

## Prevention of human trafficking (children and adults)

This text is largely based on the following documents: EU Directive 2011/36/eu of the European Parliament and of The Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA from the web site:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>;

Council of Europe Convention on Action against Trafficking in Human Beings from the website:

<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=1&CL=ENG>; and the

Directive of The European Parliament and of The Council on Combating The Sexual Abuse, Sexual Exploitation of Children and Child Pornography repealing Framework Decision 2004/68/JHA, from the website: <http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?id=584949>

### **EU DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA**

This Directive adopts an integrated, holistic, and human rights approach to the fight against trafficking in human beings. More rigorous prevention, prosecution and protection of victims' rights are major objectives of this Directive. This Directive also adopts contextual understandings of the different forms of trafficking and aims at ensuring that each form is tackled by means of the most efficient measures. In order to tackle recent developments in the phenomenon of trafficking in human beings, this Directive adopts a broader concept of what should be considered trafficking in human beings. Therefore, the exploitation of begging, including the use of a trafficked dependent person for begging, falls within the scope of the definition of trafficking in human beings only when all the elements of forced labour or services occur. In the light of the relevant case-law, the validity of any possible consent to perform such labour or services should be evaluated on a case-by-case basis. However, when a child is concerned, no possible consent should ever be considered valid. The expression 'exploitation of criminal activities' should be understood as the exploitation of a person to commit, inter alia, pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain. The definition also covers trafficking in human beings for the purpose of the removal of organs, which constitutes a serious violation of human dignity and physical integrity, as well as, for instance, other behaviour such as illegal adoption or forced marriage.



## Standards that EU Member States are expected to observe:

### Article 18 of the Directive

#### Prevention

1. Member States shall take appropriate measures, such as **education and training, to discourage and reduce the demand** that fosters all forms of exploitation related to trafficking in human beings.
2. Member States shall take appropriate action, including through the Internet, such as **information and awareness- raising campaigns, research and education programmes**, where appropriate in **cooperation with relevant civil society organisations and other stakeholders**, aimed at **raising awareness and reducing the risk of people, especially children**, becoming victims of trafficking in human beings.
3. Member States shall promote **regular training for officials** likely to come into contact with victims or potential victims of trafficking in human beings, including **front-line police officers**, aimed at enabling **them to identify and deal with victims and potential victims** of trafficking in human beings.
4. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.

## Council of Europe Convention on Action against Trafficking in Human Beings

**The Council of Europe Convention** calls for “effective policies and programmes to prevent trafficking in human beings” to be established or strengthened, for example by “**research, information, awareness raising and education campaigns, social and economic initiatives and training**”



**programmes**, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings” (article 5.2).

Article 5.3 requires States to “**promote a Human Rights-based approach** and [each State] shall use **gender mainstreaming and a child-sensitive approach** in the development, implementation and assessment of all the policies and programmes” (referred to in article 5.2).

**A human rights approach** essentially requires to examine:

- what the effects of anti-trafficking policies and programmes are on trafficked persons and others who have been identified as being disproportionately more likely to be trafficked than average – and modifying such policies and programmes if they have a negative impact on such people

Needs to use evaluations, impact assessments or other exercises by the authorities to find out what the impact of prevention activities have been and to modify them as necessary, a question which is examined in relating to the formal monitoring of each State’s anti-trafficking initiatives.

#### **Prevention measures to be taken by member states include:**

- information and awareness raising campaigns to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings;
- intensifying research on the subject;
- promotion of regular training for officials likely to come into contact with victims and potential victims of trafficking in human beings.
- Anti-Trafficking Coordinator (ATC) is also mentioned in the text. He/she is supposed to contribute to Commission reports on the progress made in the fight against trafficking in human beings. These reports should be presented to the Council and the European Parliament every two years.

#### **What is reported in practice<sup>1</sup>**

In order to monitor an efficient prevention work it is important to observe:

- a. what information was available to migrants before and after their arrival in a country where trafficked persons are reported to have been exploited.

