



Recognise rights: Compensation for trafficked persons La Strada International Statement on Anti-Trafficking Day 2010

Today, on the 4th European Day against Trafficking in Human Beings, La Strada International calls for better provisions for compensation for trafficked persons. Although most European countries have legal provisions for victims of crime to claim compensation for material and non-material damages, in practice, it remains one of the weakest rights of trafficked persons when it comes to accessibility. Compensation means:

- ☞ Justice for trafficked persons and recognition of their right to redress.
- ☞ Empowerment for trafficked persons to take their future in their own hands and reducing the risk of re-trafficking.
- ☞ Hitting the traffickers where it hurts the most: confiscation of their criminal assets and using the monies to compensate trafficked persons.

Although NGOs, governments and international organisations can all agree that compensation is an indisputable right of trafficked persons, there are many barriers that discourage them from applying or obstacles that prevent them from receiving compensation. Next to the many practical obstacles, the biggest problem is the international anti-trafficking framework itself. The focus of the criminal justice system on prosecution of traffickers results in considering victims only as *witnesses* and disregards some of their rights. Those who should support trafficked persons in claiming compensation are often not aware of or not considering the existing possibilities. The use of compensation orders by criminal courts is practically non-existent. Lawyers and prosecutors hardly ever take on a compensation claim. NGOs that provide services rarely inform their clients on the possibilities of compensation.

Paradigm shift

The call for more focus on the right to compensation is not only a call for justice for trafficked persons or a call for material redress, but a call for a paradigm shift. Instead of treating trafficked persons as passive victims in need of rescue, they need to be acknowledged as active claimants of their rights.

Recognition in international treaties

The Convention of the Council of Europe, adopted in May 2005, contains several provisions on compensation (Chapter III, Article 15.). The proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA, underlines in article 14 the right of trafficked persons to legal representation for claiming compensation and the obligation of member states to provide for mechanisms to grant trafficked persons with effective compensation.

Awareness raising

In order for trafficked persons to actually be remunerated, it is vital that there is awareness of the possibilities for claiming compensation. Therefore, La Strada International and Anti-Slavery International have set up a three-year project called COMP.ACT together with NGO partners in 14 European countries that aims to mainstream legal redress into the national anti-trafficking measures and into the international anti-trafficking debate ensuring access to compensation.

Recommendations

LSI believes there is no need to create new instruments for compensation but existing measures and instruments should be made accessible to trafficked persons. States should develop a comprehensive policy on compensating trafficked persons and ensure that:

- Lawyers, prosecutors and judges are trained and aware of the importance and the national possibilities for claiming compensation.
- The barriers and obstacles for trafficked persons to claim compensation are recognised and removed.
- A State Compensation Fund for victims of crime is accessible for all trafficked persons.
- Civil society organisations that work on awareness-raising and accessibility of compensation for trafficked persons are supported.