

Department of World Economics

THESIS SUMMARY

of the Ph.D. dissertation by

Krisztina Száraz

**The role of the European Union
in the global fight against trafficking in human beings**

Consultant:

Prof. Dr. Ferenc Mislivetz
Professor

© Száraz Krisztina

Table of contents

1. Definition of the research problem	4
2. Research methods	7
2.1. The conceptual and structural layout of the dissertation	9
3. Conclusions	13
3.1. Recommendation of actions on national level.....	18
3.2. Recommendation of actions on European level	20
3.3. Recommendation of actions on international level	21
4. Bibliography	23
5. Publications	26

1. Definition of the research problem

“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

(Art 4. Universal Declaration of Human Rights)

Each year, millions of women, men, and children around the globe fall prey to human traffickers whether for sexual exploitation, forced labour, domestic work or other purposes, both within and beyond the borders of their country. This phenomenon has taken on such proportions that it can be described as a modern form of slavery. According to the Council of Europe, trafficking in human beings represents the third largest source of income for organised crime (after guns and drugs). It is a high-profit and low-risk enterprise that ranks it among the most lucrative forms of international organised crime. It is estimated to net profits of 7-10 billion dollars a year worldwide.

Human trafficking is a serious crime and a multi-dimensional threat. It is based on a treatment of human beings as private property or even commodity depriving them of the possibility of using their fundamental rights. It is a severe violation of fundamental human rights and reduces people to a state of dependency via threats, violence and humiliation. Besides depriving people of their human rights and freedoms, it also increases global health risks, and it fuels the growth of organized crime. Human trafficking has a devastating impact on individual victims, who often suffer physical and emotional abuse, rape, threats against self and family, and even death. Boys and girls who should be at school are forced to have sex, work long hours under dangerous conditions, sold for illegal adoptions or even coerced into becoming soldiers. Women and girls are being trafficked for sexual exploitation or they are forced into domestic labour, or marriage. Men, trapped by debt, slave away in mines, plantations, construction or sweatshops.

However, the impact of human trafficking goes beyond individual victims. It is a threat for the whole society by undermining the populations' health, safety and security. The enormous amount of money involved in this crime might influence even the high-level politics. It can destroy the fabric of society. Corruption witnessed among law enforcement authorities or other stakeholders cause the re-victimisation of trafficked victims instead of providing them protection and assistance.

Slavery itself has existed since recorded history. The transatlantic trade began in the early 16th century, when Europeans began to settle in America. They enslaved Africans to work in their mines and plantations. Over the next 350 years, millions of Africans – the exact number of the deported is still uncertain – were transported to the Americas. They included men, women and children. In 2007, the world commemorated the bicentennial of outlawing the transatlantic slave trade. The same lie which underpinned the transatlantic slave trade of the eighteenth and nineteenth centuries, namely that some people are less than human, is the very lie that fuels modern-day slavery.¹

In many countries, neither the necessary laws are not in place, nor they are not properly enforced - traffickers are not punished, while victims are treated as criminals. All of the countries around the world are hit by this shameful crime. None of the countries, even the developed ones can solve this new form of slavery on their own. To address the question effectively, international cooperation is a must.

The issue of trafficking in persons, whether at the international, national or local level, can only be addressed effectively on the basis of coordinated and comprehensive strategies that are based on human rights, while taking into account the transnational nature of the problem, the many associated criminal activities, in particular money laundering, the frequent involvement of organized criminal groups and the profound pain, fear and damage suffered by the victims.

Historical events have a great influence even on the trafficking in human beings: after the fall of the Iron Curtain, a so called fourth wave of trafficking of women started. The first wave was the Southeast Asian wave, particularly in Bangkok, Thailand, to serve the American troops serving in Vietnam. After that came the North African wave that moved into parts of Southern Europe. And then there was the third wave, which is the movement of Central and South American women. The fourth wave came as an explosion by the fall of the Iron Curtain. During the Cold War the proportion of Eastern European women in global trafficking of women was one percent and it suddenly jumped to 25 percent. They were blond, white, intelligent and compliant.

¹ Ambassador Mark P. Lagon, In US Trafficking in Persons Report [2008]

According to the Europol, there has been an apparent increase in recent years in the number of victims trafficked into the EU, particularly through and from the Russian Federation, Ukraine, Central and South Eastern Europe. Given the global nature of trafficking and the existence of lucrative markets in the EU it is not surprising that victims from Asia, Africa and Latin America are also identified on a regular basis.²

The main objective of my thesis is to analyse, why and how the European Union can have a leading position in the global fight against trafficking in persons. How it can serve as a role-model for the rest of the world. How it can activate not just its Member States but also other countries in the world, mostly those of origin in order to eliminate this shameful crime. EU Member States are mostly countries of destination, but not solely. Mainly because of the 2004 and 2007 enlargement, the European Union became a union of states of transit and origin as well. An effective cooperation among these three types of countries is fundamental for human trafficking to be eliminated. This experience of having all these three types of countries within the Union will lead to obtaining the knowledge of how to help the elimination of trafficking in human beings outside the European Union. It is the EU's duty to fight this heinous crime within and outside its territory, thus having a global responsibility in fighting trafficking in human beings among other reasons for being the protector of human rights and because protection of human rights represents one of the European values. It can draw the world's attention on a human-rights-based, victim-protective approach in combating trafficking. Taking an active role in fighting trafficking in human beings, putting the human rights approach into the centre of attention, becoming a role model can motivate the Member State as well as the rest of the world to take this shameful crime seriously and take all needed means to tackle it.

