

spotlight europe

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Human Trafficking: Europe's New Shame and Disgrace

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Slavery in Europe? Forced labour in this day and age? Only a handful of Europeans are aware of the fact that human trafficking and forced labour exist right in their midst. In Europe human trafficking is one of the most flourishing businesses controlled by organized crime. When the European Union sets about defining new tasks for itself, this issue should be right at the top of the agenda.

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Every year thousands of people are brought into the EU or deprived of their liberty within the EU and forced to engage in prostitution or do unpaid work under the threat of violence. Human trafficking is a kind of criminal activity which frequently goes unnoticed, even though it is in direct conflict with the European understanding of human rights.

Both the [Universal Declaration of Human Rights](#) -which celebrates its sixtieth anniversary this year - and the [European Charter of Fundamental Rights](#) state in their opening articles that human trafficking and any form of forced labour are offences against the inalienable dignity of every individual human being.

It is of course true that in recent years the issue has led to a number of initiatives. Nongovernmental organizations are working on various aspects of the problem. International agreements and action plans have been concluded, new posts such as that of the [OSCE Special Representative](#) have been created, and the [UN.GIFT](#) initiative is now under way.

However, the momentum that characterizes international legislation continues to be in stark contrast to a generally low level of awareness or indifference and to an increase in human trafficking in Europe.

The Current Situation

No one knows what the exact numbers are. According to the [International Labour Organization](#) (ILO), about two-and-a-half million people become victims of human trafficking each year on a global scale. In 2005 the number of victims of human trafficking in the industrialized countries was estimated to have been 270,000. In 2001 the [European Commission](#) estimated that about 120,000 people were being brought into the EU every year to work in situations which resembled forced labour. In its latest Situation Report issued in February 2008 [Europol](#) speaks of hundreds of thousands of victims of human trafficking in the EU.

ficking is currently the kind of criminality with the most rapid growth rates.

There are many ways in which criminals manage to make money in this area. Sometimes they operate singly, and sometimes they are part of international criminal networks which rely on a sophisticated division of labour. Their activities tend to increase significantly whenever the state and the rule of law are weakened. Thus, ever since the disintegration of Yugoslavia, many [routes have led across the Balkans](#).

The price is paid for by the victims. Agents hold out the promise of work which will enable them to earn a livelihood. However, once they have arrived at the destination on which they pinned their hopes, they are confronted with exploitation and forced labour, and often end up as prostitutes. Debt bondage, threats and violence make it impossible for those involved to escape from the coercive situation in which they find themselves.

More than [80% of the recorded instances](#) of human trafficking in Western Europe involve sexual exploitation, mainly of women. However, human trafficking not only occurs in the so-called "sex industry." Other forms of human trafficking are becoming increasingly apparent. There are examples of forced labour in private households, in sweatshops, in the building industry, and in agriculture.

Human trafficking is a lucrative business. Annual global profits are estimated to amount to [US\\$ 32 billion](#). Thus human trafficking, next to the [narcotics and weapons trade](#), is one of the most profitable criminal activities in the world. Both Europol and the police authorities in many EU member states believe that human traf-

In many places "profitable" structures have emerged in recent years. In 2005 women from [Lithuania](#) were lured to the United Kingdom in large numbers and forced to work as prostitutes. Estimates suggest that in Italy one out of three women forced to work as prostitutes is

What is Trafficking in Persons?



"Palermo-Protocol"

First definition of trafficking in persons. The **UN-Protocol**, better known as "Palermo-Protocol" came into effect on 25 December 2003.

- **Trafficking in persons means** the recruitment, transportation, transfer, harbouring or receipt of persons.
- It describes the threat or use of **force** or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a **position of vulnerability** or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.
- **Trafficking in persons is exploitation.** Exploitation includes the prostitution of others, forced labour or services, practices similar to slavery, servitude or the removal of organs.

from Nigeria. There are reports that up to 100,000 Chinese workers live and work in Paris in an isolated parallel society under conditions which resemble slavery.

Human trafficking does not always involve transferring the victims illegally across international boundaries. Crossing borders is often perfectly legal, for example, when the victims happen to be citizens of the EU. Yet more often than not borders do not actually have to be crossed. Many victims are subject to coercion and deprived of their freedom in their countries of origin. Latterly Europol has also included Germany among the countries of origin where such activities are on the increase.

II

Developments in International Law

In the course of the last decade human trafficking has become a political issue. International organizations such as the United Nations, the OSCE and the Council of Europe have been prompted to take action.

