



STABILITY PACT FOR SOUTH EASTERN EUROPE

TASK FORCE ON TRAFFICKING IN HUMAN BEINGS

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CHECK AGAINST DELIVERY!

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ILO Symposium: Combating Trafficking in Human Beings

– Learning from the European Experience -

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First of all, I should like to thank the organisers, for having convened this conference, which is so particularly important because it highlights cooperation in the fight against human trafficking in a global context. I am honoured to have the opportunity to address this conference in my capacity as Chair of the Stability Pact Task Force on Trafficking in Human Beings for South Eastern Europe (SPTF) which has been established under the umbrella of the OSCE, the Organisation for Security and Cooperation in Europe in order to develop a comprehensive response to this horrendous criminal business.

INTRODUCTION TO THE PROBLEM

Let me start with a short introduction to the problem of human trafficking:

Trafficking in human beings in Europe is not a new phenomenon – it has started in the early seventies and has been rising constantly in recent years – massively since the Eastern European countries opened their borders, after the fall of the iron curtain –, but in the past few years it has taken on added dimensions in this era of globalisation. Apart from its disruptive effects, such as weak economies and few job opportunities or restricted access to education – especially for women and children in many countries of transition –globalisation serves the “practical” needs – if I may say so - of organised criminals very well by improved international transportation infrastructures, decreased border controls, electronic money transfer, instant communication etc. –which facilitate directly or indirectly the increase of human trafficking worldwide.

Trafficking in human beings is one of the most globalized markets in the world today, one that almost no country is immune from. It has generated tens of billions of dollars in a global underground economy.

It is mainly poverty and political instability which prepare the ground for human trafficking.

Human trafficking concerns by no means only countries of origin; much rather it affects us all equally — in East and West alike, in Europe and in other parts of the world - as countries of origin, transit and/or destination.

More than 50,000 people are said to be trafficked into the USA each year – and just to mention an example of how closely these criminal markets are connected worldwide – we have reports about persons from Bulgaria, Romania, Latvia, Estonia, the Czech and Slovak Republic who were trafficked to Africa, notably to South Africa for the purpose of multiple exploitation and only recently a Moldovan girl was found to have been trafficked to Japan.

Over the years, there has been a shift in the dominant countries of origin of women and girls trafficked to western European countries. From the mid seventies until 1980 most of the women originated from South America, followed by a wave from the

Philippines, which was superseded by women from Africa for a short period of time, in the early 80s.

In the mid-eighties, a lot of women and girls came from Thailand and the French Overseas Territories. Since 1989 – the fall of the iron curtain - more and more women from (South)Eastern Europe and from the Commonwealth of Independent States have been trafficked.

While in Europe women and children have been trafficked mainly for sexual exploitation and begging, stealing and other abusive purposes such as for the market of pornography, many trafficked persons including children in other parts of the world, but increasingly also in Europe, end up to be exploited as domestic servants, as workers in sweat-shops, in construction sites and factories, - in several countries on plantations, in mines.

So far we have been addressing human trafficking mainly for the purpose of sexual exploitation – also because it is a major problem in Europe and many other parts of the world.

There have been some isolated efforts to address trafficking in human beings in the context of forced labour or services, but not enough to reach a critical mass of action that would permit results to show for it.

We therefore highly appreciate that ILO as a member of the SPTF Expert Coordination Team is going to address this very specific issue through concrete projects and research. And it is certainly not an easy task.

The question to ask is probably no longer: what can we do, but rather: what can we do more and do better in the fight against human trafficking.

The scope of the problem is enormous and criminals are becoming more and more brutal and sophisticated in their methods .

It is uncontested that every year, tens or even hundreds of thousands of people, most of them women and children from less privileged countries, are sold, tricked and forced into situations of exploitation from which there is almost no escape.

Despite regional differences, trafficking patterns throughout the world have common threads. Most trafficking victims are women and children. Most are threatened with physical and emotional abuse, and nearly all suffer from neglect and mistreatment.