² Europol [2008]: Trafficking in human beings in the European Union: a Europol Perspective, February 2008, p.1

2. Research methods

During the analysis of the topic of the dissertation I regarded the multidisciplinary approach as determinative. I used the outcomes of the international law, EU law, the international economics, and the practice of the EU Member States.

The research aims to give an overall picture of the phenomenon and at the end to draw up a list of recommendations that closes the gap in current legislation, enforcement and practices, in particular reaching proportionate and dissuasive sanctions for traffickers, including confiscation of assets gained by trafficking or addressing demand for human trafficking. The list of recommendations is suggesting a comprehensive strategy that is inevitable to effectively combat trafficking in human beings.

The timely scope of the research is limited to a period of two decades when the EU anti-trafficking policy started to develop starting with the 1993 Council recommendation, the first official form of the European Union to recognise the problem. Since the anti-trafficking policy is still a developing and forming policy, the outcomes are flexible.

In order to keep the balance, and avoid the deviate from the scope of the dissertation, some questions were only concisely discussed. It specially applies to the certain EU programmes that are used to fight trafficking in human beings, and also to those legislative tools that are only interrelated to the European Union's anti-trafficking policy.

The object of the research was to point at the main challenges of the issue of trafficking in human beings, to analyse the development of the EU anti-trafficking policy, compare it with the US anti-trafficking policy and to formulate recommendations how the EU could improve its fight against trafficking in human beings inside the EU and also outside the EU.

On the basis of the above mentioned, the main questions of the dissertation were the following:

1. What are the main reasons behind an ineffective the anti-trafficking policy worldwide? What are the main mistakes that law enforcement authorities but even decision-makers make on an everyday basis?

2. How has the EU's anti-trafficking policy developed? What are the main tools?
3. How do the Member States implement the EU legislative tools? If there are shortcomings, why does this happens?
4. What are the main elements of the United States' anti-trafficking policy and how it differs from the European Union's?
5. The main question was whether and how the EU could play the role of a global leader in the fight against trafficking in human beings?

Since the scientific elaboration of this global issue is still in baby shoes, lacking the appropriate scientific literature, mostly given by the fact that the issue of modern-day slavery grabbed the attention of researches and decision-makers just recently. For a period of time, decision-makers did not want to admit that people in the second half of the twentieth century could be held in slavery-like conditions, since slavery has already been abolished for 200 years ago. However, trafficking in human beings differs at least in one point, but crucial point from the old form of slavery. Two hundred years ago slavery meant exploitation of black people trafficked from Africa to the United States. On the contrary, nowadays slaves do not come solely from Africa but also from Asia, Europe, America and Australia. It was first the NGOs who started to raise attention to this problem and was slowly recognised by international organisations and finally by governments. As a primary source I used the international conventions and EU legislation, legal actions and declarations. Furthermore I used the reports and analysis of international organisations active in the field, in particular the UNODC, IOM, ILO and UNICEF. There are several thousands of studies conducted by international organisations and some NGOs active in the field. However, most of these studies focus only on one thing, the general issue of trafficking in human beings, trying to describe the basic forms, methods and root causes of human trafficking. The knowledge of the issue has slowly extended. Attention was firstly paid only to women and their sexual exploitation and then gradually the scope of researches and attention was widened to labour exploitation, as the second most common form of human trafficking; even though researchers, experts and politicians still have only limited knowledge about this form. The other forms of trafficking, such as forced domestic work, forced begging, illegal adoption, forced marriages, just to mention a few, are still under-researched. In addition I found it important to make interviews with those people who are directly or

indirectly involved in the EU and/or US anti-trafficking policy-making, such as the persons responsible within the European Commission, European Parliament, some Member States as well as the main US Departments involved in the decision-making, in particular the Department of State, as well as the US Congress and the NGOs. Finally, I have participated in some conferences on the issue, like the Council of Europe's GRETA conference on 8-9 November 2007 in Strasbourg, the UN.GIFT conference on 13-15 February 2008 in Vienna, and the Ministerial conference on 19-20 October 2009 in Brussels. All of these sources created the secondary sources of information. I have to underline that as the basis, I have used the literature, legislation, periodicals and newsletters in English as a source because the issue is not adequately elaborated yet in Hungarian language.

