Towards and Area of Freedom, Security and Justice

Trafficking in Human Beings

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Unit D.1 – Fight against Terrorism,
Trafficking in and Exploitation of Persons,
and Law Enforcement Cooperation





What is trafficking in human beings? (I)

Fundamental concern:
Protection of human rights

Serious crime – organised crime dimension

Transnational issue - illegal migration dimension

→ Integrated approach: respect of human rights, global nature, coordinated policy response.













What is trafficking in human beings? (II)

Council Framework Decision of 19 July 2002 on combating trafficking in human beings

Article 1

- 1. Specific act (recruitment ...)
- 2. Specific means (no or no valid consent of the trafficked person)
 - 3. Specific purpose (sexual exploitation, labour exploitation)

Penalties (Article 3)

Basic offence:
effective, proportionate and dissuasive
criminal penalties

Aggravating circumstances:
Maximum penalty not less than 8 years
(life of the victim endangered, particularly vulnerable victim, serious violence or serious harm, criminal organisation)

Instigation, aiding, abetting, attempt (Art. 2)















Liability of legal persons

(Article 4)

Liable for offences committed for their benefits by any person, who has a leading position within the legal person

- power of representation
- authority to take decisions
- authority to exercise control
- lack of supervision or control













Sanctions on legal persons (Article 5)

Effective, proportinate and disuasive sanctions

Criminal or non-criminal fines (shall)

Other sanctions (may)

Exclusion from entitlement to public benefits,
Disqualification from practice of commercial activities,
Placing under judicial supervision,
Judicial winding-up order,
Closure of establishments used for committing the offence













Jurisdiction and Prosecution (Article 6)

Member State shall establish jurisdiction:
-Offence committed within its territory
-Offender one of its nationals, especially if own nationals are not extradited
-Benefit of a legal person established in the Member State

Prosecution shall not depend on report or accusation of the trafficked person (Article 7 par. 1)

Children (I)
(Articles 1, 3, 7)

Any person below 18 years of age

Trafficking does not require specific means

Aggravating circumstance: child victim under age of sexual majority in the case of sexual exploitation

Criminal proceedings
Appropriate assistance for his/her family















Children (II)

Council Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography

Offences (Art. 2, 3)
Penalties (Art. 5)
Aggravating circumstances (Art. 5)
Legal persons (Art. 6, 7)
Jurisdiction and prosecution (Art. 8)
Protection and assistance (Art. 9)



Children (III)

Sexual exploitation (trafficker)
(Article 2 a, b)

Coercing into prostitution or pornographic performances, profiting, exploiting

Recruiting into prostitution or pornographic performances















Children (IV)

Sexual exploitation (client) (Article 2 c)

Engaging into sexual activities with a child

- Coercion, force, threat
- Remuneration, payment
- Abuse of trust, authority, influence















Children (V)

Child pornography

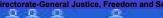
(Article 1 (definitions) and 3)

Real child, real person appearing to be a child, realistic images of a non-existent child

Production, distribution, dissemination, transmission, supply, making available, acquisation, possession









Children (VII)

Penalties (Article 5)

Basic offences:
Maximum of at least between
1 and 3 years of imprisonment

Aggravating circumstances:
Maximum of at least between
5 and 10 years of imprisonment

Instigation, aiding, abetting, attempt (Art. 4)

















Policy development

2000: UN Trafficking Protocol

2002: Brussels Declaration

2003: Council Conclusions Experts Group on THB

2004: Report/recommendations of the Experts Group on THB

2005: Commission Communication EU Action Plan (Council of Europe Convention)











UN Trafficking Protocol

- Definition
- Criminalization
- Assistance and protection
- Status of victims in receiving States
- Repatriation of victims
- Prevention
- Information exchange and training
- Border measures
- Security and control of documents
- Legitimacy and validity of documents



Integrated or Multidisciplinary Approach

Prevention
Protection / Assistance
Prosecution / Punishment

Specific groups: women, children

Reliable data

Coordination / Cooperation











EU Action Plan

EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings

- Broad principles
- Table of actions (Council, Commission, Member States, others)

Documents

- Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings, OJ L 203, 1.8.2002, p. 1
- Council Conclusions of 8 May 2003 (Brussels Declaration on preventing and combating trafficking in human beings), OJ C 137, 12.6.2003, p. 1
- •Council Framework Decision 2004/68/JHA of 22 December 2004 in combating the sexual exploitation of children and child pornography, OJ L 13, 20.1.2004, p. 44
- EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings, OJ C 311, 9.12.2005, p. 1
- Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime http://www.unodc.org/unodc/en/trafficking human beings.html