These people are abused as commodities by a transnational criminal industry – the profits of which have been found to be so high that some of the criminals are moving away from drug trafficking into this modern form of slave trade or profit even further by using the trafficked persons as ‘manpower’ for other criminal purposes, such as trafficking or selling drugs and weapons.

Human trafficking is one of the most lucrative criminal enterprises in the world.

Profits from this criminal industry are enormous, generating billions of dollars annually to organized crime groups. And they are fully integrated into the global economy, buying and selling securities, speculating on foreign exchange rates and doing business on the stock exchange. The only difference is the origin of the money they invest. Global financial markets are at best loosely monitored.

Trafficking in Human Beings has become a new business and source of strength for organised crime. Globally, the full spectrum of criminal organizations and shady businesses are involved - from major criminal syndicates to gangs to smuggling rings to loosely associated networks.

Europol, the law enforcement authority of the EU, estimates that there are 3000 Mafia organizations with at least 30,000 collaborators ‘active’ in criminal endeavours.

With low risk and high profit potential, human trafficking has become the new crime of choice.

Trafficking in human beings has developed its own industry and typically involves transporters, recruiters, document forgers, brothel owners, employment agencies etc. The trafficking industry world-wide is also connected with other related criminal activities such as extortion, money laundering, bribery, drug use, etc. There are no ethnic barriers between the criminals.

And, of course, the trafficking industry could not exist and thrive to such an extent without corruption.

I assume that we are all aware of the complexity of the problem and that we all agree that numerous contributing factors have to be taken into account if we wish to find a sustainable response to this appalling transnational crime: - numerous factors, such as the unequal economic development of different countries; extremely high unemployment in many countries of origin, poverty, most particularly among the female population, lack of economic opportunities, but also inequality, discrimination on the basis of sex and race, gender-based violence including domestic violence in our societies, the prevailing market mechanisms; the patriarchal structures; the demand side including the promotion of sex tourism in many countries of the world, the demand for cheap exploitative labour, the mindsets of men, etc. (The attitude 'men are men' prevails all too often).

It is evident that no single country, nor institution or agency alone will be able to diminish the problem of human trafficking. On the contrary: Coordination on all aspects in the combat against human trafficking and absolute cooperation on everything is indispensable, if we wish to be successful. Cooperation at the regional and international level is essential if trafficking networks are to be dismantled.

THE STABILITY PACT TASK FORCE ON TRAFFICKING IN HUMAN BEINGS (SPTF)

The SPTF is such a coordination mechanism which has demonstrated that regional and international cooperation can work in practice. It encourages States to develop national strategies to prevent trafficking, to prosecute traffickers and to protect and reintegrate victims. It provides assistance to governments in improving their capacities to act on their own and in cooperation with each other.

The Stability Pact Task Force provides the framework within which all relevant international organisations – and ILO, the International Labour Office, is one of our main partners -, several non-governmental organisations and institutions dealing with human trafficking offer their input and expertise. Such an approach enables us to provide governments with a comprehensive picture of the inter-related and complex challenges of human trafficking and to offer guidance and best practices in anti-trafficking management.

The SPTF acts as a clearing house for all measures pertaining to the fight against human trafficking.

Initially, the SP Task Force worked to help enact the regional and national frameworks in which current anti-trafficking actions are undertaken. This includes:

- Appointment of national governmental coordinators in each country;
- Establishing multi-disciplinary national working groups;
- Adoption of national plans of action for each country; and
- Harmonizing the approaches by focusing on regional and international cooperation.

These structures have proven effective not only in countries of origin and transit, but also in countries of destination.

The work of the SPTF is based on a comprehensive approach to this complex and multifaceted problem -, involving all main areas of concern within this complex puzzle of human trafficking: from

- awareness raising,
- training and capacity building,
- law enforcement cooperation (with NGOs, judiciary, prosecution etc.),
- victim assistance and protection,
- return and reintegration, to
- legislative reform and
- preventive measures

combined with well-considered division of labour reflecting the different fields of experience of the different players – involving all relevant actors, governmental authorities, local NGOs, police, international organizations etc. - to avoid needless duplication and competition.