2.1 The conceptual and structural layout of the dissertation

In the first chapter of the dissertation I have described the phenomenon of trafficking in human beings. The reason why I have dedicated the first chapter to describe the phenomenon of trafficking is to point at those problematic parts that create the Achilles tendon of the anti-trafficking policy, where most of the decision-makers, governments and law enforcement authorities make mistakes. Unfortunately, after two decades of efforts to create a legislative tool to answer trafficking in human beings, there are still conceptual mistakes made by stakeholders both at national and international level. Most of the decision-makers and law enforcement authorities can hardly distinguish definitions; they mix up basic terms, such as smuggling, trafficking in human beings and illegal migration. The basic difference is that "trafficking is a crime which infringes the fundamental rights of persons, while smuggling is a violation of legislation protecting the borders".³ Without clearing out these basic definitions, it is impossible to fight effectively against this heinous crime. First of all, I focused mostly on the definition of trafficking, as it is the alpha and omega of an efficient anti-trafficking policy. Unless the stakeholders use the same definition, they might misunderstand each other. In most of the cases there is a misinterpretation and misunderstanding of the definition even by the law enforcement authorities who supposed to identify victims of trafficking or even the by decision-makers who create legislation on European or national by transposing

³ Commission Staff Working Document SEC (2009) 359, p. 2

EU legislation into national. Frequently, trafficking in human beings is mixed up with smuggling or even illegal migration. Many of the Member States' efforts to fight against trafficking is not that efficient because they consider cases of trafficking as cases of smuggling and illegal migration, therefore they cannot guarantee the victims the needed assistance and protection. As a basis I have taken the definition agreed under the UN Palermo Protocol as the most commonly adopted definition of the phenomenon of the trafficking in human beings in the world and compared it to the definition of smuggling, drafting up the basic differences between the two different criminal actions. Another important element of the definition is the consent of the victim. Member States often treat trafficked victims as illegal migrants saying that the victim consented to enter the territory of the Member States illegally. According to the definition of the Palermo Protocol, consent of the victims should be regardless. This is also shared by the Council Framework Decision 2002/629/JHA, the main tool of the current EU anti-trafficking policy. The reason why this prior consent should not be taken into consideration is that it might happen that victims of trafficking have given their consent to illegally enter a country but they have never consented to being exploited sexually, or to be held in slavery like conditions. In addition I have concentrated on the different forms of trafficking in human beings. The reason for this is that unfortunately people who should fight trafficking in human beings are often not aware of all forms of this crime. They think, trafficking is equivalent to prostitution. In fact, prostitution does not mean trafficking in human beings. Prostitution is not even a form of human trafficking. It is the forced prostitution, when threat and coerce is used, that is one of the forms of trafficking. However, we should not forget about the other forms either, like forced labour, forced domestic work, child sex tourism, forced begging, organ trafficking, just to mention a few. In my dissertation I have characterised these main forms of trafficking. Furthermore, I have tried to describe the certain cases where victims can be trapped into trafficking, what makes them vulnerable, what are their main characteristics and finally prove why victims should not be treated as witnesses in criminal cases, as many of the Member States consider them, this way they are obliged to testify against the offenders, while not receiving the assistance they should have access to. Also in this chapter I dealt with traffickers, their main characteristics, working methods how they purchase the victims.

In the second chapter I have described how the EU policy in the field has developed, starting with the 1993 Council Recommendation that contained only a limited set of steps, namely five that all Member States should have had taken. My research however showed that Member States are still lacking the implementation of these initial recommendations. I have presented and characterised the Commission's communication, how it have initiated new tools for the fight against trafficking in human beings. I have also analysed the two major legislative tools of the European anti-trafficking policy, the 2004/81/EC Directive on short-term residence for third-country victims of trafficking, and the 2002/629/JHA Council Framework Decision on trafficking in human beings, while comparing it to the Palermo Protocol, which is the most common international convention on the issue. The European Parliament was always a leader in proposing new approaches and initiatives in order to improve the anti-trafficking policy; for example, it was the EP that called for comprehensive and human rights based approach from the beginning while this has been recognised just recently by other EU institutions and some Member States. Therefore I found it important to describe and analyse all EP resolutions in the field, as they had great added value to the development of the EU's anti-trafficking policy. Another significant part of the research is that it describes the most recent developments in the EU legislation in light of the Lisbon Treaty, how it changes the EU institutions' role in the field and what procedural changes it brought. Furthermore, I have also focused on the main instruments, programmes and initiatives, in particular the EU Anti-Trafficking Day, as well as on EU anti-trafficking agencies, such as Europol, Eurojust and Frontex.

