



For children, their rights, and equitable development

Comments and recommendations

EU Forum on the prevention of organised crime

***Consultative workshop on the Draft Report of the European
Experts Group on Trafficking in Human Beings***

organised by the

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The International Federation Terre des Hommes welcomes the EU Commission's initiative to set up an European Expert Group on Trafficking in Human Beings (hereafter referred to as the Group), and thanks for being invited to comment on the Draft Report that has been prepared by the Group.

In 2001, Terre des Hommes started the International Campaign against Child Trafficking (ICaCT) to appeal the public and decision makers to help put an end to this deep violation of children's rights that Terre des Hommes considers a crime against humanity. The Terre des Hommes campaign operates on three interrelated levels: implementing specific field programmes to prevent and assist victims; raising awareness; advocacy work for legislative and policy changes. The comments and recommendations made today refer at large on the concrete experience made to the date during this on-going campaign.

Introduction

As a general comment, Terre des Hommes very much welcomes the content of the Group's Draft Report as it represents an important step towards addressing trafficking in human beings in a integrated approach based on human rights perspectives. Furthermore, through considering children as a specific group that is subject of rights, the Draft Report makes also an important step towards tackling child trafficking not merely as a sub-category of THB but as a specific phenomenon which needs appropriate responses.

Chapter 2. Definition and current context

Definition

Terre des Hommes welcomes the Group's approach of defining trafficking taking as basis the Trafficking Protocol provisions, and its special focus on the distinction between smuggling and trafficking.

Though the question of coercion in the case of trafficked children is addressed in further chapters of the report, Terre des Hommes would like to stress the importance to include in the definition of trafficking a clear mention to the fact that coercion is not required to consider a child being trafficked as stated in art. 3 (c) of the UN Trafficking Protocol: *"The recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation should be considered "trafficking in person" even if this does not involve any of the means set forth in subparagraph (a) in this article"*. These means are *"threat, use of force or others forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of the person"*.

Terre des Hommes insists on the necessity that each EU member states should ratify and implement the *UN Protocol to Prevent, Suppress and Punish Trafficking in Person, especially Women and Children*.

Current context

Terre des Hommes welcomes the Group's recommendation to allocate adequate resources and to set up a specific programme on trafficking based on a broad geographical scope which encompasses third countries, long term programmes and project-based actions. In the framework of that financial instrument, Terre des Hommes underlines the importance to allocate financial resources for programmes targeting specifically child trafficking. Terre des Hommes also recommends that the EU should co-ordinate its funding policy with others actors which donate funds to organisations involved in counter-trafficking work (whether the recipients are inter-governmental organisations or NGOs).

In that perspective, Terre des Hommes encourages the implementation of integrated approaches, i.e. based on the campaign format, that inter-relate in a dynamic way direct field actions (prevention, protection, voluntary assisted return, rehabilitation and co-ordination); awareness work and advocacy strategies for legislation and policy changes.

The recent and future enlargement of the EU represents also clear opportunities to improve prevention of child trafficking and protect victims from the NMS. Meanwhile, enlargement raises new challenges as traffickers are likely to move further through neighbouring countries in search of new victims. The EU must be able to assess and monitor the impact of its own enlargement on child trafficking, and ensure that measures to fight child trafficking are included as one of the priorities of the future enlargement process and of the New Neighbourhood Policy which is still being developed. This must also be reflected in the New Neighbourhood Instrument. In addition, the Balkans is an important area both of origin and transit of trafficked children and any future EU policy towards this region must include special measures to prevent child trafficking and protect and rehabilitate child victims.

Chapter 3. Guiding principles and cross-cutting themes

Human Rights approach

Terre des Hommes welcomes the Group's approach to promote an holistic and integrated human rights approach which gives due balance to empowerment strategies and repressive strategies. In that perspective, Terre des Hommes supports the recommendation to integrate a human rights approach as a normative framework in the further development of policies against THB.

Holistic and integrated approach

Terre des Hommes also underlines the importance of acting at different levels – local, national, regional, European and international. In that perspective, the IFTDH would like to stress on the needs for a coherent internal-external EU policy against trafficking. This EU internal-external coherent approach would enable the EU to build a comprehensive policy based on aspects related to EU external aid policy and EU internal anti-trafficking policies.