In close collaboration with those responsible on the spot, - the governmental authorities, the police, NGOs etc. – we have developed a regional strategy in form of a Multi-year Anti-Trafficking Action Plan, ensuring that there is a regional and international component to each national anti-trafficking activity. For example, the legislative framework must be such that a trafficker cannot avoid prosecution simply by stepping back across a border. You can find the guidelines for the development of national plans of action among your hand-outs.

The cooperation developed within and for the SPTF can and will serve as a model for other regions.

While international organizations (IOs) and NGOs have an important role to play, only governments have the authority and means to significantly limit the scope of trafficking. Individually and collectively, States and their governments bear primary responsibility for the implementation of measures to combat human trafficking and they have to ensure that they comply with their international obligations under human rights norms, namely: to respect and protect the rights of individuals, through both legal and administrative facilities.

Although attention at the political level has increased in the meantime, few States have come to see it as t h e i r responsibility to protect individuals from trafficking and its related human rights abuses and to provide effective assistance and remedies to victims.

Trafficking in human beings is often seen from governmental sides as substantially less important than other crimes.

Therefore, initially, the SP TF has focused on fostering the awareness of governments of the fact that trafficking in human beings is a distinct phenomenon, being both a law enforcement issue and a human rights concern. Later in my presentation I would like to come back to these two issues.

Combating this global problem, this transnational crime, requires also concerted political action and political will at national, regional and international levels, if we wish to achieve a significant change.

We therefore organize once a year a gathering of the relevant government Ministers from all the countries of the region (Regional Ministerial Forum) where they have to agree upon very concrete next steps in the fight against human trafficking – the implementation of which will be closely monitored by the SPTF. (Palermo, Zagreb, Tirana, Sofia)

PUSH AND PULL FACTORS

I believe, that we all understand, why the response to human trafficking must be interdisciplinary and international.

The so-called push and pull factors are closely connected and therefore sending and receiving countries must work together in order to achieve sustainable solutions in the fight against human trafficking. Civil wars and conflicts, lack of democracy, but also bad economic situation (often economic programmes are not socially balanced and contribute to social exclusion of great parts of the population, such as the young, the old, women rather than to social inclusion), few job opportunities etc. are particularly powerful push factors, - the temptation of high wages and of a certain prosperity are pull factors which motivate many people to migrate irregularly. (Most often, however, their fantasies of a better life in the golden West become the traffickers' golden opportunity). Widespread disenfranchisement of women combined with a widespread return to 'traditional' gender roles, which has contributed to excluding women from the work force, and the feminisation of poverty are the biggest push factors among women seeking work abroad. It leads to an increasing number of vulnerable women, willing to risk their lives in order to escape from poverty and to earn money for themselves and their families elsewhere.

It is from the fact that these people are illegal immigrants and often illegal workers that criminal organisations draw their profits. They take advantage of the demand for cheap, unprotected labour and the promotion of sex tourism in many countries.

SMUGGLING/ILLEGAL MIGRATION

Unfortunately, although the UN Protocol against trafficking in persons is very clear about the definition, the concept of trafficking in persons too often is still being confused with other concepts – especially with smuggling of migrants and illegal immigration.

While trafficking in human beings may share common characteristics with alien smuggling and illegal migration, we must be aware that it has its own distinctive features and dynamics involving particularly grievous human rights abuses which demand a specific and appropriate response.

Some of the victims may have accepted the services of smugglers to get to a foreign country, or they may have crossed borders illegally, but the fact that they are deprived of their freedom, that they are put into slavery like situations and exploited creates a clear distinction.

Trafficking in human beings is distinctly different from human smuggling or illegal migration and as such requires specialised measures for its investigation, prosecution and prevention.

According to an Interpol survey regarding national approaches to trafficking in human beings, 43% of the countries did not employ special policing techniques in the investigation of human trafficking.

LAW ENFORCEMENT

It goes without saying that law enforcement/police has a major role to play in the fight against human trafficking.

- Victims of trafficking are currently identified almost exclusively by law enforcement or police officers.
- It depends on their insight into the problem whether people are classified as victims or not.
- It depends on their insight into the problem, whether victims of trafficking are correctly treated.