- In 2000 the [protocol](#) to prevent, suppress and punish trafficking in persons supplementing the United Nations Convention against transnational organized *crime*, which is more often referred to as the *Palermo protocol*, provided the first binding international definition of the phenomenon which does not criminalize the victims and makes a clear conceptual distinction between human trafficking and the kind of smuggling which is primarily concerned with crossing borders illegally. The protocol makes it incumbent on states to take steps to prevent human trafficking, to punish the perpetrators, and to protect the victims.

- In 2003 the OSCE adopted an *anti-trafficking action plan*. Among other things this calls for preventive measures in the countries of destination such as the

creation of legal workplaces for people from non-EU countries. Furthermore, it defines measures designed to protect the victims and their families. It calls for legal aid for the victims and training for and the professionalization of the police and the judicial and immigration authorities. The post of Special Representative for Combating Trafficking in Human Beings was created on the basis of the action plan.

- *The Council of Europe Convention on Action against Trafficking in Human Beings* of 2005 adopts the definition of human trafficking contained in the Palermo protocol. It calls on the treaty states to come up with measures to protect the victims. For example, the right to support and protection should not depend on whether or not they are prepared to give evidence in criminal proceedings. The authorities are exhorted to cooperate with non-governmental and professional organizations. Furthermore, victims should not be deported as long as legal proceedings relating to their status as victims have not been completed.

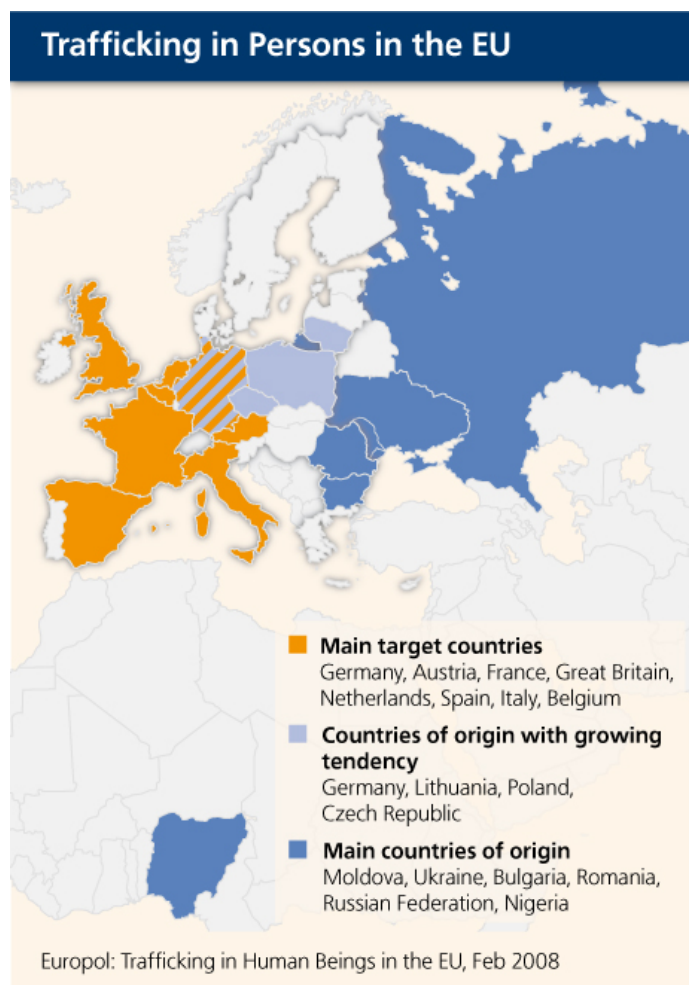
The activities of the international organizations have created important legal notions and methodologies. Thus for the signatory states the Palermo protocol provides a generally valid and binding definition of the phenomenon. The progressive feature is that the problem of human trafficking has been detached from what used to be the prevalent focus on illegal migration patterns. As a result the victims are no longer criminalized, and their rights have become the core issue.

Many states have still not given their unequivocal support to these goals. Whereas the Palermo protocol has now been signed by almost every European state, only seven (five of them EU member states) out of 47 members of the Council of Europe have ratified the more binding Convention on Action against Trafficking in Human Beings. This notwithstanding, the Convention entered into force in February 2008.

III

Action on the EU level

The primary impetus within the EU has come from the Treaty of Amsterdam and subsequently from the Tampere (1999) and The Hague (2004) programmes. The goal of creating a “common space of freedom, security and justice” explicitly includes the fight against human trafficking.



- The Treaty of Amsterdam integrated action against human trafficking into the area of police and judicial cooperation.

The same year saw the creation of the first binding instrument, a *joint action of the Council to combat trafficking in human beings and the sexual exploitation of children*. The member states now had to harmonize the various national criminal justice procedures and to engage in closer

cooperation with regard to criminal prosecution.

