

NATIONAL RAPPORTEUR

This text is largely based on information from the web page of the Office of the National Rapporteur on Trafficking in Human Beings. <http://english.bnrm.nl/about/news/archief/First-report-on-child-pornography>; and on the Official Journal of the European Union, L 101/5, 2011; eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101

The EU Directive on preventing and combating trafficking in human beings and protecting its victims stipulates in its Article 19 that:

National rapporteurs or equivalent mechanisms

“Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.”ⁱ

Anna Korvinus, First National Rapporteur on Trafficking in Human Being in the Netherlands:

“The importance of appointing a Rapporteur was that it increased attention for this special offence and highlighted the subject of human trafficking and efforts to combat it for the police, the public prosecution service, politicians and the general public. There is certainly greater ‘public awareness’ of human trafficking. The importance of catching the perpetrators in this sector has also been highlighted. The victim support organisations realised the importance of a Rapporteur from the very beginning. I have always had enormous admiration for the people who work in these organisations. It is they who see the distress of clients most immediately. I was amazed that they did not become disheartened. When I left office, the person who spoke on behalf of the social services clearly articulated the growing realisation in the social services of the need to do more to deal with perpetrators. Because of my background in the public prosecution service, they thought that I focused too much on catching perpetrators. It is to the credit of the social services that they can certainly also see the bigger picture. On the other hand, the police and the public prosecution service have become more aware of the interests of victims. More intensive contacts between the police and the social services have helped in this. They also have a greater understanding of each other’s roles.”ⁱⁱⁱ

The basis for the appointment of a National Rapporteur on Trafficking in Human Beings in the Netherlands was laid by The Hague Declaration, which was adopted in 1997 following a ministerial conference on trafficking in women organised by the European Union (EU).



One of the recommendations made in this Declaration was that member states should appoint national rapporteurs to report to their governments on the scale, prevention and combating of trafficking in women. National rapporteurs were also encouraged to promote mutual cooperation on a regular basis. This description of the tasks of national rapporteurs remains valid to this day.

The European Council's conclusions on the establishment of an informal network of national rapporteurs on trafficking in human beings or similar mechanisms in 2009 also illustrates the need for objective, reliable, comparable and up-to-date strategic information about human trafficking in the EU. In these documents, the scope of the offence is no longer confined to trafficking in women, but extends to trafficking in *human beings*.

The nature of the mandate requires that the National Rapporteur on Trafficking in Human Beings must be independent. The Rapporteur submits annual reports to the Minister of Justice. The government responds to the reports and informs parliament of its conclusions. Through these reports, the Rapporteur plays an important role in monitoring policies to combat human trafficking and the associated legislation. The government generally publishes a reaction to substantive reports by the Rapporteur, which is then the subject of a plenary debate in the Lower House of Parliament. The fight against human trafficking is a topic that is also regularly addressed in the election manifestos of many of the political parties.ⁱⁱⁱ

Tasks of the National Rapporteur on Trafficking in Human Beings^{iv}

The task of the National Rapporteur on Trafficking in Human Beings is to report annually on the nature and scale of human trafficking, the mechanisms that play a role in human trafficking, the developments taking place in this field and the effects of relevant policy. The Rapporteur has no executive tasks at operational level.

The Rapporteur is assisted by the staff of the Office of the National Rapporteur on Trafficking in Human Beings, which gathers quantitative and qualitative information through its own research, through secondary analysis of existing databases, and by organising meetings and attending regular consultations. BNRM is also represented on review committees for studies into subjects relating to human trafficking and associated topics. The Rapporteur also participates in international forums, such as steering groups and roundtable meetings on EU policy to combat human trafficking.

It is difficult to measure the scale of human trafficking. The Rapporteur has repeatedly referred in reports to how important it is for the responsible agencies to keep proper records so that quantitative data can be collected about human trafficking and the efforts to address it. Better registration and improved methods of registration of victims also remain important areas of concern at the international level. Such quantitative records can, however, give a distorted view of reality. Qualitative research is therefore also important for a deeper insight into human trafficking. This is reflected, for example, in the recommendations to find out more about what happens to victims after they have been recognised as such.

Other recommendations in the last 10 years have concerned the desirability of research into other subjects, such as the disappearance of victims from shelters and the reasons for it, as well as the



experiences of victims after they have returned to their country of origin. The Rapporteur has also referred to the importance of thoroughly investigating whether prostitutes who work *legally* are victims of human trafficking. If research that has been recommended has not been carried out, the Rapporteur may decide to conduct the research personally, especially if the subject is urgent.

The first report was primarily a survey of the state of affairs with respect to human trafficking and the efforts being made to tackle it at that time, which was shortly after the abolition of the general ban on brothels. BNRM has carried out more research of its own for many of the subsequent reports. One of the studies involved an exploration of the existence of exploitation outside the sex industry ('other forms of exploitation') following the entry into force in 2005 of the new article of the criminal code on human trafficking. The results of that study appeared in the Fifth report, which also published the findings of a study into financial investigations. For the most recent report, BNRM conducted studies into the application of the non-punishment principle, cases that have been 'shelved' by the police and objections to decisions not to prosecute (Article 12 of the Code of Criminal Procedure) and the case-law on human trafficking in the sex industry.

Because good research is extremely important for combating human trafficking effectively, the growing academic interest in the subject of human trafficking is a welcome development.

