



Organization for Security and Co-operation in Europe

*Special Representative
on Combating Trafficking in Human Beings*

Helga Konrad

December 2005

ASSESSMENT OF THE HUMAN TRAFFICKING SITUATION AND ANTI-TRAFFICKING ACTIVITIES IN THE NETHERLANDS

This assessment is based upon a country visit (and previous visits and contacts) of the OSCE Special Representative on Combating Trafficking in Human Beings in September 2005, during which state and independent institutions were visited, such as the Minister of Justice (the Procurator General, the National Prosecutor for Trafficking in Human Beings and the Director-General International Affairs and Immigration), the Ministry of Social Affairs and Employment (the Director for the Labour Market and the Director of the Social Information and Investigation Department SIOD), the Ministry of the Interior (the Director General for Security, the Expertise Centre for Human Trafficking of the National Criminal Investigation Department of the Dutch Police), the Ministry of Foreign Affairs (the Human Rights Ambassador, the Director for Security Policy), the Ministry of Defence (the Deputy Director of Personnel), the National Rapporteur on Trafficking in Human Beings, Representatives of the Lower House of Parliament, UNICEF Netherlands, IOM Netherlands, EU Experts Group on Trafficking in Human Beings, and the following NGOs: SHOP, ECPAT, AMOC, La Strada International, Pretty Woman, BLinN, the Dutch Council for Refugees, the Netherlands Helsinki Committee, Terres des Hommes, Atalantas, the Foundation against Trafficking in Women (STV), TAMPEP and the Foundation of the Religious against Trafficking in Women.

GENERAL

The Netherlands is primarily a destination country, however 30% of the police investigations of THB cases deals with domestic trafficking. In this respect, it should be noted that many victims of trafficking in the Netherlands are in fact Dutch nationals.

The Netherlands has a longstanding experience in addressing the issue of trafficking in human beings. It was one of the first countries within the EU with national legislation on the subject. Right from the start, trafficking in human beings was condemned and subject to sanctions. Dutch criminal legislation and a policy on trafficking in women had been brought into force even as far back as 1911. A provision (Article 250ter) prohibiting trafficking in women and girls for prostitution was included in the criminal code. In 1923 the crime of trafficking in women was extended to include trafficking in minors of the male sex.

In 1994 the gender-neutral qualification of trafficking in human beings was introduced in the wording of the criminal legislation.

In 2000 the general ban on brothels was lifted.

In December 2004 a National Action Plan was introduced by the Dutch Government.

In January 2005 Article 273a was added to the Criminal Code, broadening the definition of trafficking in human beings to include other forms of slavery-like exploitation in economic sectors outside the sex industry. The Ministry of Justice, more specifically the Board of Procurators General, have provided instructions on the new article on exploitation in other socio-economic sectors and have set clear terms for 'exploitation for work'. Given the definition on exploitation in employment relationships, the Ministry of Social Affairs and Employment and its inspectorates, i.e. the Social Information and Investigation Department SIOD, is going to play a bigger role in fighting the crime of trafficking for labour exploitation. Also, in the first half of 2005 an Expertise Centre for Human Trafficking of the National Criminal Investigation Department of the Dutch Police was established and an Information Bureau Youth Prostitution was created.

RATIFICATION OF THE PALERMO PROTOCOL

The Palermo Protocol is recognized by the OSCE and around the world as the central international instrument in the fight against human trafficking. The Netherlands did ratify this Protocol in the summer of 2005. With the introduction of Article 273a into the Criminal Code, Dutch law was brought into line with the Protocol. At the implementation level, however, this process is still ongoing:

INSTITUTIONAL MECHANISMS: NATIONAL ACTION PLAN, NATIONAL RAPPORTEUR

The Netherlands has several interagency mechanisms in place to coordinate the fight against trafficking in human beings.

It has a comprehensive Action Plan where the actions to be undertaken are clearly defined, the actors are clearly identified and a deadline is set for every action. In December 2004 it contained actions on legislation and regulations, on prevention of trafficking in human beings, on support of victims, and on investigation and prosecution.