The third chapter focuses on Member States, the policy and practices of the United States of America and on the two main international conventions in the field. Firstly, I have described the Member States response to the trafficking in human beings in light of the EU legislation development, the state of implementation and areas where they fail to cope with EU legislation. I have also gathered information on the efforts of previous EU presidencies, how they tried to hold the issue of human trafficking high on the agenda and also showed some best practices. I am convinced that by the exchange of the best practices the improvement of the effectiveness could accelerate. Further, I have described the main characteristics of the US anti-trafficking policy, in the end summing up its shortcomings and good solutions, and finally how it differs

from the EU approach to combat human trafficking. Although the United States Government appears to have created a sound and viable infrastructure to create and implement anti-trafficking laws and policy, and besides stepping up on the international level with significant funding and with issuing the Trafficking in Persons Report each year as a diplomatic tool, the US fight against trafficking in human beings has serious challenges that remained unanswered. First of all, one the misbelieves of the US anti-trafficking policy is their tendency to see trafficking in human beings as a foreign issue or a problem that affects solely other countries. The number of investigations and prosecutions as well as assisted victims is low, and they are lacking to identify US citizens as victims of human trafficking. Furthermore, reports and studies have repeatedly highlighted a lack of overall strategy and coordination of agencies responsible to tackle human trafficking and called for addressing these serious deficiencies. The Center for Human Smuggling and Trafficking has not played a useful role in combating trafficking; it is focusing mainly on smuggling and terrorist funding, just to mention a few. In addition I have characterised the two main international conventions on the fight against trafficking in human beings, the 2000 Palermo Protocol and the Council of Europe Convention on Actions against Trafficking in Human Beings. Finally I closed the third part with setting up a list of recommendations for the EU and its Member States. My research intends to be a pioneer by working out a comprehensive set of recommendations of all the steps that each Member State and the European Union should do at local, national and international level. This is a set of minimum requirements towards the Member States. The recommendations follow the so called “3 P” approach, namely prevention, prosecution, protection of victims, an approach invented by the Palermo Protocol and supported by the Council of Europe Convention. I have widened this approach by another ”P”, partnership that is present in recent debates about the fight against trafficking in human beings. I have divided the recommendations by levels where the actions need to be taken and within that by the so called “P”-s that has not been done before. My research also represents a novelty in a sense that it includes not only actions directly related to human trafficking, like protection of victims, but also actions that indirectly effect the trafficking in human beings, like gender empowerment, education and so on. These recommendations are comprehensive and holistic since they do not seek to address trafficking in human beings only inside the EU but also draw up ways how the EU could strengthen its influence and power

globally and how it could gain a leading role in the fight against the trafficking in human beings.

3. Conclusions

Trafficking in human beings is a shameful crime that deprives people of their human rights and freedoms, it is a global health risk and it fuels the growth of organised crime. It has a devastating impact on individual victims, but also undermines the health, safety and security of nations worldwide.

Even though globalisation has much positive influence on economics, and our everyday lives, it definitively has a negative impact on trafficking in human beings. Just an example when globalisation does not help:

- In 1850 it was difficult to capture a slave and then transport him/her to the US. Today, millions of people around the world are potential slaves since thanks to globalisation, transport is much easier, people can travel easily and for less money, so distances are shortening.
- An average slave in the American South in 1850 cost the equivalent of 40,000 US dollars in today's money; today a slave costs an average of 90 US dollars.⁴ Trafficking in human beings function just as any market, it is driven by demand and supply. Since there is a huge supply of people willing to take the risk for a promising new job offer, it decreases their price, so today's slaves are cheaper because of the supply. This however, also means that there is a tremendous amount of potential victims, making them cheap, and thus easily replaceable, their lives mean nothing for their “owners”. They are not considered as a major investment worth maintaining. If a slave gets sick, injured, useless, or troublesome to the trafficker, he/she is dumped or killed.

It is almost impossible to say if there has been an increase or decrease in trafficking in human beings due to its hidden character. There are no exact data, just estimations. Even though we know the number of documented migrants but we do not know how many of them end up in exploitative businesses. Furthermore, we cannot realistically estimate the number of illegal migrants and the ratio of victims of trafficking coming

⁴ www.freetheslaves.net

from illegal migrants. But there is no doubt that it is a huge problem, a severe violation of human rights.

According to the Europol, trafficking is on the rise. The removal and relaxation of internal border controls within the EU has resulted a significant reduction in the opportunities for many EU law enforcement agencies to intercept traffickers and identify victims of trafficking. Before “Schengen”, only the more sophisticated crime groups could operate at a cross border level. Thus, the absence of physical border controls provides significant opportunities for smaller or mid-level groups and individuals. In addition, many former source countries are now part of the European Union, like Romania and Bulgaria. Other major source countries such as the Russian Federation, Ukraine, Belarus, Turkey, Moldova and the Western Balkans as a region are now one border crossing away.⁵

Factors and trends that contribute to the rise of modern slavery:

