

HDRN EU WORKING GROUP ON TRAFFICKING
INPUT INTO CONSULTATIONS ON THE UPCOMING

EU ANTI-TRAFFICKING STRATEGY
SEPTEMBER 29 2011

Thank you for the invitation to participate in consultations on the upcoming EU Anti-Trafficking Strategy. Following up on the discussions on September 13 and 15, the EU Working Group on Trafficking of the Human Rights and Democracy Network (HRDN) hereby provides some further thoughts on orientations for the Strategy. Our comments are largely aimed at the processes by which the Strategy could support Member States to prevent trafficking, to identify trafficked persons and to protect and assist them.

We understand that the Strategy builds out from the recently adopted 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 (hereafter “the Directive”). The Strategy is more extensive in its scope than the Directive and will also address issues that do not fall squarely within the scope of the Directive, including actions relevant to trafficking in other policy contexts, such as migration and labour policies. However, from a human rights perspective, the HRDN Trafficking Group emphasises that the Strategy should make effective implementation of the Directive its overarching goal.

In more concrete terms, although responsibility now lies with Member States to transpose the Directive, the leveraging of national and regional expertise and experience to support Member States in this work would provide real EU added value. We propose that the Strategy specifically aims to: (1) equip Member States with practical tools to implement the Directive; and (2) establish effective processes to ensure that action in other EU policy areas reinforces the protection and assistance of trafficked persons as required by the Directive, rather than undercutting it because priority is afforded to other policy concerns, such as migration control or labour laws. We believe the Strategy should also identify and develop: (3) the EU’s role in creating or supporting transnational mechanisms across countries which will support Member States in working together to fulfill the rights of trafficked persons where the circumstances involve the transfer of personal information, or even individuals, between countries.

1. Practical tools for implementation of the Directive:

- Ongoing exchange between Member States on transposition and implementation policies, as well as on the underlying human rights framework, could effectively support the process at national level. In this respect, an *ongoing* contact committee process of national representatives led by the Commission, similar to the process used to foster uniform implementation of the Return Directive, could serve as a useful model. The Strategy should envisage the creation of such a contact committee to secure a forum for regular exchange on practices and human rights standards. The contact committee should invite NGOs where appropriate and look not only into legal transposition, but also potentially at guidance on implementation of existing law.
- The Commission could also encourage Member States to commit to a dialogue with the civil society at national level by developing and implementing mechanisms of

involvement of NGOs regarding implementation of the strategy (either through the network potentially sponsored by the Commission or otherwise).

- Further to support implementation in line with human rights obligations, the Commission (or potentially the Fundamental Rights Agency) might promote guidance which consolidates all human rights obligations of Member States under International, the Council of Europe and EU law – including case law – potentially impacting on the trafficking of Human Beings.
 - Focussed exchange of national experience should also take place between those actors with a leading role in developing, undertaking or monitoring national *operational* practices at regional level on certain central issues. For example, this might involve hosting a regional expert meeting of particular actors, such as national child protection experts or police or border authorities, to allow for direct exchange of frontline experience. This kind of expert meeting could contribute greatly to the practical implementation of some of the rather general obligations in the Directive, including in relation to identification and prevention.
 - In order to assist the fulfillment of Article 18 of the Directive, the Strategy could also develop common regional tools on essential training, for example, through the development of common curricula on identified topics tailored to different actors, including mechanisms for prevention, needs assessment and the development of sustainable assistance. This might be built on a review of existing training material and manuals with a view to using them for new actors and making them more appropriate for contemporary patterns of trafficking. The EU agencies can play a role in this regard.
 - The role of the EU agencies specifically in relation to supporting the implementation of the Directive should also be considered. For example, they may be able to play a role in the issue of regional guidelines on certain issues, such as the use of profiling and indicators to facilitate early identification of victims.
 - The Directive recognizes the need to cooperate with civil society and the Strategy allows the Commission a welcome space within which to foster coordination between NGOs regionally. We would encourage the Commission not to aim at one umbrella structure, but to give support to the networking between different actors and between different sectors (including unions and migrant rights organisations)
 - The Commission might also foster methods specifically to involve migrant groups in the conceptualization of campaigns, including in relation to prevention of trafficking.
2. Ensuring EU action in other policy areas reinforces, rather than reduces, the effect of EU trafficking action.
- The Strategy should also serve to ensure that EU trafficking policy is properly integrated into relevant other EU policy areas. This includes potential actions within:
 - **DG Justice** on the standing of victims, access to compensation provisions for interviewing persons in vulnerable situations, procedural rights in criminal

- proceedings, transnational exchange of information subject to data protection provisions;
- **DG Home** in terms of considering trafficking in asylum and migration contexts, appropriate rules on temporary residence permits. It will also involve harmonious interpretation of the EU Trafficking Directive and the EU Return Directive, to ensure that trafficked persons do receive the protection and assistance to which they have a right, regardless of their immigration status.
 - other EU **labour and social policies** that can have a significant influence on the situation of trafficked persons.
 - EU **development and cooperation and external relations** contexts that also affect the prevention, identification, protection and assistance of trafficked persons.
- The Strategy provides a vehicle for ensuring that appropriate processes are put in place to mainstream the EU approach to protecting and assisting trafficked persons across all relevant measures. The Strategy should designate who is responsible for overseeing such coherence and to whom they are accountable. In particular, it should clarify the role(s) of the Commission, the EU coordinator, the expert group to ensure accountability and continuity of the work. Regular and constructive dialogue with NGOs should be built in the strategy.

3. Contributing to the development and support of transnational mechanisms

The Strategy should also highlight the need and means to develop and support transnational mechanisms across Europe and indeed potentially with third countries where appropriate. These include transnational mechanisms which would serve in the identification, protection and assistance of trafficked persons and in their prevention. The EU is well placed to contribute to this work internationally and within Europe, putting human rights obligations at the heart of all action in this regard.

- Amnesty International European Institutions Office
- Churches' Commission Migrants in Europe (www.ccme.be)
- ECPAT International (www.ecpat.net)
- La Strada International (www.lastradainternational.org)
- Save the Children Brussels (www.savethechildren.be),
- Terre des Hommes International Federation (www.terredeshommes.org)
- World Vision Brussels & EU Representation (www.wveurope.org)