The fight against trafficking in human beings is a priority for the Netherlands. An important tool in this regard is the Office of the National Rapporteur on Trafficking in Human Beings, established since 1 April 2000. This Dutch National Rapporteur is an independent institution not to be confused with the national coordinator, whose work it is to coordinate the government responses to trafficking in human beings. As of now, the Netherlands has no national coordinator as such, but co-ordination responsibilities are handled by the Ministry of Justice.

Every year the National Rapporteur delivers a report on the situation of trafficking in human beings and the fight against it. It contains valuable data and information gathered from all kinds of sources and is presented to the Dutch Government and discussed in Parliament each year. The Dutch government usually acts upon the recommendations made in the report.

PREVENTION

The Dutch Government states in its National Action Plan that it realises that measures that restrict migration could have a negative impact on the fight against trafficking in human beings. A restrictive response to migration and immigration will expose migrants to unregulated and undesirable forms of migration and illegal employment and make them vulnerable to trafficking in human beings. Therefore the potential impact of these measures on trafficking in human beings will be taken into account wherever possible during decision-making on measures that restrict migration.

Some interlocutors reported that in practise, however, the Ministry for Immigration and Integration pursues a more restrictive immigration policy than in former Governments.

INVESTIGATION AND PROSECUTION

A National Crime Squad was installed in the Netherlands in 2003. The fight against trafficking in human beings is under its remit. In the summer of 2005 a special national unit for investigating and prosecuting individuals suspected of trafficking in human beings was created for this matter: the Expertise Centre for Human Trafficking and People Smuggling in Zwolle. Expectations in relation to this centre are high, first results are expected soon.

In 2004 more than 60 police investigations were concluded 'successfully' in the sense that suspects of trafficking in human beings were sent to the Public Prosecutor.

The regional police, however, lack sufficient capacity to tackle the problem of trafficking in human beings. Also, training should be extended to include more law enforcement officers and prosecutors. While the level of training offered by the police is reportedly high, there is no systematic training in the Netherlands of all the relevant law enforcement bodies, including border officials, investigators and prosecutors who need skills to respond properly to human trafficking cases. Illegal migration, human smuggling and trafficking in human beings are still confused. The police focus more on investigating and prosecuting perpetrators than on financial investigation and confiscation. Since the ban on brothels was lifted, traffickers in human beings find new opportunities to bring victims into new locations for forced prostitution, such as massage salons, partner clubs and Turkish coffee houses. Intensive investigation of these new locations is necessary. Escort clubs, where forced prostitution is becoming increasingly common, are another new concern.

In 2004 220 suspects of trafficking in human beings were registered with the Public Prosecutor. 178 men (81%) and 39 women (39%). The most frequent country of birth is the Netherlands (92 suspects), followed by Turkey (24), Romania (23) and Bulgaria (14). Most suspects are 18 to 40 years of age (79%), 4 suspects were minors. In 80% of the cases trafficking in human beings was the only or the most serious criminal offence. In all the other cases there was sexual violence (11%), or other forms of violence (6%) (Source: provisional data from the Public Prosecutor)

ASSISTANCE & PROTECTION TO VICTIMS

In 2004 the number of registered victims was much higher than in the years before; a total of 405 (possible) victims. In 26 cases children were involved.

The most frequent countries of origin: Netherlands (59), Bulgaria (55), Romania (45) and Nigeria (39). (Source the Foundation against Trafficking in Women)

Assistance and protection of victims in the Netherlands is in the first place provided by NGOs. Registration of victims is centrally done by the Foundation against Trafficking in Women (STV). It is a cause for concern to see that in the year 2004 public funding of several NGOs that were active in the field of prostitution and the fight against trafficking in human beings was stopped or cut; there is serious concern that valuable expertise will be lost and needed support is not provided.

The B-9 Regulation (Section B-9 of the Aliens Act Implementation Guidelines) allows aliens who are or might be victims of or witnesses to trafficking in human beings to temporarily remain in the Netherlands during the investigation and prosecution process, thus remaining available to the police and the Public Prosecution. The police are required to inform a victim of his or her rights under the B-9 Regulation and offer her/him a period of reflection. NGOs report that the police not always do so.

The reflection period (up to three months) gives victims the time to decide if they will file a report. If a victim decides not to file a report, she/he must leave the Netherlands straight away. If she/he decides to report, this is regarded as an application for a temporary residence permit. The permit is issued for the duration of the investigation and prosecution and is cancelled as soon as it is halted or completed. There are possibilities to apply for a permanent residence permit for the period after. An amendment to the regulation from 2005 now allows the victims to work.

