

Concept Note

The Expert Workshop on Victims of Trafficking in Human Beings in the framework of the Eastern Partnership Panel on Migration and Asylum

Warsaw, 21-22 May 2013

I. Background and context

The Panel on Migration and Asylum was created in 2011 within the context of the Eastern Partnerships' Platform for Democracy, Good governance and Stability. The main aim of the Panel is to strengthen and advance the migration and asylum systems between the EU and Eastern Partners, as well as amongst the Eastern Partners.

The fact of demand for labour and services within the border of the European Union and the demographic and economic differences between the EU and its eastern neighbours prompt the East-to-West mobility of migrants. As people (both adults and children) in migration represent one of the most vulnerable groups with regards to human trafficking, it is of the utmost importance for the Eastern Partnership Panel on Migration and Asylum to focus on identification and combating this phenomenon with the victims' rights perspective underlined.

The European Union is truly determined to establish a functional system eradicating human trafficking and protecting its victims in cooperation with the eastern neighbours seeking a comprehensive policy response that embodies not only internal but also external actions against THB. Thus, cooperation and coordination with third countries are underlined as crucial elements.

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** (replacing Council Framework Decision 2002/629/JHS and to be transposed by 6 April 2013) **adopts an integrated and coherent approach that underlines the victims' rights**. It focuses on giving the victims an opportunity to recover and to reintegrate into society.

The European Commission adopted **the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016**. The Strategy identifies 5 priorities the EU should focus on in order to address the issue properly. These priorities are as follows: 1) identifying, protecting and assisting victims of trafficking; 2) stepping up the prevention of trafficking in human beings; 3) increased prosecution of traffickers; 4) enhanced coordination and cooperation among key actors and policy coherence; 5) increased knowledge of an effective response to emerging concerns related to all forms of trafficking in human beings. The Strategy also outlines a number of actions which the European Commission proposes to implement until 2016 in concert with other actors, including the Member States, EU institutions, EU agencies, international organizations, third countries, civil society and the private sector.

Trafficking in human beings is also thoroughly examined in a wide range of international documents open for ratification for the EU Member States as well as for the Eastern Partners. The most significant are: **the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime**, adopted in Palermo in 2000, and **the Council of Europe Convention on Actions against Trafficking in Human Beings**, adopted in Warsaw in 2005. Both legal instruments highlight the need of victims' rights approach.

They urge the States to take the relevant steps and establish appropriate mechanisms for enabling victims' protection and assistance.

II. Topics and questions for discussion

The forthcoming workshop will be devoted to the issues of cooperation between governmental institutions including the law enforcement agencies and non-governmental organizations supporting victims of trafficking in human beings. It will focus on the aspect of ensuring the victims' rights within the referral mechanisms both in the national and transnational dimensions focusing on existing good practices in cooperation between relevant stakeholders and models of supporting victims including the child victims.

I PANEL: The Victims' Rights

In the light of the above mentioned documents, it is necessary for the States to enable victims to exercise their rights effectively. Therefore, assistance and support should be available to them before, during and for an appropriate time after criminal proceedings. According to the international law, all victims of trafficking are entitled to a set of rights. These rights range from emergency assistance (including safe accommodation, material assistance and medical care) to labour rights, the right to a residence permit, access to psychological help, as well as access to justice and a lawyer (including the cases of claiming compensation) and finally (re)integration rights (including education and trainings). States are obliged to take necessary measures to ensure that this set of rights is provided to all victims of trafficking.

Thus, the 1st Panel will address the problem of respecting victims' rights and will be devoted to development of national models of support and protection of victims. The panelists have been requested to prepare short overviews how the victims' rights are respected in their national law and in practice, what they perceive as a good practice, what they would recommend to others, and what is still in process of adaptation to meet the international standards.

This session shall help in giving answers to the following questions:

- When (at which stage) should the victims be informed about their rights and by whom?
- Which stakeholders play a key role in the models of support and protection? What kind of support (if any) do they need to function effectively?
- How are these rights disseminated to victims and practitioners working with victims and what are good practices?