- A fast growth of population reaching almost 7 billion, mostly in the developing world⁶
- At least half of the population lives in the urban area and their suburbs, without “safety net” and no job security⁷
- Corruption in the government and law enforcement authorities around the world cause re-victimisation of people being trafficked by allowing slavery to go unpunished,

Financial and economic crisis that leads to the increase of unemployment, making people economically and socially more vulnerable, becoming an easy prey for traffickers Member States should fight trafficking not just because it is prohibited by

⁵ Europol [2009] Trafficking in human beings in the European Union: A Europol Perspective, June 2009, p.2

⁶ According to the UNFPA, in 2009 there were 6,82 milliard people living in the Earth out of which 5,59 milliard were in the less developed countries and 0,83 milliard in the least developed countries. The fertility rate globally is 2,54 while in the developed countries it is 1,64, in the less developed countries 2,70 and in the least developed countries 4,29. In: UNFPA [2009]: The state of world population 2009, Facing a changing world: women, population and climate

⁷ According to the UNFPA, in 2008, for the first time, more than half of the world's population, 3,3 milliard people is living in urban areas. By 2030, towns and cities will be home almost 5 milliard people. Many of the urbanites will be poor. The urban population of Africa and Asia will double in less than a generation. This unprecedented shift could enhance development and promote sustainability—or it could deepen poverty and accelerate environmental degradation. In: UNFPA [2007]: The state of world population 2007, Unleashing the potential of urban growth

the Charter of Fundamental Rights of the European Union⁸ and the Universal Declaration of Human Rights,⁹ but also inviolable human dignity is at the very core of national constitutions. However, another reason beside the protection of human rights is also that it enables to roll up other forms of organised crime. Traffickers are often engaged in other criminal activities, such as drug trafficking or trafficking in weapons thanks to high profit made from labour and sexual exploitation that is often subject to money laundering. Furthermore, being successful in trafficking, making a huge amount of money helps them to achieve economic, social or even political power. Some networks are large organisations with political and economical contacts at all levels, in both countries of origin and destination. By keeping the fight against trafficking as a priority high on the political agenda, the fight against other forms of organised crime could also get more successful.

Just as in the case of number of people being trafficked, it is also difficult to say, how high profits traffickers are gaining. Only estimations exist, no precise data. However, by knowing the fact that victims of trafficking are paid nothing or very little, it could be estimated that traffickers make huge profits. According to the ILO 2005 report¹⁰ estimates the profits generated by trafficked forced labour at 31,6 milliard USD per year.

Trafficking in human beings is a challenging phenomenon. The main challenge is that it has a changing character and perpetrators can rapidly adjust to new circumstances and get over new obstacles, such as increased border control or adoption of a new piece of legislation. The challenge is to quickly react to these new forms or trends of trafficking. But to be able to react to these new trends, the decision-makers and law enforcement authorities must be aware of them.

It is not enough what the European Union and the Member States are doing currently. They need to invest more into the fight against trafficking, they need to improve their approach and set up more effective tools. The response needs to be not just reacting (reacting on facts and situations) but also proactive.

⁸ Article 5 Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.

2. No one shall be required to perform forced or compulsory labour.

3. Trafficking in human beings is prohibited.

⁹ Article 4 of the Declaration: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms

¹⁰ ILO [2005]: A Global Alliance against Forced Labour

In my dissertation I collected information and data on Member States achievements. The laws addressing the trafficking in human beings exist, but for some reason they are not being enforced. Figures concerning criminal investigation and prosecution that are not being high enough, suggest the same. A low figure does not mean that the Member State concerned does not have cases of trafficking. It simply means that the efforts to combat trafficking are not effective enough. Even though it is almost impossible to even estimate the extent of this heinous crime, the IOM talks about around 500 thousand people being trafficked into or within the European Union in each year. Contrary to this, the overall number of investigation is only 1569.¹¹ This means there is a serious gap between the legislation in force and actual implementation.

Trafficking continues to be not only a high-profit business, but also a low-risk one. Even though countries are adopting legislation against trafficking, the number of prosecutions is still extremely low, because they do not enforce it (properly). So traffickers can operate unpunished to a large extent.

According to the Free the Slaves, NGO, while more than 90 percent of murders are cleared up, only one percent of slavery cases are ever solved. Why? Every police department has a homicide squad, but only a handful of police departments have anyone assigned to human trafficking and slavery.¹²

“Bearing in mind that notwithstanding the Treaties, the numerous legislative measures already adopted and the political declaration made, such as the 2002 Brussels Declaration, all of which stress the political priority of fighting trafficking in human beings, and particularly women and children, there are still no perceptible real improvements; whereas on the contrary, trafficking is the fastest – growing criminal activity in comparison to other forms of organised crime.”¹³

If those legislative tools that are already established were implemented and enforced, the fight against trafficking in human beings would be on a much higher level. Unfortunately, Member States still treat victims as illegal migrants, in spite of the numerous recommendations from the side of the European Parliament,

¹¹ European Commission Communication COM (2008) 657

¹² www.freetheslaves.net

¹³ European Parliament Resolution P6_TA (2006)0005

communications and report from the European Commission and position papers from NGOs. This is an essential element of an effective anti-trafficking policy.