- And it depends on them, whether a case will be followed up by the prosecutor or not, as it is for them to question the victims and to prepare the files.

There is still a trend among the police towards an interrogation strategy which tries to take the person interrogated by surprise. It is argued that a statement given immediately after arrest is true and unfalsified, because the people concerned are not given the chance to think over their statement or to monitor their behavior.

LAW ENFORCEMENT - NGOs

In contrast to this, NGOs who are service providers for victims of trafficking have found that victims need a period for recovery and recuperation from their traumatic experience and for developing trust in foreign authorities and institutions.

Frequently they do not see themselves initially as victims of a crime, and it takes time and a lot of talking until the victims are able to grasp their situation. Furthermore, victims of trafficking very often have been warned by their traffickers not to trust anyone, least of all the police. Sometimes victims are ashamed of what they were forced to do – namely to work as prostitutes – and even condemn themselves. This is why NGOs believe that victims will come up with the full truth only over a period of time.

Only on the basis of longer contacts and regular talks victims are willing to tell their story and even to testify and finally to uphold their statements.

The lesson we can learn from this is, that identification of victims of trafficking should not be exclusively carried out by police, because of this element of uncertainty. It should rather be jointly effected by police and NGOs.

In many countries there is lack of structured and systematic cooperation between law enforcement officers and those who run victim protection centres. One problem is the mutual distrust that exists between police and NGOs, which is rooted in their different objectives and in the reluctance of both parties to communicate with each other. This is a great disservice to trafficked victims.

Therefore, both sides must overcome ideological reservations through long-term joint working experience. It is important to build up systematically and to maintain regular contacts between the two sides. The different tasks and approaches must be made transparent and acceptable to all those involved.

According to research findings it is a persistent problem that victims are tracked down by the police – which is how only a very low percentage of them (30-35%) are discovered - instead for the victims of being able to resort to a network of points of contacts and support services, without running the risk of being immediately caught in the machinery/mechanisms of law and order.

Although in recent years, things have changed slightly, victims of trafficking are still often seen as perpetrators and criminalized. Frequently, they are still taken to jail and/or detention centres instead of to shelters – and are deported before the circumstances have been thoroughly investigated.

This brings out in clear relief the urgent need for investigative efforts by the police to be tuned with the victims' well-being and for law enforcement agents to be sensitized to special techniques, such as non-threatening interrogation techniques - in working with victims. They must be familiarized with victims' needs and also with victims' limits.

We must realize that it is impractical and ultimately unacceptable to disaggregate the notion of law enforcement from assisting and protecting victims of this crime.

Since trafficking victims currently provide the primary source of witnesses for the prosecution, a victim-centred approach by law enforcement is not only consistent but logical in order to achieve law enforcement objectives.

The sole focus on testimonial evidence by victims acting as witnesses is also something that needs discussing. Because prosecution that builds exclusively on testimonial evidence by victim/witnesses is least successful. Other forms of evidence are indispensable and must be fitted together like a mosaic.

From practice we know that often the credibility of victims depends on the investigator's and prosecutor's insight derived from other sources of information.

VICTIM / WITNESS PROTECTION

It is evident, that a lack of adequate victim and witness protection programmes results in reduced effectiveness of investigation, prosecution and court proceedings.

I do not wish to enlarge in detail on the complex and heterogeneous situation concerning trafficking in human beings in Europe and beyond. However, close analysis goes to show that in practice there is the danger that state interests — which are primarily to control migration and to put the emphasis on criminal prosecution — run counter to the needs and rights of the victims of trafficking.

Instead — despite growing awareness of the fact that trafficking in human beings cannot be satisfactorily dealt with by exclusion and control only — EU policies in general have tended towards self protective measures as opposed to a more comprehensive approach to the problem.

When we look into the practice of many European countries it becomes quite obvious that the protection of fundamental rights of the victims of trafficking takes second place to the promotion of state interests.

Governments very often see the battle against illegal immigration as their first priority. Therefore victims of trafficking run the risk of being treated as illegal immigrants and immediately deported to their countries of origin.

