



Prevention of trafficking in persons in Central and Eastern Europe
Prewencja handlu ludzmi w Europie Srodkowej i Wschodniej
Предотвращение торговли людьми в Центральной и Восточной Европе
Prevenca obchodu s lidmi ve Stredni a Vychodni Evrope
Prevenција trgovine ljudima u Centralnoj i Istočnoj Evropi
Залобігання торгівлі людьми в країнах Центральної та Східної Європи
Prevenirea traficului de fiinte umane in Europa Centrala si de Vest
Превенција на трафика на хора в Централна и Источна Европа
Превенција од трговија со луѓе во Централна и Источна Европа
Preventie van mensenhandel in Centraal en Oost Europa

La Strada Statement and Recommendations

on the Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA

La Strada International (LSI) welcomes the Commission's proposal for a revised Framework Decision on combating trafficking in human beings and in particular its objective of improving the protection and assistance to trafficked persons, in recognition that this is "an obligation under human rights standards". In comparison to the 2002 Framework Decision, the proposal no longer focuses merely on *combating* trafficking but explicitly commits to *preventing* trafficking and *protecting* the rights of trafficked persons. This broadening of scope is in particular evident with regard to the:

- non-application of sanctions to the trafficked person,
- specific protection of the rights of vulnerable trafficked persons,
- recognition of the importance of compensation for trafficked persons, and the
- establishment of mechanisms for early identification.

The Commission refers to the proposal as a integrated and holistic approach in the fight against trafficking in human beings. However, La Strada International believes that a true holistic and integrated approach also addresses the root causes of trafficking and links anti-trafficking policies with migration policies.

Nevertheless, LSI considers this proposal an important step forward towards an integrated and holistic approach to adequately address the human rights violations caused by trafficking.

LSI hopes that this revision will pave the way for additional and more specific EU measures on the protection and assistance of trafficked persons in the future. The entry into force of the Lisbon Treaty would allow for the adoption of a directive in the field, which would most likely lead to the articulation of more concrete obligations on protection and assistance. In addition, the Lisbon Treaty would allow for a more integrated approach to the protection and migration issues that may arise in relation to trafficked persons of third country origin.

La Strada International also envisions a more integrated debate on the root causes of trafficking and a discussion on enlarging labour migration possibilities. In this regard, LSI looks forward to the report on the implementation of Directive 2004/81/EC later in 2009. Because of the absence of fuller measures either at EU or national level addressing the migration status of trafficked persons of third country origin, the EU Returns Directive may oblige Member States to return such trafficked persons to countries of origin without regard to whether they have been afforded proper assistance as victims of trafficking in human beings.

La Strada International would encourage the Council to adopt the proposal, taking into consideration the suggestions and comments set out below.

Protection of vulnerable victims of trafficking in human beings in criminal proceedings

Article 9 (6)

With regard to the description of “vulnerable trafficked persons”, La Strada International holds that all trafficked persons can be considered vulnerable. Therefore, *all* trafficked persons should have access to free legal counselling and legal representation on the same grounds envisaged for the defendant, including for the purpose of claiming compensation. Not only in the course of the criminal procedures but also before and after the criminal proceedings.

The right to compensation can be of great importance of the recovery for trafficked persons. Not all compensation claims are made within the course of criminal procedures against the trafficker though, and confiscation of assets is not always possible. Therefore, trafficked persons also need legal assistance to claim compensation through other channels, such as compensation funds or labour laws.

Assistance to victims

Article 10 (3)

Measures that might be put in place to ensure early identification should be further clarified. It could be recommended to member states to establish national referral mechanisms as described in the Handbook National Referral Mechanisms Joining Efforts to Protect the Rights of Trafficked Persons (ODIHR, 2004) .

La Strada International supports the concept of multidisciplinary teams (including NGOs) responsible for identification.

Article 10 (4)

The term “secure accommodation” could be misinterpreted as closed accommodation or even detention. It should be very clear that trafficked persons have the unconditional right to freedom of movement when accommodated in a shelter. Therefore, the term “safe” instead of “secure” could be considered.

Article 10 (4)

The protection of the rights of a trafficked person should not be dependent on their cooperation with the authorities. Trafficked persons should be granted necessary assistance and support not only in the framework of criminal proceedings but in the framework of their recovery from human rights abuses. Support and assistance should therefore be granted from the moment at which the competent authorities have an indication that she/he might have been subjected to trafficking. All trafficked persons should be entitled to a reflection period, allowing them to recover and escape the influence of the perpetrators of the offence so that they can take an informed decision as to whether to cooperate with the authorities or not.

Prevention

Article 12 (2)

Regular trainings to indentify (presumed) trafficked persons should be promoted to *all* professionals that could come in contact with trafficked persons or across situations of exploitation, such as front line police officers, immigration officials, labour inspectors, prosecutors, lawyers, judges but also service providers or employers.

Article 12 (2)

La Strada International seriously doubts whether criminalising the use of the services of a trafficked person might lead to the desired effects, as it will be very hard to prove in court that the 'offender' was aware of the exploitation at the moment the services were provided. Furthermore, criminalisation of demand is not necessarily in the best interest of the trafficked person as the effect of criminalisation of demand could be that traffickers and exploiters put trafficked persons in more isolated situations.

La Strada International also recommends member states to develop preventative measures aimed at (presumed) trafficked persons and groups vulnerable to trafficking such as migrant workers. Information that provides these groups with knowledge about their rights and possibilities and information on where to turn to if those rights are violated are essential to empower people and groups vulnerable to exploitation and abuse.

Monitoring

Article 13

La Strada International recommends to make very clear that the National Rapporteurs or other equivalent mechanisms need to be independent bodies (as stated in the The Hague Declaration, 1997) so as to guarantee independent and comparable monitoring of the implementation and impact of counter-trafficking measures and policies.