National rapporteurs or equivalent mechanisms in other countries^v

Various international bodies, including the United Nations (UN), have urged countries to appoint rapporteurs. The explanatory report to the Council of Europe's Convention on Action against Trafficking in Human Beings (2005) – which also calls for the appointment of national rapporteurs or equivalent mechanisms – expressly mentions the Dutch national rapporteur as an example of an independent monitoring mechanism.

Following the European Commission's evaluation of the EU Action Plan on Human Trafficking in 2008, one of the principal recommendations made by the Commission was to establish national rapporteurs or equivalent mechanisms. The Commission said these national agencies should be given the task of monitoring trends in human trafficking as well as the results of policies and measures to combat human trafficking. The Council of Ministers of the European Union adopted conclusions on the subject in June 2009.

For example, the UN General Assembly (in resolution A/RES/59/166 of 10 February 2005) recommended the appointment of national rapporteurs. A report on the UK by Anti-Slavery International stated that: 'An independent National Rapporteur on Trafficking in Human Beings should be established in the UK, along the lines of the role of the Dutch National Rapporteur' (Anti-Slavery International, 2006, p.30).

The Convention calls on States Parties to consider appointing a national rapporteur (or equivalent mechanism) for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements, Article 29 (4) of the Council of Europe



Convention on Action against Trafficking in Human Beings, *Bulletin of Treaties* 2006, 99. The Hague Declaration of 1997 also called for the appointment of national rapporteurs. See § 1.1.

There is now an informal network of national rapporteurs, which is an important step since national rapporteurs can promote the exchange of best practices and share experiences at national and European level. The network has held two meetings so far.

There are not yet many other countries with an *independent* national rapporteur on trafficking in human beings. In practice, a growing number of countries have established an equivalent mechanism, which is usually integrated in a ministry or the police force.

A number of countries have appointed a coordinator, in addition to a national rapporteur or equivalent mechanism. In some cases, the same agency performs the role of coordinator and of national rapporteur (or equivalent mechanism).

On January 2012, a **statistical report on prosecutions and trials (appealable judgments) for THB in 2006-2010** was released. The full version is not yet available in English. Please find below a summary:

In the period between 2006 and 2010, the public prosecution service dealt with an average of **200** cases of trafficking in human beings per year. On average, in three quarters of those cases the defendant was summoned. Per year, an average of **130** defendants appeared before a Judge. In trials in the first instance, a sentence for trafficking in human beings is reached in an average of 58% of cases. After the percentage of sentences had diminished by 25% in the years 2004-2009, the percentage rose to 59% again in 2010 – which is about the same as the yearly average in 2006-2010. Nearly all (91%) of the sentences contained a not suspended or partly suspended custodial sentence. The average duration of the not suspended part of the sentence appears to have decreased over the period 2006-2010 (to 639 days), which does not appear to match the legislator's perception of trafficking in human beings as a serious crime – a perception which in the past has led to the raising of the maximum sentence and might do so again in the future.

First Report on Child Pornography^{vi}

On October 12 2011, the National Rapporteur presented her First Report on Child Pornography to the Minister of Security and Justice and the State Secretary of Public Health, Welfare and Sport. Immediately afterwards, the Minister stated he would adopt the main recommendation of the Rapporteur: to form an integrated approach to protect children against sexual violence. The ministries of Security and Justice and Public Health, Welfare and Sport will be responsible for developing and implementing this policy of which (independent) monitoring is an essential element.

The Rapporteur conducted research on the phenomenon, and both current and possible responses. She concluded – amongst other things – that child pornography (CP), grooming, sexual exploitation,



and sexual abuse are all interconnected phenomena. The common denominator is sexual violence against children. According to this perspective, CP is sexual violence against children on images, sexual exploitation is sexual violence against children for profit and child sex tourism is sexual violence against children abroad. If policy and interventions are to be effective, the Rapporteur urges the government to develop an integrated approach to protect children against sexual violence. Of course, ICT is inextricably bound up with sexual violence. Therefore, an integrated approach has to embed and embrace the online world in order to protect the children of today. For example, police should not only seize data carriers in CP cases, but in every situation where there are indications of sexual violence. And, although this year alone hundreds of children were victims of online sexual violence in the Netherlands (such as victims of CP), no treatments are available for these children which address their specific problems. Furthermore, the Dutch Advice and Notification Centres for Child Abuse do not have a digital framework yet which consequently could result in overlooking online (clues of) sexual violence. Most importantly, 'integrated' also means preventing sexual violence from happening in the first place and preventing re-offending and re-victimization. Responses targeting different potential offenders, victims and situations should be installed. A detailed blueprint of the integrated approach and (recommended) responses can be found in the First Report on Child Pornography.

i Official Journal of the European Union, L 101/5, 2011.

ii Trafficking in Human Beings. Ten years of independent monitoring. NR EM review, The Hague 2010. p. 18.

iii Ibidem, p. 9.

iv Ibidem. Based on a paragraph 1.1.2 Terms of Reference of the National Rapporteur on Trafficking In Human Beings. p.11.

v Ibidem, p. 12-13.

vi From the web page of the Office of the National Rapporteur on Trafficking in Human Beings. <http://english.bnrm.nl/about/news/archief/First-report-on-child-pornography>

