



Organization for Security and Co-operation in Europe

*Special Representative
on Combating Trafficking in Human Beings*

**Continued dialogue between
the OSCE Special Representative on Combating Trafficking in Human Beings and
the “Alliance Expert Coordination Team”
with
the EU Commission, the EU Presidency (UK) on the further development of an EU
Action Plan to fighting trafficking in human beings**

General comments on scope and approach

The EU Action Plan will be a fundamental step forward in setting standards in the fight against human trafficking at the European and national levels. To be successful, the Plan must be the result of a thorough consultative process, which builds on existing international obligations, as well as on lessons learnt in the anti-trafficking work that has already been undertaken in the EU countries and beyond.

The scope and nature of the measures laid down in the Plan, as well as the allocation of adequate resources, will determine the effectiveness and efficiency of the efforts to curb human trafficking.

The Alliance Expert Coordination Team appreciates the introduction of a broad range of guiding principles for the implementation of the Action Plan, and in particular the adoption of an integrated approach based on the respect of human rights as foreseen in the Communication. **However, the Alliance Expert Coordination Team regrets that the current draft Plan (12402/205 REV 2 dated 8 November 2005) fails to fully translate these principles into operational measures and urges a revision of the draft Plan in this direction.**

There are significant discrepancies between the selected objectives and the defined actions to achieve them, which are not always relevant and focussed, thus raising concerns about their efficacy and efficiency. Moreover, the indicators to measure the achievement of the expected results are often very generic in nature and will make it difficult to monitor progress.

Specific comments on structure and measures

The structure of the Plan should ensure a balanced and integrated approach to all components of prevention, protection and prosecution, in line with international obligations.

The components of assistance and protection, as well as of return and reintegration, are very weak compared to prosecution, which is in contradiction with the guiding principle of a human rights and victim-centred approach. The Plan also fails to take stock of the rich experience developed in several EU countries and to translate it into specific concrete measures. A significant gap is the absence of rights-based measures to ensure victims' access to justice and to effective remedies, as well as the development of standards and procedures for victim identification, and assistance.

The part on prevention is mainly focussed on actions directed to prevent illegal migration, smuggling and on border control. It does not include 'empowerment' measures designed to inform potential migrants of their rights in destination countries or to ensure their protection, nor does it address conditions in destination countries which create an environment in which trafficking flourishes.

Recommendations

The Expert Coordination Team of the Alliance against Trafficking in Persons strongly recommends that further consideration be given to the inclusion of the following elements in the Plan:

Chapter 1. Coordination of EU Action

- I. Institutionalise national coordinating structures (e.g. interministerial group, multi-disciplinary working group/task force, national coordinator);
- II. Establish monitoring mechanisms, including specific provisions for the systematic assessment of the human rights impact of measures foreseen in the Plan. A public debate is not a sufficient action to achieve this objective;
- III. Provide clear and adequate funding mechanisms, including programs funded by the various Directorates General of the Commission (e.g. DG for Employment, Social Affairs and Equal Opportunities);

Chapter 2. Scoping the problem

- I. Ensure that guidelines for data collection and analysis take into due account the right to privacy of victims and other affected groups;

- II. Promote the establishment of an independent national rapporteur with adequate means at its disposal;
- III. Conduct specific research on trafficking for labour exploitation, demand for cheap labour in specific economic sectors as a contributing factor to trafficking, and on the risks of re-trafficking (in addition to foreseen research on child trafficking).

Chapter 3. Preventing trafficking and Chapter 4. Reducing demand

- I. Ensure access to information about safe migration opportunities (including immigration, labour and family law) and ensure transparency of procedures;
- II. Increase legal mechanisms for safe migration along with strengthening protection of the human rights of migrants;
- III. Critically review impact of current systems of issuing work permits for migrant workers on the protection of human rights and labour standards, and in particular review policies which link visa or work permit to a specific employer or type of employment;
- IV. Promote the establishment of safe labour recruitment practices and of their monitoring in countries of origin and destination in accordance with international standards;
- V. Implement measures to reduce the invisibility of exploitation through a multi-agency program of monitoring, administrative controls and intelligence gathering on the labour markets;
- VI. Promote adequate work conditions in accordance with international labour standards in areas at risk in order to reduce emigration pressure from countries of origin;
- VII. Ensure that measures to identify potential victims do not restrict free movement of people as foreseen in international commitments.
- VIII. Raise awareness of the media and of their need to deal with the topic in a sensitive manner without reinforcing negative stereotypes. Ensure that the media safeguard privacy by avoiding public disclosure of the identity of victims of trafficking or publication of confidential information inimical to victims' security;

Prevention should also include long term measures to address the following:

- IX. Address the problem of unprotected, informal and often illegal labour with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration;

- X. Take measures to eliminate discrimination against women in the field of employment, as one of the root causes;
- XI. Address discrimination towards ethnic minorities, and their limited access to education and labour market as one of the root causes of trafficking.

Chapter 6. Protecting and supporting victims of trafficking and Chapter 7. Returns and reintegration

- I. Establish clear European standards and guidelines on assistance and protection of victims, irrespective of their ability and/or willingness to act as witnesses, including special standards for the protection of children's rights. This should comprise:
 - Victim referral mechanisms that ensure that identification of trafficked victims is an integral part of support and assistance measures;
 - Access to short and long term assistance (medical, psychological, legal – as needed);
 - Access to a legal guardian for children;
 - Access to short and long term residence status, including a reflection/recovery period;
 - Access to education and training programs;
 - Access to work/the labour market in line with labour standards such as the minimum working age;
 - Access to victim-witness protection, adequate judicial treatment and protection of rights during civil, criminal and administrative procedures;
 - Access to financial compensation for material and non material damage and harm suffered;
 - 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, to conduct individual risk assessments prior, during and after the return of a victim;
 - 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;
 - A specific individual complaint mechanism for victims of trafficking.

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