However, it is not just the Member States who do not fulfil all their obligations and resolutions. On the request of the European Parliament the Commission promised back in March 2006 to launch no later than 2007 a study on both the causal correlation between the various Member States' legislation on prostitution and trafficking for sexual exploitation and on the correlation between the various Member States' legislation and policy on migration and trafficking in human beings.¹⁴ These studies are still not available.¹⁵ Furthermore, the Commission should have launched its report to the European Parliament and the Council on the implementation of the Directive 2004/81/EC on short-term residence permit for victims of trafficking till the 6th August 2006. This report has been postponed and should be launched in 2010. Even though this Directive is already obsolete, still many Member States have shortcomings with its transposition

However these shortcomings and gaps in implementation and enforcement do not mean that there should be no further steps or initiatives taken by the EU. The Commission launched its proposal for a new framework decision in March 2009 in order to review the 2002/629/JHA Council Framework Decision, since it was already obsolete, even though still not being correctly implemented by some Member States. Since the old framework decision focused only on sexual and labour exploitation, the definition of trafficking in human beings needed to be extended. Furthermore, the sanctions and penalties appeared not to reach their purpose, so the Commission proposed to increase the minimum sentences to offenders, ensuring effective, proportionate and dissuasive penalties. Another important new element was the article on assistance to victims which was missing from the previous framework decision. By the Lisbon Treaty coming into force on the 1 December 2009, the circumstances have changed. The directive became the proper legislative tool. Due to this transition period, all those procedures that were not finished before the Lisbon Treaty entering into force, were suspended and the Commission needs to come forward with a new proposal of directive and the European Parliament will have a role of co-legislator. According to this new procedure, the European Parliament has

¹⁴ Article 1(z) of the European Parliament Recommendation P6_TA (2006)0498

¹⁵ At least till the end of 2009.

decided not to work out a regular report but to prepare a resolution which will contain all those points that are important for the European Parliament and that it would like to see in the new directive. During the debate on this resolution on the 19 January 2010, the Commissioner Jacques Barrot informed the Members of the EP that the Commission will come out with its new proposal in Spring 2010. This new form of legislation will give more power to the Commission, since it enables to start infringement procedures against Member States which do not comply with the directive. This was not possible when the only tool in the Commission's hand was the framework decision. So this envisages just by itself a more effective anti-trafficking policy. Not negligible the fact, that the Lisbon Treaty gave the Commission to work out an even better proposal. With the commitment of the new Commissioner, Cecilia Malmström to do everything in order to eliminate human trafficking, it could even be a real possibility.

When working out the directive on trafficking in human beings, emphasis needs to be given at European level to the harmonisation of the various national laws in this sphere and the resulting differences of methods of detection and prosecution.

3.1 Recommendation of actions on national level

I am convinced that trafficking in human beings can be solved only if it is tackled from each side and every level, nationally and globally. For this reason, I have drawn up a list of recommendations, a summary of elementary steps that every Member States and the EU should take in order to achieve the necessary results. If the EU fulfils all these expectations, it can easily become the global leader in fighting trafficking in human beings, by closing the gaps in cooperation and coordination.

The list of recommendation follows the so called “three P”, established by the Palermo Protocol, namely prevention, prosecution and protection and adds the new “forth P”, partnership. The strategy in drawing up these recommendations I have chosen to go step by step, level by level, starting with the actions that should be taken on national level, followed by the EU level, finally summing up the actions what should be done on the international level.

Trafficking in human beings cannot be solved by one single Member State but there is a whole range of actions, measures and activities that is in each Member States’

responsibility. In this part, I have set up those actions that each Member States should take in order to reach the best results on national level.

Among the most important national elements of fighting trafficking in human beings is establishing national anti-trafficking rapporteurs whose main role should be the coordination of all relevant policies and the preparation of the anti-trafficking strategy. Even though, the 1993 Council Recommendation has already called for it, only two Member States have established these bodies.¹⁶ Furthermore, clear distinction of responsibilities has to be ensured, so all ministries, agencies and stakeholders know what is their responsibility and none of the actors act cross-sectorally and the work carried out is not duplicated. For this reason a Network of Anti-Trafficking Experts is reasonable. Member State should also revise their migration policy and ensure that victims of trafficking are not treated as illegal migrants. It is important that it is not just the government who creates the anti-trafficking policy. A whole range of sectors should be involved, like the financial sector, in order to facilitate to investigate cases of money laundering, often linked to human trafficking. NGOs have a very special and important role, greater attention and stable resources should be provided to them. Involvement of businesses and trade unions has its reason too, while regular labour inspections have to be guaranteed. Training of all stakeholders, but mainly law enforcement authorities is crucial. Awareness-raising and the involvement of media are essential tools of prevention. It has to be also ensured that traffickers get heavy penalties that are dissuasive, and that demand is also addressed. Special heed should be dedicated to victims. I have divided the assistance and protection provided to them into two groups. I have named the first assistance as “unconditional short-term assistance” that should be guaranteed to all victims, regardless their will to cooperate with the police, like medical care, psychological counselling and free legal aid. This assistance should be available up to three months during which victims should decide the next step. If they chose to cooperate with the law enforcement, they can be eligible to the so-called “conditional long-term assistance”, covering mostly the access to vocational training, language courses, reintegration programmes and continued legal assistance. This second type of assistance should have a duration of three years linked to a special residence permit and can be renewed on the basis of