II PANEL: Standards of Cooperation between Law Enforcement Agencies and Non-Governmental Organizations

Based on the multi-sectoral approach to the problem of victims' assistance, it is essential to establish and enhance a coherent coordinative mechanism among the key actors, especially between Law Enforcement Agencies and NGOs. This cooperation can be organized in various ways: through formalised or semi-formalised mechanisms or just only on the basis of mutual understanding. The first solution goes with procedures that create clear commitments and clarify the roles and tasks of all sides involved, contrary to the last model, which bases on mutual trust and long-term experience in cooperation. In between there are, of course, mechanisms based on memoranda which also clarify some rules and obligations of both sides, nevertheless cannot be considered as if they were legally formalized.

In this aspect, the national referral mechanism can considerably affect the coordination and mutual cooperation between LEAs and NGOs.

II PANEL

The 2nd Panel will focus on cooperation between the main stakeholders, emphasizing the roles of non-governmental and law enforcement actors. Consequently, the main standards of cooperation between them are to be discussed. The panelists representing both sides (NGOs and LEAs) will overview their national practices describing models they have incorporated in national structures.

The discussion together with presentations should finalize with answers to such questions:

- What are the most functional models of cooperation? What are they based on?
- What are the common qualities of all models presented? Based on these similarities, is it possible to formulate universal standards of cooperation? If yes, what are they?
- What are the most frequent obstacles in implementing smooth cooperation? How can they be overcome?
- How can the national referral mechanism streamline the coordination between various stakeholders in the aspect of protecting victims?

III PANEL: Identification, Support and Protection of Child Victims

Children are more vulnerable than adults and thus at greater risk of exploitation in trafficking. With references to the international documents including the EU acquis, child victims should be the primary consideration, as well as the best interests of the child.

Children, especially children in migration or unaccompanied children who have been exploited need specific assistance and support due to their particular situation. It should be highlighted that EU legislation introduces the presumption of childhood. From the moment of their identification till finding a durable solution for them, all children should receive assistance, support and protection tailored to their needs. Apart from rights reserved to all victims of trafficking, in the case of child victims additional measures should be taken. First of all, it is essential to ensure that all child victims have a legal representative or a guardian to safeguard their interests. Secondly, all decisions on the future of a child should be taken within the shortest possible period but also with respect to the child's views on them. Thirdly, all measures considering the child victims should be always followed by an individual assessment. Finally, children participating in criminal investigations and proceedings (as witness/victims) need special treatment without any unjustified delay and with the use of appropriate communication technologies.

The 3rd Panel will be dedicated only to the aspect of identification, support and protection of child victims. Each of panelists has been asked to prepare a short overview how the interactions between Law Enforcement Agencies and child protection institutions are coordinated in case of child trafficking in the national law and practice. The aim of the presentations and discussion at this panel is to find solutions to following queries:

- When it comes to child victims how can the system of cooperation be improved since it includes so many various stakeholders who have different mandates and sometimes opposite expectations?
- How to implement in practice the principle: to have the child's interest at the centre of each measure and decision? What steps should be undertaken to do it?

III. Follow-up

Trafficking in human beings is interlinked with various policy areas (social policy, migration) and involves a number of stakeholders representing different sectors: governmental, social, scholar, international and private one. Thus, only a multi-sectoral -approach beyond the national borders can lead to eradication of this crime.

The forthcoming workshop is expected, on the one hand, to give such an opportunity for an open discussion in multi-sectoral assembly, and on the other hand, to provide information to participating States on various models and solutions applied at the national levels.

Basing on the knowledge from the presentations and discussion, the meeting should conclude with a need of taking further steps in transnational combating of trafficking in human beings, especially with regards to the system of victims' protection.

These future actions shall lead to:

- building mutual trust both at the national and transnational levels between various stakeholders;
- harmonizing the national law and procedures considering the system of support and protection of victims to improve the referral and identification mechanisms;
- creating a platform for future transnational referral mechanism which should play a prior role in international cooperation with neighbouring countries, especially between the countries of origin and destination.