In practice: Nine EU Member States that are mainly countries of origin and emigration reported that in most (six out of nine), adequate levels of advice seemed to be available in 2008 or 2009 from government agencies for potential emigrants: information that mentioned appropriate

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<sup>1</sup> Statistics and figures cited in this paragraph are taken from “E-notes. Report on the implementation of anti-trafficking policies and interventions in the 27 EU Member States from a human rights perspective (2008 and 2009).



precautions to avoid being entrapped by traffickers or others who might subject them to forced labour. A slightly higher number reported that such information was available from other sources (such as NGOs or international organisations). The two countries where the level of information available was reported to be inadequate (from either of these potential sources) were Latvia and Lithuania. In none of these nine countries did our researchers consider that the information available was inaccurate or that it exaggerated the problems that potential migrants might encounter that information exaggerated the risk of being trafficked or implied that the safest option was automatically to stay at home and not migrate.

- Inadequate information was reported to be available for migrants on their arrival, on precautions to take to avoid being trafficked or subjected to forced labour, in 16 out of 23 EU countries. Similarly pre-arrival information on such precautions was reported to be inadequate in 16 out of 21 countries.

- b. whether relevant government agencies in each country investigated proactively whether human rights and labour rights were respected or abused :

In practice: in nine EU countries researchers concluded that there had been such 105 proactive investigations in 2008 (and in 2009 there were in eight),

- c. whether working conditions were acceptable in the unprotected sectors of the economy (notably sectors where it is predominantly women, rather than men, who work or provide services, such as domestic work, au pair or similar arrangements, and the commercial sex sector) and try to detect exploitative working practices, including cases of forced labour and trafficking

### **Directive of The European Parliament and of The Council on Combating The Sexual Abuse, Sexual Exploitation of Children and Child Pornography repealing Framework Decision 2004/68/JHA**

Sexual abuse and sexual exploitation of children are particularly serious forms of crime as they are directed against children, who have the right to special protection and care. They produce long-term physical, psychological and social harm to victims and its persistence undermines the core values of a modern society relating to the special protection of children and trust in relevant State institutions. Despite a lack of accurate and reliable statistics, studies suggest that a significant minority of children in Europe may be sexually assaulted during their childhood, and research also suggests that this phenomenon is not decreasing over time, rather that certain forms of sexual violence are on the rise. The general policy objective of the Union in this field, under Article 67 of the Treaty on the Functioning of the European Union, is to ensure a high level of security through measures to prevent and combat crime, which includes child sexual abuse and child sexual exploitation. In accordance with Article 83 of the Treaty on the Functioning of the European Union, this should be done primarily by establishing minimum rules concerning the definition of criminal offences and sanctions



in the area of sexual exploitation of children. Specific objectives would be to effectively prosecute the crime; to protect victims' rights; and to prevent child sexual exploitation and abuse.

## General context

With regard to child victims, the main cause of this phenomenon is vulnerability resulting from a variety of factors. Insufficient response by law enforcement mechanisms contributes to the prevalence of these phenomena, and the difficulties are exacerbated because certain forms of offences transcend national borders. Victims are reluctant to report abuse, variations in national criminal law and procedure may give rise to differences in investigation and prosecution, and convicted offenders may continue to be dangerous after serving their sentences. Developments in information technology have made these problems more acute by making it easier to produce and distribute child sexual abuse images while offering offenders anonymity and spreading responsibility across jurisdictions. Ease of travel and income differences fuel so-called child sex tourism, resulting often in child sex offenders committing offences abroad with impunity. Beyond difficulties of prosecution, organised crime can make considerable profits with little risk. National legislation covers some of these problems, to varying degrees. However, it is not strong or consistent enough to provide a vigorous social response to this disturbing phenomenon.

The recent Council of Europe Convention CETS No. 201 on the Protection of Children against Sexual Exploitation and Sexual Abuse ("the COE Convention") arguably constitutes the highest international standard for protecting children against sexual abuse and exploitation to date. On a global scale, the main international standard is the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 2000. However, not all Member States have yet acceded to this Convention.