¹⁶ The Netherlands and Sweden

individual assessment. If the victims do not wish to help the police's work, they will be sent home to their home country.

3.2 Recommendation of actions on the EU level

Trafficking in human beings cannot be solved by one single Member State, steps on the EU level must be ensured. In the part dedicated to EU actions, I have drawn up those actions that should be taken on the level of the European Union in order to improve the effect of steps taken on national level.

Among others, I have proposed to establish an EU Anti-Trafficking Coordinator, who should be responsible for coordinating the EU's anti-trafficking policy and the work of national anti-trafficking rapporteurs and should work out the annual report on trafficking in human beings, summing up the EU's progress, the development of Member States, any legislative changes, the work of the EU agencies, just as to propose the further steps. Another crucial point is to ensure that each Member States use the same unified definition of trafficking in human beings. Even though, there are comprehensive definitions provided by the Palermo Protocol, the Council of Europe Convention and also by the 2002/629/JHA, Member States however do not transpose these definitions correctly, causing by this further harm to victims by not identifying them as victims of trafficking, not becoming eligible for assistance and protection. Hopefully the new directive will come with the most updated definition. One of the biggest misunderstandings about trafficking in human beings is that despite the term "trafficking" it is not a problem about movement. It is about the use of force, fraud or coercion for the exploitation and abuse of a man, woman or child's human dignity. Member States should work to prevent and punish this crime, as the guarantor of the right to freedom.

Furthermore, working out and implementing unified data collecting methods is also needed, since Member States use different methods, this way the results are not comparable. EU hotline for trafficked victims should also be established, just as EU anti-trafficking website. Among awareness-raising campaigns, I would like to mention only the IOM project "buy responsibly" which aim is to decrease demand for products produced by forced labour. Special attention should be given to children, and also to the issue of sex tourism. Given the fact that most of the tourists

who sexually exploit children come from developed countries, including the Member States of the EU, it is necessary that the EU takes measures to combat this shameful crime against children. The fight against sex tourism needs to address both the individuals who abuse children but also the individuals and companies who advertise such “tourist attractions”. The principle of extraterritoriality should be applied, if a citizen of a Member State gets involved in sex tourism, abusing a child abroad. Another important thing that the EU should invest to is the funding of researches. There are many fields that are still uncovered, unknown for the law enforcement authorities and decision-makers. There should be research on new trends and forms of trafficking, on the links between trafficking and the demand for cheap labour, the effectiveness of existing anti-trafficking programmes, and on the health and psychological consequences of being trafficked, just to mention a few areas.

3.3 Recommendation of actions on international level

Concerning the international level, the EU supposed to take actions towards the developing world, it means countries of origin and transit. The EU should keep focusing on addressing the root causes, like poverty and gender equality, because this is what makes people to be pushed away from their home countries and trying to make a better life for themselves while taking the risk to fall prey to traffickers. However, the EU should not focus solely on these “indirect” actions but should take more direct and coordinated steps, like exchange of best practices, helping to train law enforcement authorities of countries of origin by working out training manuals for them and also providing professional trainers and expertise. Joint teams could also be set up. Cooperation on the fight against trafficking in human beings should be especially closer with the neighbouring countries with which the EU has developed its European Neighbourhood Policy and with the ACP countries. Another field, where international partnership could be built up is with the US. Together with the US, they create the two main target countries for trafficking in human beings. There should be joint efforts; there should be regular cooperation and coordination, exchange of best practices in order to ensure that both learn about the counter partner’s successful actions and they should ensure that their actions do not confront but complement each other. The third level of cooperation should be towards third countries which are neither neighbouring countries not countries of ACP. Finally

special cooperation should be developed with the international organisations, where for example the EU could call the help of the ILO in order to work out proper data collection methods.

If the Member States and the European Union fulfil these recommendations there is a real chance that the fight against trafficking in human beings will be more direct, efficient, into the scope and targeted. These actions will not only help to fight this shameful crime but will address a whole set of “side effects and factors”. Fulfilling these requirements will enable the European Union to become a global player and/or leader in this field of fighting trafficking, raising its influence, increasing its international power but nevertheless it will give itself the prestige as the main defender of human rights.

