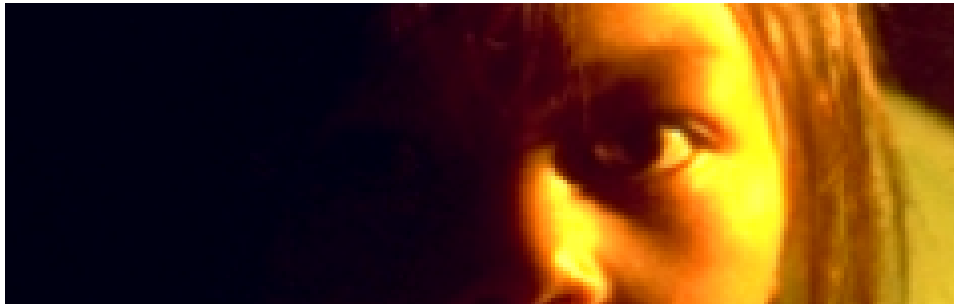


Action against trafficking in human beings



The experience of the Council of Europe

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UNDP/POGAR
Cairo, Egypt
27 - 28 March 2007

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Strategy against economic and organised crime **THE RATIONALE**



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Features of economic and organised crime in Europe

Key areas:

- Fraud and other economic crimes
- Drug trafficking
- People as commodity (trafficking in human beings, smuggling of persons)
- Cybercrime
- Money laundering
- Corruption

Organising for EC/OC increasingly takes the shape of network-type business enterprises engaging in symbiotic relationships with legal structures of society

Organised crime a subset of the broader category of economic crime (crimes against the economic order)

Trafficking in human beings in Europe

Victims

- The vast majority of victims are women and girls who are trafficked for the purpose of sexual exploitation
- Many agree to work in the sex industry but are deceived about the conditions
- Many victims from minorities, poor areas, dysfunctional families
- An important share are minors
- Most victims are from central and eastern Europe

Offenders

- Criminals networking
- Individuals
- Organised crime groups

...Trafficking in human beings in Europe



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...Trafficking in human beings in Europe

THB: Investigations, prosecutions, convictions

- Some 35 to 40% of global prosecutions and convictions for THB take place in Europe
- Increases in Central and Eastern Europe: results of improved legislation, law enforcement focus and cooperation by victims
- Key problem: identifying victims, protection and cooperation of victims, mixing up THB and smuggling of persons/illegal migration

Year	Prosecutions		Convictions	
	Global	Europe and Central Asia	Global	Europe and Central Asia
2003	7,992	2,437	2,815	1,561
2004	6,885	3,329	3,025	1,274
2005	6,618	2,598	4,766	1,984

Source: US Department of State: Trafficking in Persons Report 2006

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Child pornography on the internet

- Increasing reporting on child pornography on the internet
- Increasing number of commercial sites
- Problem: legislative gaps in many countries
- Child porn sites hosted in many different countries (see www.iwf.org.uk)

- Important successes in law enforcement operations
- Law enforcement priority in many European countries
- Public-private cooperation (by ISPs, example CETS)
- Opportunities for enhanced international cooperation (Convention on Cybercrime)

Council of Europe - Action against trafficking in human beings

Prior to 2005: Many soft law instruments

- Recommendation No. R (91) 11 concerning the sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults;
- Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states;
- Recommendation No. R (97) 13, concerning intimidation of witnesses and the rights of the defence;
- Recommendation 1450 (2000) on violence against women in Europe;
- Recommendation 1467 (2000) on Clandestine immigration and the fight against traffickers;
- Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation;
- Recommendation No. R (2001)11 concerning guiding principles on the fight against organised crime;
- Recommendation No. R (2001)16 on the protection of children against sexual exploitation

**+ Palermo
Protocol of
United
Nations in
2000**

Council of Europe Convention on Action against Trafficking in Human Beings 2005

Added value:

- Strong focus on human rights, human dignity and gender equality
- To cover all forms and types of trafficking (national and transnational, whether or not related to organised crime, for sexual or forced labour exploitation, or for any other reason)
- To provide for stronger, binding measures to protect victims
- To draw up an efficient and independent monitoring mechanism

... Council of Europe Convention on Action against Trafficking in Human Beings 2005

Article 2- Scope

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not related to organised crime.

Article 4 - Definitions

THB defined as in the Palermo Protocol

Similarly: consent not required if the same means (fraud, deception, abduction etc) are used

Chapter II – Prevention, co-operation and other measures

Article 5 – Prevention of trafficking in human beings

Article 6 – Measures to discourage the demand (research, awareness, education)

Article 7 – Border measures

Article 8 – Security and control of documents

Article 9 – Legitimacy and validity of documents

Chapter III – Measures to protect and promote the rights of victims

Article 10 - Identification of the victims

Article 11 – Protection of private life of victims

Article 12 – Assistance to victims

Article 13 – Recovery and reflection period

Article 14 – Residence permit (renewable)

Article 15 – Compensation and legal redress

Article 16 – Repatriation and return of victims

Article 17 – Gender equality aspects

Chapter IV – Substantive criminal law

Article 18 – Criminalisation of trafficking in human beings

Article 19 – Criminalisation of the use of services of a victim

Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.

Article 20 - Criminalisation of acts relating to travel or identity documents

Chapter V – Investigation, prosecution and procedural law

Article 27 - Ex parte and ex officio applications

1. Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence has been committed in whole or in part on its territory...

Article 28 – Protection of victims, witnesses and collaborators with the judicial authorities

Article 29 – Specialised authorities and co-ordinating bodies

Chapter VI – International co-operation and co-operation with the civil society

Chapter VII – Monitoring mechanism: GRETA

State of implementation:

- Ratified by 4 countries and signed by another 30 (as at 13 March 2007)
- Early implementation in some key source and transit countries (Albania, Moldova and Romania) as well as Austria
- Key issue: support and protection of victims
- Many European countries had undertaken important legislative reforms between 2002 and 2005 to implement the Palermo Protocol

New: Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Council of Europe - to be adopted in autumn 2007)

Provisions dealing with:

- Preventive and protective measures
- Substantive criminal law
- Investigation, prosecution and procedural law, including child-friendly procedures
- Treatment of sex offenders
- National data base and exchange of information
- International cooperation

Parties are to criminalise:

- Sexual abuse of a child
- Child prostitution
- Child pornography
- Participation of a child in pornographic performances
- Solicitation of children for sexual purposes

Convention on Cybercrime (Council of Europe - in force since 2004)

Substantive criminal law

- CIA offences
- Fraud and other computer-related offences
- Child pornography (Article 9)
- other offences

**Open to accession
by any country**

Procedural law

- expedited preservation of data and other efficient means to secure electronic evidence

Framework for efficient
international cooperation

Conclusions

- Close legislative gaps
- Make the investigation of THB and child pornography a law enforcement priority (resources, training, specialisation)
- Investigate trafficking networks
- Investigate trafficking-related corruption
- Confiscate proceeds from crime
- Support and protect victims
- Obtain cooperation of victims as witnesses
- Make best possible use of international instruments for police and judicial cooperation (e.g. UNTOC, Convention on Cybercrime)
- Engage in direct international/regional cooperation (networking of prosecutors)
- Monitoring and mutual evaluations of commitments at a regional level [!?]



Thank you for your attention.

Alexander Seger

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