

Opinion N° 5/2010 of the Group of Experts on Trafficking in Human Beings of the European Commission

On Priority Actions in view of the revision and/or further implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (THB) (2005/C311/01)

and ANNEX: Table of Priority Measures for a new European Anti-Trafficking Action Plan

The Group of Experts on Trafficking in Human Beings of the European Commission, having taken into consideration the following:

- The former proposal of the European Commission for a Council Framework Decision on preventing and combating trafficking in human beings and protecting victims (COM(2009)136 final) proposed to replace Framework Decision 2002/629/JHA;
- The Commission Working Document 657/2008 which evaluates the Plan and indicates priority areas for anti-trafficking action;
- The division of the responsibilities in the DG on Freedom, Justice and Security between two Commissioners;
- The action oriented paper on strengthening the EU external dimension on action against trafficking in human beings; towards global EU action against trafficking in human beings;
- The Stockholm Programme for action in the field of Justice and Home Affairs;
- The informal network of National Rapporteurs established recently,

adopts the following Opinion.

1. The Group of Experts on Trafficking in Human Beings of the European Commission has examined the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (THB) (2005/C311/01) in the light of the above developments. While acknowledging that welcome developments have taken place, the Group expresses its disappointment at the results achieved so far.

2. The aim of this Opinion is to offer a strategic framework for the possible amendment and further implementation of the Plan, considering the need for a more concrete approach, based on priority areas and concrete measures.

In the opinion of the Group, some main concerns emerge, namely:

- The deficiency in real and effective measures and procedures for the identification of trafficked persons precluding them access to their rights;
- The lack of adequate assistance, protection and compensation for victims;
- The low number of criminal prosecutions for THB;
- The inadequacies of the monitoring mechanisms in place at both national and EU level for the evaluation of the effectiveness and impact of anti-trafficking policies and measures;
- The level of implementation of measures addressing the root causes is inadequate or insufficient;
- The deficiencies in an effective and structured coordination of policies addressing THB at the EU level and in the external dimension.

3. Resulting from these concerns, the Group proposes a more concrete approach, based on priority actions.

The Group's recommendations are articulated on two levels:

- General priorities in the coordination of EU policies and action;
- Specific priorities in the coordination of EU policies and action.

4. General priorities in the coordination of EU policies and action

4.1 As recognised in the Stockholm Programme, THB affects a wide spectrum of human endeavour and EU areas of responsibility, including asylum, labour, employment, migration, social security, health, education and development.

4.2 There is a risk that THB is identified as an isolated issue, a 'specialised' area, and therefore removed from the general concern of human protection within the EU framework of responsibility.

4.3 A shift of policy towards addressing THB across a wider spectrum of responsibility implies that coordination of relevant policies across the EU is of critical importance. The current Plan lacks a true 'ownership'.

The Plan needs to be driven by a mechanism which can coordinate action/response across a number of Directorates and relate directly with Member States and relevant EU Agencies including Europol, Frontex, the Fundamental Rights Agency and Eurojust.

4.4 Existing policies endorse a multidisciplinary and holistic approach to address THB, as was reflected in the former Commission proposal for a new Council Framework Decision combating THB.

To this end, a system of coordination should:

- Promote coherent policies across the spectrum of EU endeavour and ensure that actions implement those policies, and
- Monitor the impact and effectiveness of the actions taken which affect/reduce THB and protect victims.

4.5 A coordinating mechanism needs to be able to compel action or responses from the relevant policy areas. Therefore, concrete tools are needed. The Inter-Agency Working Group within the European Commission is a useful mechanism. Such Working Group needs an identified leadership with a defined mandate and adequate resources.

Regular meetings between EU institutions on THB would be a welcome way to improve cooperation regarding their plans, priorities and initiatives.

4.6 An initial step in coordination would be a clear identification of the relevant existing policies and principles to address THB. Such effort would bring together the existing policies and legislation of the EU and enable the cross-cutting issues, including labour, asylum and migration, to be identified as issues that relate to THB.