4. Bibliography

Books and reports

1. Anti-Slavery [2003]: The Migration-Trafficking Nexus – combating trafficking through the protection of migrants’ human rights, November 2003, UK
1. Askola, Heli [2007]: Legal responses to trafficking in women for sexual exploitation in the European Union, Oxford - Portland Oregon
2. Council of Europe report [2005]: Organised crime situation report 2005. Focus on the threat of economic crime, Council of Europe, Strasbourg
2. Bainbridge, Timothy [2004]: EU mindentudó, HVG Kiadói Rt., Budapest
3. Horváth Zoltán [2005]: Kézikönyv ay Európai Unióról, HVG-Orac Lap- és Könyvkiadó Kft., Budapest
3. IOM report [2005]: Data and research on human trafficking. A global survey, International Organization for Migration, Geneva
4. Kartusch, Angelika [2001]: Reference Guide for Anti-Trafficking Legislative Review, Ludwig Boltzmann Institute of Human Rights, Vienna
4. Locher, Birgit [2007]: Trafficking in Women in the European Union - norms, advocacy-networks and policy-change, VS Verlag für Sozialwissenschaften
5. UN.GIFT report [2008]: Human trafficking: An overview, United Nations Office on Drugs and Crime, New York
6. UNODC report [2006]: Toolkit to Combat Trafficking in Persons. Global Programme against Trafficking in Human Beings, UN Office on Drugs and Crime, United Nations, New York
7. UNODC report [2008]: Toolkit to Combat Trafficking in Person.: Global Programme against Trafficking in Human Beings, UN Office on Drugs and Crime, United Nations, New York
8. US Trafficking in Persons Report [2008], Department of State, Washington DC, June 2008
9. US Trafficking in Persons Report [2009], Department of State, Washington DC, June 2009

Legislation and reports of the European Union

10. 2009 October Declaration on trafficking in human beings
11. Brussels Declaration on preventing and combating trafficking in human beings, 2002
12. Commission proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA, COM (2009) 136, Commission of the European Communities, 25.3.2009, Brussels
13. Commission report to the Council and the European Parliament based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings COM (2006) 187, Commission of the European Communities, 2.5.2006, Brussels
14. Commission: Report of the Experts Group on Trafficking in Human Beings, European Commission, DG Justice, Freedom and Security, Brussels, 22 December 2004
15. Commission working document “Evaluation and monitoring of the implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings” COM (2008) 657, Commission of the European Communities, 17.10.2008, Brussels
16. Communication from the Commission on combating child sex tourism, COM (1996) 547, Commission of the European Communities, 27 November 1996, Brussels
17. Communication from the Commission to the European Parliament and the Council on fighting trafficking in human beings – an integrated approach and proposals for an action plan COM (2005) 514, Commission of the European Communities, 18 October 2005, Brussels
18. Council Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (2004/81/EC), OJ L 261/19, 6.8.2004

19. Council EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01), 9.12.2005
20. Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA), OJ L203/1 1.8.2002
21. Council of the European Union [2009]: 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, 11450/5/09, 19 November 2009, Brussels
22. European Parliament resolution of 19 May 2000 on further actions in the fight against trafficking in women (OJ C 59, 23.2.2001, p. 307)
23. European Parliament recommendation to the Council of 16 November 2006 on fighting trafficking in human beings – an integrated approach and proposal for an action plan (P6_TA(2006)0498)
24. European Union Agency for Fundamental Rights [2009]: Child Trafficking in the European Union, Challenges, perspectives and good practices, FRA, Brussels
25. Europol [2008]: Annual Report 2007, European Police Office, The Hague
26. Europol [2009]: Trafficking in human beings in the European Union: A Europol Perspective, June 2009

The most important interviews

1. Maria Grazia Giammarinaro, former expert of the European Commission Directorate General of Justice, Freedom and Security on trafficking in human beings, current OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings
2. Edit Bauer, member of the European Parliament, rapporteur of the 2006 EP report on trafficking in human beings
3. Helga Konrad, former OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings
4. Nan Kennelly, Deputy Director of the Office to Monitor and Combat Trafficking in Persons, US Department of State

5. Publications

1. Száraz, Krisztina [2005]: A Lisszaboni stratégia és az európai szociális modell, Társadalom és Gazdaság. 27. kötet 1-2. szám, Akadémia Kiadó
2. Király, Zs., Kürty, P., Sidó P., Száraz, K. [2005]: A szociális ellátó rendszer reformja Szlovákiában, Szécheny István Egyetem Jog- és Gazdaságtudományi Kara, Multidiszciplináris Társadalomtudományi Doktori Iskola Évkönyv 2005
3. Száraz, Krisztina [2002]: Applying US lessons in Slovakia, S.T.E.P. Edition Spring 2002, Newsletter of the American Institute for Full Employment, Klamath Falls, Oregon, USA