini,

We have noted with great interest the upcoming conference under the UK Presidency of the European Union to develop suitable policies and practices in Europe to combat trafficking in human beings in the framework of The Hague Programme. The Expert Coordination Team of the Alliance against Trafficking in Persons* would like to take this opportunity to welcome this initiative and contribute to the development of the envisaged Plan of Action.

The Alliance Expert Coordination Team strongly supports the importance of developing a common EU Plan of Action to address trafficking in human beings. In doing so, it is imperative to build on the existing international obligations, as well as on the work that has already been done in the European Union and beyond.

In light of existing commitments, cited later in the text, we recommend that the upcoming EU Plan of Action be based on the following principles:

- I. A rights based approach in anti-trafficking policies and measures, and the systematic assessment of their human rights impact;
- II. The need for a multi-disciplinary and multi-agency approach, involving all relevant actors, in particular civil society, in the design, implementation, monitoring and regular revision of anti-trafficking responses.

TO:

Mr. FRANCO FRATTINI
Vice President
EU Commissioner for Justice, Freedom and Security

Based on these two principles we suggest that the EU Plan of Action would have to contain the following elements:

I. Establishment of European standards, guidelines and procedures on:

- A.** Victim assistance and protection, including special standards for the protection of children's rights, ensuring that all trafficked persons, irrespective of their ability and/or willingness to act as witnesses, have access to legal remedies and comprehensive systems of protection. This should comprise:
1. Victim identification and referral mechanisms;
 2. Access to short and long term assistance (medical, psychological, legal – as needed);
 3. Access to short and long term residence status;
 4. Access to work/labour market;
 5. Access to victim-witness protection, adequate judicial treatment and protection of their rights during civil, criminal and administrative procedures;
 6. Appropriate return, (re)integration and social inclusion programmes with full respect of the victim's right to safety and privacy. This includes the responsibility of the state, where the victim is identified, of conducting individual risk assessments prior, during and after the return of a victim;
 7. Decisions on a durable solution for trafficked children made either by an authority with a statutory responsibility for children's welfare, or by a judicial authority which is required to make the best interests of the child a primary consideration in its decision.
- B.** The functioning of a specific individual complaint mechanism for victims of trafficking.
- C.** The collection and sharing of data, based on the international standards for the protection of data and the privacy of the victim.
- D.** The interpretation of the concepts of exploitation, forced labour, slavery-like practices and servitude as contained in the definition of trafficking in human beings, and in light of international standards on related subjects, including children's rights.

II. Support the development, monitoring and systematic evaluation/revision of National Action Plans, which address all forms of trafficking in human beings.

- A.** Accordingly National Action Plans should include the following elements:
1. Institutionalized cooperation and coordination on policy and operational levels, bringing together all relevant actors, from State authorities, civil society, and labour market institutions. In particular this includes the establishment of National Referral Mechanisms, a concept ensuring the development of coordinated responses to trafficking and the identification, assistance and protection of victims of trafficking;

2. Systematic data collection and analysis, including disaggregated by age and gender, with due respect to the right to privacy of victims and other affected groups;
3. Specific research on topics that have been neglected until now, especially on trafficking for purposes other than sexual exploitation, demand for cheap labour as a contributing factor to trafficking, and the risks of re-trafficking;
4. Prevention measures to address root causes of trafficking and combat corruption;
5. Comprehensive systems of assistance, protection and redress, including special measures to protect the rights of child victims of trafficking;
6. Effective prosecution measures, including financial investigations;
7. Long-term state budgeting for the implementation of national action plans, including sustainable funding of NGOs.

III. Establish and/or strengthen cooperation mechanisms among EU Member States and with third countries regarding:

- A. Adequate assistance and referral of victims, paying specific attention to children;
- B. Effective implementation of judicial cooperation in criminal proceedings.

IV. Increase legal mechanisms for safe migration along with strengthening protection of the human rights of migrants.

The above recommendations are based on the following international obligations, as well as on the existing political commitments, guidelines and relevant documents for the EU Member States:

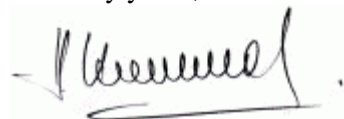
Legally binding instruments, political commitments and other relevant documents

- UN Convention against Transnational Organized Crime, 2000, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;
- Council of Europe Convention on Action against Trafficking in Human Beings, 2005;
- EU Council Framework Decision 629/JHA of 19 July 2002 on Combating Trafficking in Human Beings;
- EU Council Directive 81/EC of 29 April 2004 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;
- Communication from the Commission to the European Council, the European Parliament and the European Economic and Social Committee on Governance and Development, Brussels 20.10.2003, COM (2003)615final;
- European Convention on Human Rights, 1950;

- Convention on the Rights of the Child (CRC), 1989 and the Optional Protocol to the CRC on the sale of children, child prostitution, and child pornography (2000), and the involvement of children in armed conflict, 2000;
- Convention on the Elimination of all Forms of Discrimination Against Women, 1979
- ILO Forced Labour Convention, 1930 (No. 29);
- ILO Abolition of Forced Labour Convention, 1957 (No. 105);
- ILO Convention on the Elimination of the Worst Forms of Child Labour, 1999 (No. 182);
- ILO Minimum Age Convention, 1973 (No. 138);
- The Hague Convention No. 33 on Protection of Children and Co-operation in respect of Intercountry Adoption, 1993;
- The Brussels Declaration on Preventing and Combating Trafficking in Human Beings, 2002;
- The OSCE Action Plan on Combating Trafficking In Human Beings, 2003;
- UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, 2002;
- ILO Guidance for Legislation and law Enforcement on human trafficking and forced labour;
- UNICEF Guidelines for Protection of the Rights of Children Victims of Trafficking in South Eastern Europe, 2003;
- Report of the Expert Group on Trafficking in Human Beings, commissioned by the European Commission.

In conclusion, it is our sincere hope and expectation that the above recommendations will help in developing a comprehensive and innovative EU Action Plan to address trafficking in human beings. The Plan of Action will be yet another step forward in protecting and promoting the rights of trafficked persons and in dismantling criminal networks and prosecuting the perpetrators of this crime. The Expert Coordination Team of the Alliance against Trafficking in Persons stands ready to continue supporting and assisting you in this important initiative and looks forward to continued fruitful cooperation.

Sincerely yours,



Helga Konrad
OSCE Special Representative
on Combating Trafficking in Human Beings

* **The Expert Coordination Team of the Alliance against Trafficking in Persons** includes: OSCE Special Representative on Combating Trafficking in Human Beings, ATAU, SPMU, OCEEA, Senior Gender Adviser, ODIHR, UNHCHR, UNDP, UNICEF, UNIFEM, UNODC, ILO, IOM, International Federation of Red Cross and Red Crescent Societies, Council of Europe, ICMPD, Europol, Interpol, EC Expert Group, Dutch National Rapporteur, Nexus Institute, ACTA, Anti-Slavery International, ECPAT, La Strada International, International Federation of Terre des Hommes, Save the Children International Alliance.