4.7 The new strategy needs to move the issue of THB to a higher level so that the responsibility to address it concerns many EU institutions and

can promote a coherent approach both at legislative level as well as in the implementation of concrete measures and project funding.

5. Specific priorities in the coordination of EU policies and action.

5.1 Coordination and evaluation of policy implementation

Ensure that the implementation of EU policy at the national level is assessed via a National Rapporteur or equivalent mechanism.

Enhance the work of the established Informal Network of National Rapporteurs or equivalent mechanisms by sharing a situation analysis on THB trends, on a yearly basis. This should be regularly communicated to the European Commission.

The National Coordination mechanisms should communicate to the European Commission, on a yearly basis, their national priorities. The aim is to facilitate the identification of common priorities at the EU level.

5.2 Coordination of programmes and funding

Strengthen and coordinate European Commission funding programmes priorities among the various General Directorates and ensure that an overview exists of all THB initiatives funded by the European Commission. This should also build on a systematic evaluation of implemented European Commission-funded anti-trafficking projects vis-à-vis the objectives of the EU anti-trafficking policies. Results and outputs of projects should be widely disseminated including through the EU website.

5.3 Data collection, research and policy definition

Define parameters to collect data on THB, using comparable indicators, based on the conclusions of the projects funded by the EU and other relevant information, ensuring in any case the protection of the data and the rights of trafficked or presumed trafficked persons. This would promote a clearer view of the dimension of the phenomenon across the Member States and also provide qualitative information about the different forms and sectors of exploitation and the ways of recruitment that would facilitate identification of those areas where more specific action is needed.

Promote studies and structured analysis and consequent definition of possible actions aimed at tackling the root causes of trafficking and exploitation.

In particular, the analysis should focus on the causal relations between THB and the structure of the labour market, migration policies and social inclusion opportunities.

Ensure evidence based awareness and development of capacity building on THB for labour exploitation and other forms of exploitation, such as begging and unlawful activities, in particular involving children.

From the data available it is clear that addressing other forms of exploitation, other than sexual exploitation, is needed.

5.4 Identification, protection and assistance

Revise the Directive 2004/817EC of 29 April 2004 on the Residence Permit issued to victims of trafficking in human beings as proposed in the Group's Opinion N° 4/2009, in order to enhance the protection and assistance to trafficked persons.

Such a revision should ensure extension of the entitlements to all victims of trafficking regardless of their citizenship.

Promote actions aimed at establishing or strengthening national mechanisms for identification and referral to services of victims of trafficking. Such mechanisms should make use of formal agreements between all relevant actors at the national and local level, such as police, border police, judiciary, NGOs, labour inspectorates and trade unions, ensuring a multidisciplinary and multi-agency mechanism for identification and referral.

These actions should include:

- the definition and implementation of permanent and regular multi-agency training at the level of Member States and Third Countries;
- the improvement of child protection systems aimed at effectively exploring whether there are reasons to suspect that trafficking has occurred and at providing specific and child-tailored assistance;
- facilitation of access to justice for all victims of trafficking.

Develop or strengthen effective cooperation between governmental and non-governmental actors, as well as among themselves:

- Implementation of an EU directory on service providers. Such a Directory would be an important tool for use in Member States for the protection of victims. But it must be a 'living' document, capable of regular update, and strategically disseminated;
- Support and provide sufficient and sustained funding for NGOs that provide assistance to trafficked persons;

- Support efforts made by NGOs and other service providers to establish structured national and transnational networks between service providers.

5.5 Investigating and prosecution

The objectives identified in the Action Plan remain valid. EU and Member States' activity in this field should remain focussed on delivering these objectives.

An additional recommended measure is the use of Joint Investigation Teams (JIT). Member States should seek to develop trafficking investigations beyond their borders and, in this respect, the JIT is an appropriate mechanism.