It goes without saying that the UN Protocol on Trafficking in Persons represents a major step forward when it comes to the definition of human trafficking as well as to the prosecution of the perpetrators and the protection of victims' rights. Indeed, Section II of the Protocol makes specific reference to important rights of trafficked persons.

On the other hand, it is apparent from the wording that victims' rights are generally granted in a non-committal and in a conditional manner, so to say in a "soft" manner. Practically every single right is granted only conditionally using phrases such as, "in appropriate cases", "to the extent possible", "if permissible under domestic law", "each state party shall consider" or "shall take into account" or "shall endeavour".

In the last analysis, the text of the Protocol does not contain any binding, strict obligations for signatory states to take effective measures to assist and protect victims of trafficking.

This might be another reason why States do not really feel responsible for victim assistance and protection.

What is needed, is a shift in perspective. Trafficking in human beings must not be seen primarily or exclusively from the perspective of national security; it must not be

seen only as a fight against organised crime and illegal migration. Human trafficking is first and foremost a violation of human rights.

The status and protection of the victims deserve particular attention. States must play a crucial role in the fight against human trafficking especially when it comes to the treatment of victims.

For victims to be able to free themselves from relationships of violence and life contexts in which they are permanently threatened by violence, they need comprehensive social and economic support, but also legal assistance. Effective empowerment starts with the granting of a strong legal status. The total lack of such status is taken advantage of by the traffickers.

A secure, a safe legal status of the victims is the prerequisite for support programs to reach them.

A central issue in this context is the right of (temporary or permanent) residence for victims in the transit and destination countries. The granting of a residence permit would signal to victims that the state on whose territory they find themselves sides with them without reservations. And, in addition, it would break the so-called recycling of victims of trafficking – since it is well known that up to 50% of those immediately repatriated are re-trafficked. After a reflection/recuperation period which would give the (potential) victim time to stabilise their situation, which would give them breathing space to recover physically, medically and psychologically and would allow them to re-orientate themselves and to secure the means to support themselves, and last but not least would allow the authorities to establish whether somebody is a victim of trafficking or not, the authorities should grant a temporary residence permit for at least six months

By the way: The temporary residence permit would also present an instrument to enhance the prosecution of traffickers and an instrument against organised crime as it offers trafficked persons time to decide on making a complaint to the police, on cooperating with the investigation authorities and on testifying in proceedings.

Even if the victim decides not to testify against the traffickers, the authorities will still have vital information on traffickers' strategies, practice and networks.

A temporary residence permit should be renewable for one year, with the possibility that victims may be allowed to remain permanently.

The few models in the EU and Western European countries, which rely on such provisions, have proved effective in terms of protecting and supporting the victims and in ensuring more effective prosecution of the traffickers, because it is conducive to victims' cooperation, as they feel more secure.

Ideally, legal status of residence should be granted irrespective of the victims' ability or willingness to testify in criminal proceedings.

The legal status of residence should also imply access of victims to the labour market as well as the right to state welfare benefits and to crime victims compensation.

Despite increased attention at the political level, however, few states have taken adequate measures to protect individuals from trafficking and its related human rights abuses, or to provide effective assistance or remedies to victims. In the practice of most of the EU countries, even when victims are allowed to stay temporarily, support for them depends on whether they are useful to the prosecution of the traffickers and willing to cooperate with law enforcement authorities. As a result, victims are often instrumentalized in the interests of the prosecution. Again, state interests take precedence over the right of victims to protection of their physical and mental integrity.

Furthermore, the status of victims of trafficking in criminal proceedings deserves particular attention. Frequently victims suffer from severe trauma. To expose them or force them too early to confront the traumatising experience may cause additional traumatisation. Victims must have the right to refuse to testify, and if they agree to testify, they should be able to do so in a non-confrontational environment. Procedural rights such as: testimony by video-conferencing, hearing in camera, audio/video recording of statements, temporary exclusion of the defendant, contempt provisions, relocation of the trial should be implemented.

In any case, the process of testifying against the trafficker must not re-victimise a victim, must not cause additional damage to victims, but should be an empowering, a positive experience through which the victim's rights are protected and promoted.