CHILD TRAFFICKING

More must be done to fight child trafficking and to address the special needs of children found to have been trafficked. The extent and nature of child trafficking into and within the Netherlands is not very well known.

A recent report on the exploitation of children in the Netherlands of the NGO ECPAT together with UNICEF Netherlands contains a database with data of 230 victims: 73.5 percent were exploited for prostitution, 9.1 percent both in prostitution as well in other sectors, 17.4 percent were exploited in other sectors such as households, cleaning business, drugs dealing and other criminality, and cases of illegal adoption.

Efforts to obtain more concrete data should be undertaken. This would be important to further developing a responsible approach tailored to the special needs of children.

In line with the ECPAT/UNICEF Netherlands Report of 2005 we suggest the following:

- The law makers should further clarify which forms of exploitation of children fall within the purview of Article 273a of the Criminal Code, so that actors in the field are better able to identify the problem and can act more proactively.
- Information sharing and training should be enhanced and enforced in order to strengthen prevention and identification, assistance and protection of child victims.
- Child victims of trafficking in human beings should automatically be granted a permanent residence permit on humanitarian grounds and 'guardians' should be provided.
- More specialized shelters for children are needed.
- Cooperation between the different actors (national and international) should be improved, agencies such as the National Rapporteur, the Expertise Centre for Human Trafficking of the National Criminal Investigation Department of the Dutch Police and the Information Bureau Youth Prostitution should be strengthened.

TRAFFICKING IN HUMAN BEINGS AND PROSTITUTION

The ban on brothels was lifted in October 2000, legalising such establishments for the purpose of better controlling and regulating this sector in accordance with stringent municipal licensing policies. Forced prostitution and involving minors in prostitution are criminal offences under the Dutch law. The Netherlands distinguishes between forced and voluntary prostitution. However, it is important to have in mind that, persons who voluntarily work as prostitutes - whether self-employed or not -, can also be or become victims of trafficking.

It is generally seen that prostitution would continue to exist, even if it was forbidden. Prohibition would only criminalise or stigmatise sex workers and force them into illegality, where they would become an easy prey of traffickers and have no protection whatsoever. They would not have access to social care and health centres.

Moreover, clients are considered to be a valuable source of information on trafficking situations.

Institutions in the Netherlands are aware of and faced with of the phenomenon of lover boys. Pimps (usually young Dutch men) adopt the 'lover boy' technique to bring victims into prostitution and keep them there. Traffickers in foreign women also increasingly use this technique. This complicates the investigation process, because the women and girls recruited this way are often reluctant to report to the police.

TRAFFICKING FOR LABOUR EXPLOITATION

The implementation of Article 273a, that includes all forms of trafficking, is still at an early stage.

The National Rapporteur has announced in her fourth report to conduct research into the labour sector and other services, and into activities that are directed towards trafficking in organs. Her office started a study in what it calls 'other exploitation'. Also UNICEF and ECPAT are doing research on exploitation for labour concentrating on children.

The Social Information and Investigation Department (SIOD) in the Ministry of Social Affairs and Employment is aware of the problem of trafficking for labour and they are working more closely with other law enforcement and immigration services; they are planning to involve Trade Unions and civil society in tracking this crime.

In the labour sector in particular it would be advisable to "follow the money".

CONCLUSIONS

The Netherlands has a high awareness of the growing problem of trafficking in human beings for all kinds of exploitation. It has a set of institutions in place to fight this horrible crime and has a unique tool with the National Rapporteur.

Shelters for victims of all kinds of exploitation are necessary, housing for the period after the shelter should be provided for. In the year 2004 subsidies to all kinds of organisations that were active in the field of prostitution or women's rights were cut or decreased; it is clear that valuable expertise will be lost and reduce the support to victims of trafficking in human beings.

More police at local and regional levels must be better trained to identify trafficking in human beings.

The B-9 regulation has been amended in a positive way; victims are allowed to work during their period of stay. They are actively supported by several institutions to apply for a permanent residence permit.

Child victims of trafficking should be automatically provided with a permanent residence permit, not linked to cooperation with authorities.