5.6 External relations

Regarding the external dimension, one priority action is to identify the regions and specific areas of origin of trafficked persons and, according to their characteristics, elaborate specific action plans for each region or area involving not only the national and international authorities and organizations, but also local authorities and NGOs working in the field, in order to support them in preventing THB.

There is also a need to enhance and implement existing action plans between the EU and third parties

6. Conclusion

The Group strongly believes that the adoption of the above measures will significantly enhance the protection of victims of THB, as well as the fight against THB.

ANNEX

to the Opinion N° 1/2010 of the Group of Experts on Trafficking in Human Beings of the European Commission

On Priority Actions in view of the revision and/or further implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (THB) (2005/C311/01)

TABLE of PRIORITY MEASURES of the European Anti-Trafficking Action Plan

General priorities in the coordination of EU policies and action

Key area of intervention:				
<i>1. - Coordination of coherent policies on Trafficking in Human Beings by all relevant EU institutions both at legislative as well as in the implementation of concrete measures and project funding</i>				
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
1.1 – The establishment of mechanisms that can coordinate multidisciplinary and holistic actions/responses across a number of EU Institutions and Directorates, and that relate directly with Member States (MS) and relevant EU Agencies.	<p>1.1a – Setting up of a Coordination Mechanism in the European Commission (EC THB Coordination Mechanism). Such mechanism could be in the form of an Inter-Directorate Working Group within the EC with an identified leadership and a defined mandate, enabling it to coordinate all anti-trafficking policies at the EU level, assisted by the EC Group of Experts on THB, and with adequate resources.</p> <p>1.1b – Formalising a programme of regular meetings between EU institutions (Commission, Parliament, Council) for the purpose of harmonizing definitions and identifying priorities, plans and initiatives on THB.</p> <p>1.1.c – The development of coordination tools and initiatives</p>		Initiative of the European Commission in cooperation with the other EU institutions and other relevant agencies.	<p>Initial and annual reports of the Coordinator of the EC THB Coordination Mechanism on</p> <ul style="list-style-type: none"> • the objectives and actions to be taken • outcomes of the meetings of the Coordination Mechanism itself • outcomes of the meetings of the Coordination Mechanism with MS and other EU institutions, and other relevant agencies.

	that facilitate direct contact with MS and between MS and relevant EU Agencies including Europol, Eurojust, Frontex, the Fundamental Rights Agency, relevant International Organisations, and relevant NGOs and their networks.			
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
1.2 - To address THB through a multidisciplinary and holistic approach across a wide spectrum of EU policies such as asylum, labour, employment, migration, social security, health, education and development.	<p>1.2.a – Action by the EC THB Coordination Mechanism in collaboration with the other EU Institutions, MS and relevant agencies to achieve:</p> <p>1.2.b - Clear identification of the relevant existing policies, principles and legislation that address THB, including all cross-cutting issues (such as asylum, labour, employment, migration, social security, health, education and development) recognizing their connexion with THB.</p> <p>1.3.c - Coherent policies and implementing actions across the spectrum of EU endeavour.</p> <p>1.4.d – Monitoring of the impact and effectiveness of the actions</p>		Initiative by the EC THB Coordination Mechanism in cooperation with the other EU institutions and other relevant agencies.	Annual report of the Coordinator of the EC THB Coordination Mechanism.

	taken which affect/reduce THB and protect victims.			
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Specific priorities in the coordination of EU policies and action

Key area of intervention: <i>2. - Co-ordination and evaluation of policy implementation</i>				
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
2.1 - The implementation of EU policy at national level is promoted by MS and their National Coordination Mechanism and is assessed via a National Rapporteur or equivalent mechanism.	2.1 - Promote and monitor the adoption of EU policies by MS through the establishment of permanent coordination links with MSs' Governments, Coordination Mechanisms, and National Rapporteurs or equivalent mechanisms.		EC THB Coordination Mechanism, MSs' Governments, Coordination Mechanisms, National Rapporteurs or equivalent mechanisms, in collaboration with NGOs and their networks.	Analysis of the compilations of the reports of the National Rapporteurs or equivalent mechanisms on the MS situation on THB, and on the basis of the Report mentioned at point 2.2, taking into account the opinions of NGOs, carried out by the EC Coordinator and by the EC Group of Experts.
2.2 - Enhance the work of the established Informal Network of National Rapporteurs or equivalent	2.2.a - Ensure that at least one meeting per year of the Informal Network of National Rapporteurs or equivalent mechanisms takes place		European Commission Coordination Mechanism towards	Annual Report from the informal Network. Reports of the meetings of the