Criminal prosecution must be reconciled with the protection of human dignity of the victims.

Therefore, a starting point is to make sure that victims really want to testify against traffickers and are not just submitting to police and other pressure. The victims have to be informed about the implications of testifying, before they make a statement.

Whether they are prepared to become witnesses will depend to a great extent on the capacity of states to protect and support victims of trafficking.

In practice, however, many states don't even provide the most basic protection for victims who participate in proceedings. Many countries do not allow victim/witnesses to remain in the country during the proceedings, but summon them back without giving a thought to the safety of the witness and those close to them nor to the financial burdens involved.

Effective victim/witness protection does not end at the conclusion of a trial, of course. Research has indicated that in countries of origin women and their families are more or less totally unprotected against threats or violence.

Therefore, another right should be the right of family reunification. Family reunification frequently is the only way to ensure the security of the closest relatives of victims.

On the other hand there is the risk of victims being excluded from criminal proceedings. This means to negate the serious injustice they have suffered at the hands of the perpetrators. State authorities should not obstruct victims of trafficking from participation, making criminal proceedings exclusively their own business.

Victims should be given the possibility to present and describe the injustice they have suffered and to witness that the perpetrator is taken to account for his deeds.

TRAFFICKING NETWORKS

One of the main questions to ask in the fight against human trafficking certainly is: What must be done to disable trafficking networks?

To disable trafficking networks, several things must happen:

- Traffickers must serve time in jail reflecting the severity of the crime;
- The leaders or "kingpins" of the trafficking organizations must be tracked down and apprehended; and
- Law enforcement must go after the network itself from the beginning in the countries of origin to the end-users in the countries of destination.

Investigations and prosecutions must be designed to encompass the bigger picture of the existence of trafficking networks. They must seek to disrupt the chain of trafficking from beginning to end. That means cooperation with countries of origin to

identify and investigate the “fronts” and to dismantle criminal enterprises by targeting the perpetrators along the entire continuum.

This includes investigating and going after the financial assets of the network, the lifeblood of organized criminal enterprises. This is a crucial, alternative source of evidence. The financial records of the organized human trafficking enterprises and the locations where they are kept have to be the targets of law enforcement. And this is generally not behind the bar.

* Concluding, let me repeat that we must be aware of the fact that State policies which primarily tend towards self-protected measures as opposed to a more comprehensive approach to the issue, are counter-productive and therefore part of the problem.

* We must switch from an exclusive law-enforcement approach to a victim-centred one, not merely because it would in any case be the task of states and governments to protect the fundamental rights of individuals, but also in the interest of combating organised crime more effectively.

* States, governments must recognise that human trafficking cannot be managed by measures of exclusion and control only. The emphasis on control, deterrence and immediate repatriation of victims of trafficking is often the beginning of a vicious circle.

* Last but not least, let me underline, that policies that attempt to deal exclusively with the consequences of human trafficking instead of dealing with its root causes are in any case bound to fail.

We have no alternative but to engage with the root causes, no matter how complex, difficult and forbidding they may be. Anti-trafficking initiatives must offer real prospects of escaping the cycle of poverty, abuse and exploitation.

Finally, let me point out that there is equal need for short-term and long-term measures, if we wish to diminish the problem of human trafficking. Short-term measures, such as the immediate and urgent need to assist and protect the victims of trafficking will only have the desired effect, if they are based on serious research into the root causes of trafficking, such as social and economic conditions in the countries of origin, the extent of gender-based discrimination and violence in our societies, and if these root causes are systematically addressed. The counter-measures have to be quick-acting measures, on the one hand, but at the same time, it is necessary to raise and address the issue of the structural roots of human trafficking – namely, the global inequalities in the distribution of jobs, resources and wealth.

I would hope that this symposium will give further impetus to meaningful solutions to human trafficking. I have certainly not been able to cover everything that I would have wished to on this important topic. But I hope that this gives you additional things to think about this tremendous violation of human rights, and by doing so we will give trafficking victims a life-line that they may not have had before and demonstrate to the traffickers – where ever they are - that we are serious about severing their entire criminal networks.