Specific position, rights and needs of children

Legal framework

As regards to the legal framework related to child trafficking, besides the international instruments mentioned in the Group's report, the IFTDH reminds that considering *The Hague Convention on the Protection of Children and co-operation in Respect of Intercountry Adoption* is of primary importance to address trafficking in children for purpose of international adoption.

Recommendations related to children

As a general comment, the IFTDH welcomes the Groups' position to consider children as a group that is subject to specific position, needs and rights, as this is a clear step forward made in the general debate on trafficking in the EU context in compliance with the Trafficking Protocol's criteria which defines trafficking involving under 18's qualitatively different from trafficking in adults. Therefore, IFTDH welcomes the Group's recommendation to adopt a child rights-based approach as a normative framework in any further development of EU policies directly or indirectly related to Trafficking in Human Beings. On this basis, child trafficking cannot continue to be addressed as a simple sub-category or a sort of add-on to the main topic of trafficking in persons by specifying a few extra needs which children have. Child trafficking has to be considered as a phenomenon which differs from trafficking in adults though directly linked to it.

In line with the Group's approach, the IFTDH strongly recommends that the EU adopt a specific definition and establish a specific policy area for child trafficking based on the commitments undertaken by the EU community under the CRC. That policy area would provide a comprehensive response to child trafficking with equal emphasis on prevention, protection, rehabilitation and prosecutions aspects; it would encompass a flexible geographical scope that would enable to address the issue in all the countries involved in the trafficking chain either as origin, transit or destination. It would also include specific direct and indirect elements to prevent child trafficking through the EU Human Rights, Development and Humanitarian Aid external policy in coherence with the EU internal measures.

Terre des Hommes welcomes the Group's recommendation on the European Anti-Trafficking network. In order to ensure a greater impact, Terre des Hommes recommends that network works in full co-ordination with all the various Commission DGs that relate to child trafficking to provide the comprehensive multi-disciplinary and coherent internal-external strategy that is required.

Chapter 4. Prevention

Terre des Hommes welcomes the fact that Prevention is approached through long and short term strategies integrating both internal and external policies in a consistent manner. Besides, Terre des Hommes appreciates the emphasis given to birth registration and basic education as prevention instruments and considers those as crucial elements of the EU Development policy. In this framework, the EU should furthermore explore how, in the future, school registration certificates can be used as a tool for authorities to identify trafficked children once in the EU.

A specific focus on prevention of child trafficking must be included in the EU policy on humanitarian aid. There is a need to introduce specific measures that will protect children against trafficking networks both in emergency and post-emergency situations. The EU will in particular need to support activities orientated towards increasing the sensitivity of peace-keeping troops deployed by the member states, in order to ensure that they do not create an increase in the demand for child trafficking.

Chapter 5. Recovery, assistance and protection of trafficked persons.

In terms of protection and assistance to children victims of trafficking, Terre des Hommes considers that adequate guidelines have been set up that are almost absent in the EU legal and policy framework on trafficking. Terre des Hommes suggests that *The Guidelines for Protection of the Rights of Children Victims of Trafficking* prepared by Unicef in 2003 in relation to South East Europe should also be reflected in any future EU policy. In line with that, the EU Commission and the Member States should conduct a review to assess how its current procedure and practices compared to those recommended in the Guidelines and Principles issued by Unicef and the UN High Commissioner for Human Rights. A review panel which includes representatives of both statutory agencies and NGOs with experience of assisting trafficked children should be asked in every countries to recommend specific measures to bring national practice into line with these international guidelines.

Chapter 6. Law enforcement strategies

To have any chance of success, prosecution-based strategies have to be based on sensibly worked legislation and well trained police and prosecution teams specialising on trafficking. The risks of reprisals means that prosecution of trafficking should not ideally involve victims, and especially children having to give evidence. On that basis, Terre des Hommes welcomes the Group's recommendations to; allocate adequate financial and human resources; to run education and training programmes for law enforcement officials; to develop the "victimless" approach. The IFTDH recommends that the training programmes includes a specific child-rights approach and that specialised police units on children which are more likely to use child friendly methods be set up.