mechanisms.	<p>with subsequent delivery of an annual European Report from this Network.</p> <p>2.2.b - Ensure that a representative of the Coordination Mechanism Group within the European Commission participates in the meeting(s).</p> <p>2.2.c – Communicate the resulting analysis on THB trends to the EC THB Coordination Mechanism.</p>		the informal Network of National Rapporteurs or equivalent mechanisms.	Network and resulting analyses.
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
2.3 - The identification of common priorities at EU level.	<p>2.3.a - The National Coordination mechanisms of each MS communicate their national priorities to the EC THB Coordination Mechanism, on a yearly basis.</p> <p>2.3.b - EC THB Coordination Mechanism takes national priorities into account in updating and implementing the current Action Plan and subsequent specific initiatives.</p>		European Commission in collaboration with MSs' national Coordination Mechanisms.	Proposal of the EC THB Coordination Mechanism on updating the Action Plan, or rationale for the absence of an update if one is not needed.

Key area of intervention:
3. - Coordination of programmes and funding

Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
<p>3. – To strengthen and coordinate European Commission funding programme priorities and implementation measures among the various General Directorates. To provide an overview of all THB initiatives funded by the European Commission.</p>	<p>3.a – Carry out a comparative evaluation of completed European Commission-funded anti-trafficking projects, vis-à-vis the objectives of EU anti-trafficking policies.</p> <p>3.b – Formulate new strategies for funding programmes, on the basis of the above mentioned evaluation, with a coordinated and integrated approach and increased resources.</p> <p>3.c - Disseminate the results and outputs of completed projects, including through the EU website and the EU anti-trafficking website.</p>		<p>EC THB Coordination Mechanism</p>	<p>The Expert Group and the Coordinator shall be asked for an Opinion for the elaboration of the annual priorities of all EC DG funding programmes related to Human Trafficking</p> <p>All EC funding programmes related to Human Trafficking regardless of responsible DG shall be regrouped and posted on the Anti-trafficking Web-site.</p> <p>The anti-trafficking awarded projects shall be posted in the Anti-trafficking website.</p>

Key area of intervention:
4. - Data collection, research and policy definition

Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
<p>4. – To achieve a clearer understanding of the dimension of the phenomenon across the MS. To provide qualitative information about the different forms and sectors of exploitation and the ways of recruitment so as to facilitate identification of those areas where more specific action is needed.</p>	<p>4.a - Define parameters for the collection of data on THB, using comparable indicators, based on the conclusions of the projects funded by the EU and other relevant information, ensuring in any case the protection of the data and the rights of trafficked or presumed trafficked persons.</p> <p>4.b - Promote studies and structured analysis and consequent definition of possible actions aimed at tackling the root causes of trafficking and exploitation. Analysis should focus on the causal relations between THB and the structure of the labour market, migration policies and social inclusion opportunities.</p> <p>4.c - Promote evidence based awareness programmes and capacity building initiatives that focus on combating THB for labour exploitation and other forms of</p>		<p>EC THB Coordination Mechanism and MS.</p>	<p>Proposal from the EC THB Coordination Mechanism for directions, systems and tools on this topic.</p>