- The most important document to date is the [Council framework decision](#) on combating trafficking in human beings issued on 19 July 2002. The aim of this framework decision is to harmonize both the definition of the offences and the penalties in the member states. It differs from the UN supplemental protocol with regard to its area of application, since it expressly mentions actions committed by individuals within a member state.

In May 2006 a report issued by the [European Commission](#) evaluated the implementation of the framework decision by the member states. The Commission believes that by and large the provisions have been incorporated into national law, though in certain states it sees room for improvement with regard to the criminal justice provisions. In the case of four member states - Ireland, Lithuania, Luxembourg and Portugal - no or merely provisional information about the state of implementation was available.

- In 2003 the European Commission set up a group of experts on the problem of combating human trafficking. In 2004 it published a catalogue of recommendations. Other papers which were repeatedly introduced into the process by the committee (most recently, for example, on the

occasion of the Anti-trafficking Day on 18 October 2007 organized by the European Commission) take their bearings from these suggestions.

- At the end of 2005 a [plan on best practices, standards and procedures](#) was drawn up on the basis of The Hague programme in order to combat human trafficking more effectively. The member states were asked to establish state coordination structures,

to harmonize national measures, and to ensure the proper treatment of the people concerned. It was suggested that there should be harsher sentences for criminal offences, and that at the same time protection should be afforded to the potential victims. There was also a call for prevention strategies and awareness campaigns.

IV

The Duties of the Member States

With the first Anti-trafficking Day on 18 October 2007 the European Commission tried to raise public awareness of the problem and to initiate a pan-European interdisciplinary debate.

Despite these activities it has not yet proved possible to start a public debate on the subject either on the European level or in the member states themselves. It continues to be up to secluded groups of experts and nongovernmental organizations with a special interest in the problem to exchange ideas about how to develop anti-trafficking strategies.

However, public awareness is not the only thing which is lacking. Despite the Council framework decisions and the EU action plan, the vast majority of observers, be they representatives of nongovernmental organizations or of criminal justice and judicial authorities, consider the current state of affairs to be unsatisfactory.

Human trafficking is on the increase, and its victims, in direct contradiction to the Palermo protocol and the EU legal documents, are often criminalized as illegal migrants. The root causes of the problem in the countries of origin and destination are being tackled in a haphazard manner, and the pursuit and prosecution of criminal human trafficking structures continues to be rather lackadaisical.

Visible success in the areas of justice and home affairs depends on the extent to

which the member states wish to become involved. It is their responsibility to translate agreements concluded within the framework of police and judicial cooperation into national law and to promulgate effective implementation provisions.

Yet even the use of the available common instruments leaves much to be desired. For example, Europol does not receive enough information. Furthermore, the implementation of the Commission's action plan is making very slow progress, even in its third year. In only a handful of member states is there any sign of action which goes beyond the purely formal acceptance of the relevant legal elements of the action plan. Belgium, Italy and the Netherlands stand out from the bulk of the member states on account of their implementation of effective measures.

V

The four political dilemmas

In the member states the issue is still not at the top of the list of political priorities. Comprehensive political approaches to the problem hardly ever play a part in national debates. Whilst it is true that European legislation is incorporated into national law, its translation into graspable policy measures leaves much to be desired. The unwillingness of the political actors to confront the subject lies in its very nature. In fact it conjoins four political dilemmas.









- *Human trafficking is invisible.* Neither the crimes nor the victims can be seen. The phenomenon is difficult to pin down on account of its transnational character, it often happens in "ethnically impenetrable spaces," though always on the edge of society and excluded from public view. Although these are striking abuses of human rights, the victims do not have a political lobby. In the public perception of the majority of European societies the crime does not exist.

- *Human trafficking is many-sided.* Human trafficking can be looked at from a number of different angles. Thus there is a legal view (human trafficking as a crime), a human rights view (human trafficking as a violation of basic human rights), a development policy view (human trafficking as result of faulty globalization and migration policies) and a societal view (protection of the victims). The various discourses are often conducted simultaneously and without reference to each other. This is reflected in the ministerial divisions on the nation-state level. In Germany three different ministries are responsible for different aspects of the issue, and are tackling the phenomenon with the help of a variety of policy approaches. In the absence of networks and connecting mechanisms this cannot lead to comprehensive and targeted solution strategies.

and regulation of the low-wage sector. In some areas certain types of human trafficking have helped to stabilize parts of the economy.

- *Human trafficking is in the grip of ideology.* Even if more and more people are being “trafficked” within the EU, any discussion about human trafficking tends to be linked to the issue of migration policy and illegal immigration. On the European level it is also common to equate the fight against illegal migration with the fight against human trafficking, and for this reason the areas of responsibility are arranged accordingly. This is the reason for recurrent ideological strife. Are the liberalization of immigration in the low-wage sector and the legalization of migrants from non-EU states who already live in the EU the right things to do? Or will they simply lead to even greater immigration

In which Economic Sectors does Trafficking in Persons take place in the EU?