	exploitation, such as begging and unlawful activities, in particular involving children			
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Key area of intervention: 5. – Identification, protection and assistance				
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
5.1 – To enhance the protection and assistance measures to trafficked persons at EU level through law reform that protects all victims of trafficking regardless of citizenship.	5.1 - Revise Directive 2004/81/EC of 29 April 2004 on the Residence Permit issued to victims of trafficking in human beings as proposed in the Group of Experts' Opinion N° 4/2009, so as to enhance the measures for the protection of and assistance to trafficked persons. Extend the entitlements to all victims of trafficking regardless of their citizenship.		European Commission and EC THB Coordination Mechanism.	Revised Directive proposed by the EC and containing the measures required.
5.2 - The establishment and/or strengthening of national mechanisms for identification and referral to services of victims of trafficking.	5.2.a - Promote actions aimed at establishing and/or strengthening national mechanisms for identification and referral to services of victims of trafficking. 5.2.b - Promote the use in such mechanisms of formal agreements between all relevant actors at		EC THB Coordination Mechanism and MS in cooperation with other relevant EU agencies, IGOs and NGOs.	Analysis of the compilations of the reports of the National Rapporteurs or equivalent mechanisms on the MS situation, carried out by the EC THB Coordination Mechanism, assisted by the Group of Experts

	<p>national and local level, such as police, border police, judiciary, NGOs, labour inspectorates and trade unions, refugee and asylum seekers centres.</p> <p>Establish a multidisciplinary and multi-agency mechanism for identification and referral.</p> <p>5.2.c - Facilitate permanent and regular multi-agency training in MS and Third Countries for start up and/or implementation of identification and referral mechanisms.</p> <p>5.2.d - Enhance child protection systems aimed at identifying child victims of THB and at providing specific child-tailored assistance.</p> <p>5.2.e - Promote initiatives aimed at facilitating access to justice for all victims of THB.</p>			
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
5.3 - Effective cooperation established between governmental and non-governmental actors, as well as within those	5.3.a – Implementation of an EU directory of service providers. Strategic dissemination of the directory to MS, NGOs and international organisations.		EC THB Coordination Mechanism in cooperation with other relevant EU	Annual report of the Coordinator of the EC THB Coordination Mechanism.

sectors.	Regular update of the directory (living tool). 5.3.b - Support to structured networking among service providers including national and transnational networks.		agencies, MS, IGOs and NGOs.	
5.4 – Enhancement of NGOs’ capacity and effectiveness in providing services to trafficked persons.	5.4 - Supportive measures and sufficient and sustained funding to NGOs that provide assistance to trafficked persons.		EC THB Coordination Mechanism in cooperation with relevant NGOs.	Increase in number of victims assisted by national NGOs as reported by National Rapporteurs or equivalent mechanisms.

Key area of intervention: 6. – Investigation and prosecution				
Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
The objectives identified in the Action Plan of 2005 remain valid. EU and Member States’ activity in this field should remain focussed on delivering these objectives. Hereafter an additional objective and consequent measure is identified.				
6.1 - MS extend their THB investigations beyond national borders.	6.1 - Encourage and support MS to develop trafficking investigations beyond their borders through measures that include the use of Joint Investigation Teams (JIT).		European Commission, MS, Eurojust, Europol, Frontex	Annual report by Europol on the use of JIT by MS.

Key area of intervention:
7. – External relations

Objective	Action	Timetable (to be set)	Responsible Party	Assessment Tool/Indicator
<p>In the framework of the need to enhance and implement existing prevention action plans in origin, transit and destination countries and between the EU and third parties, the following specific objective and subsequent measure is recommended.</p>				
<p>7.1 - MS and Third Countries develop focused THB prevention measures.</p>	<p>7.1.a - Identify the regions and specific areas of origin of trafficked persons. 7.1.b - According to the characteristics of the trafficking identified, elaborate specific prevention plans for each region or area, involving not only the national and international authorities and organizations, but also local authorities and NGOs working in the field.</p>		<p>EC THB Coordination Mechanism, MS, Third Countries, NGOs, IGOs.</p>	<p>Annual report of the EC Coordinator and the Interagency group.</p>