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|---|---|
|  <p>Sex Industry According to approximations, 80% of the persons concerned are women.</p> |  <p>Textile and Clothing Industry Especially in work intensive production. Within the EU, France and Italy are mainly affected.</p> |
|  <p>Domestic Services Servants living in the household of the employer are especially endangered by exploitation.</p> |  <p>Entertainment Industry Main area of concern is the travelling business, where travelling carnies are expected to be available at all hours.</p> |
|  <p>Farming Sector Particularly seasonal workers are affected.</p> |  <p>Transport Shipping companies form phantom companies in Eastern Europe to contract drivers, who then illegally work exclusively in the EU.</p> |
|  <p>Construction Industry Even under legal regulations, cases of forced labour remain widely prevalent.</p> |  <p>Crime Organised begging, pickpocketing, street robbery, and the production and transport of drugs.</p> |
|  <p>Service Sector (Restaurants, Hotels) High figures of exploitative labour are reported.</p> | <p>Sources: Norbert Cyrus: Menschenhandel und Arbeitsausbeutung in Deutschland, ILO 2005; United Nations Office on Drug and Crime (UNODC): Trafficking in Persons Global Patterns, April 2006</p> |

- *Human trafficking is embarrassing.* Human trafficking is an unpleasant subject in the countries of destination, since a debate about human trafficking cannot avoid asking questions about the demand side. These will focus on fundamental attitudes to prostitution and the liberalization

pressure? It is a fact that smugglers and human traffickers earn their money precisely because entry and residence requirements are so difficult. Their “specialist knowledge” is needed by those seeking to enter the EU and has to be paid for.

VI

A Litmus Test of Europe's Credibility

A joint action plan devised by the European Union and a European action day are good ideas, but they are not enough. The EU needs a coherent draft policy and coordinated procedures. The thousands and thousands of violations of basic human rights, the sources of finance for criminal structures provided by these felonies, and the emergence of parallel worlds in which other forms of criminality can also thrive, pose an enduring challenge to the validity of the common idea of a state based on the rule of law and the European understanding of human rights.

The European Commission and especially the European Parliament are in a position to initiate a pan-European debate and to exert pressure on the European Council. The European Parliament in particular possesses the ability to draw attention to itself. [Initiatives by individual MEPs](#) or parliamentary parties are certainly a good thing. However, there is a need for joint action by all political groups and the committees concerned to attract the requisite degree of attention in the public sphere of the member states. [Short-lived campaigns](#) must be translated into long-term priorities.

The Treaty of Lisbon provides the EU with more room for manoeuvre in the area of freedom, security and justice. Here decision-making is now based on a qualified majority.

An effective European policy against human trafficking and forced labour in the EU must include the following elements:

- *Duty to agree to a coherent and comprehensive policy approach.* The EU should develop a comprehensive approach in the fight against human trafficking. These activities should centre on a clear understanding of the human rights of the victims. Comprehensive means that in the

light of its numerous ramifications, the issue will be treated in terms of a cross-sectional approach. The policy against human trafficking will no longer consist merely of a harmonization of criminal justice provisions and improved cooperation between judicial and criminal investigation departments. In future there will be need to coordinate legislation and measures adopted in the areas of development cooperation and labour and social services, and laws relating to immigration and asylum.

A coherent policy also means that all of the member states of the EU will have to sign and ratify forthwith the Palermo protocol and the Council of Europe Convention on Action against Trafficking in Human Beings.

- *Translating political priorities into political instruments.* The EU and its member states must also translate the fight against human trafficking into graspable measures and instruments. Thus the common approach must also be reflected in the EU budget structure. Measures against human trafficking, depending on the area to which they have been assigned, are currently fragmented and have been distributed to a number of different instruments. All EU programmes and the corresponding programmes on the nation-state level need to be placed within a common framework and regularly examined in order to ascertain whether they are still effective and appropriate.

On the nation-state level the problem needs to be given a face and a voice. For example, in the Netherlands the institution of a [national rapporteur on trafficking in human beings](#) has proved to be beneficial. The rapporteur's annual reports provide a comprehensive picture of developments and come with specific policy recommendations. This is unique in the EU to date. The Dutch example is a model worthy of emulation, and could well become the point of departure for an effective European information exchange and coordination mechanism.

For Further Reading:

Heli Askola: Legal Responses to Trafficking in Women for Sexual Exploitation in the European Union, Oxford 2007.

Time for Action. NGO statement to be presented at the first EU Anti-Trafficking Day - 18 October 2007

U.S. Department of State: Trafficking in Persons Report 2007, Washington D.C. 2007.

Responsible

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