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NOTE

from : Presidency
to : Multidisciplinary Group on Organised Crime

Subject : Human Trafficking – Seminar on the Identification of Children at Risk of
 Becoming Victims of Human Trafficking, Helsinki 31 October – 1 November
 2006-11-05
 - Draft Seminar Conclusions

The EU is committed to the fight against trafficking in human beings. The basis for the actions against trafficking are to be found in the EU Action Plan on Trafficking in Human Beings adopted by the Council of the European Union in December 2005.

The Finnish EU Presidency identified fight against human trafficking as one of its priorities in the field of justice and home affairs. In combating trafficking, the Presidency emphasizes three cross-cutting principles: a human rights and victim-centred approach; enhanced operational cooperation; and continuing the actions against trafficking.

With a view to implementing the EU Action Plan on Trafficking in Human Beings, the Presidency organised a Seminar designed to share best practises in respect of the identification of children at risk of becoming victims of human trafficking (paragraph 3.3.c of the annex to the EU Plan). The Seminar took place on 31 October and 1 November in Helsinki.

The aim of the Seminar was to address the issue of identification of children at risk from a practical and operational point of view. The programme of the Seminar followed the path of a child victim. The objective was to strengthen expertise and share good practices among the actors operating against human trafficking while also identifying the ways in which all these actors can better cooperate in identifying and protecting those children deemed to be ‘at risk’.

The speakers of the seminar included representatives from EU Expert Group on Trafficking in Human Beings, United Nations Office on Drugs and Crime (UNODC), Save the Children (Finland), United Nations Children’s Fund (UNICEF), Ministry for Foreign Affairs (Finland), Ministry of the Interior (Finland), Europol, United Kingdom Human Trafficking Centre, Federal Bureau of Investigation (FBI; USA), Danish Red Cross and International Organisation for Migration (IOM). A wide number of States and third sector actors attended the Seminar, including the OSCE’s newly appointed Special Rapporteur on Combating Trafficking, Ms Eva Biaudet. The Seminar was opened by Mr Kari Rajamäki, Minister of the Interior (Finland) and chaired by Ms Ritva Viljanen, Permanent Secretary of the Ministry of the Interior (Finland).

The participants of the Seminar were invited to combine their expertise in working groups with a view to share good practises and to discuss how to enhance cooperation. The working groups concentrated on four topics:

- Vulnerability – Identifying potential and actual victims of child trafficking
- Cooperation between law enforcement authorities and third sector
- Criminal justice response to trafficking in children
- Protection and support of child victims

Based on the discussions during the seminar and especially on the outcome of the working groups **the Presidency draws the following conclusions:**

A. It is of utmost importance that the vulnerability profiles of children are better understood and that the children at risk of being trafficked are identified as early in the process as possible. In this way the children can best be protected against violations of human rights. Best interest of the child shall always be the guiding principle when combating child trafficking. We shall pay attention to the child victims' special needs for protection and care. Furthermore, the children shall have the possibility to express their views.

B. Dynamic and concrete cooperation among the authorities and third sector in the Member States of the European Union as well as with third countries is the basis for successful action against trafficking. Furthermore, the use of cultural mediators, person from the same cultural and ethnical background shall be considered case by case. By creating networks we are able to further build up trust between relevant actors. In addition the knowledge of practices and principles employed by partners paves the way for sound and smooth cooperation.

C. The common understanding of the definition of trafficking is crucial for joint actions against trafficking. The notion of trafficking should not be inappropriately tied with smuggling and illegal migration. The fight against smuggling concerns primarily the protection of the State against illegal migration, while the fight against trafficking primarily concerns the protection of the individual person against exploitation and abuse.

D. There are a number of international legal instruments addressing the problem of trafficking. Furthermore, Member States have implemented EU legislation supporting the efforts to combat human trafficking. Accordingly, it can be stated that there is a sound legal basis at the moment. Now there is a need to focus more on effective application of the legislation and ensure that the existing instruments are used and that the operational activities will proceed as planned. In addition, common resources and expertise shall be aimed at improving the operational activities and developing international cooperation. International cooperation should also at practical level indicate that this serious global problem is being tackled.

E. Increased awareness among the public, authorities and third sector is a key element in combating trafficking. Publicity campaigns targeted to the society as a whole as well as to the actors working in this field are of importance. They will facilitate the society to understand the phenomenon in source, transit and destination countries.

F. Participants of the Seminar felt that further commitment to the implementation of the EU Action Plan on Human Trafficking is needed. The Table of Actions included in the EU Action Plan should be adequately followed up: the participants also noted that the indicators listed in the EU Action Plan are unclear and difficult to measure.

I Vulnerability – Identifying potential and actual victims of child trafficking

1. The primary obligation to ensure that child victims of trafficking are identified stays with the State and all the professionals and authorities who work with potential victims. The States shall ensure that there is enough guidance and training for frontline workers who should be provided with the core profiles of victims and basic information on the identification methods and interviewing techniques in form of manuals, brochures and leaflets. The States also have responsibility to proactively work to overcome barriers of frontline workers in identification of victims (e.g. the hidden nature of the activity, lack of knowledge, guidance or language skills).
2. The importance of good protection measures should be recognised, i.e. time to recover during the reflection period, appointment of a guardian, issuance of temporary residence permits instead of immediate deportation. It is essential to disseminate the information about these protection measures widely among the public. This might help in building the trust of the victims for the authorities and improve the rate of self-identification.
3. The age of the child shall be defined promptly with the assistance of professionals. The levels of expertise between European countries differ on the issue of age assessment when a potential victim of trafficking is identified. Children may often lie about their age pretending to be older than they are because they have been involved in activities such as prostitution. If there is a reason to believe that the victim is a child, he/she should be treated as a child and provided child specific protection and care.

4. It is difficult to distinguish child victims of trafficking from other groups of children who are exploited, unaccompanied or in transit. Expanding the search to include all children who are in a vulnerable situation may both improve identification of victims of trafficking and prevent trafficking. This would require the full implementation of the provisions of the Convention on the Rights of the Child that gives all children who are found in a vulnerable situation right to immediate referral to specialized protection measures.
5. Social sector authorities as well as the public play an important role in identifying vulnerable children who might end up as victims of trafficking (i.e. parents with alcohol or drugs problems, children not attending school, children living on the streets). During the years there could have been many signs of abuse and ill-treatment which social sector should have noticed. Teachers, doctors, many members of the society have the possibility to ask questions and identify child victims.

II Cooperation between law enforcement authorities and third sector

1. Framework for cooperation shall be established in the best interest of the child. However, different operators might have totally different opinions on what is the best interest of the child. Therefore the meaning of the term should be established first. Appointment of a legal guardian to any child which is potentially a victim of trafficking is a good practice
2. Cooperation between authorities and third sector can be fruitful if it is based on trust, transparency and complementarity and if the resources are secured. In order to avoid competition within the third sector and secure smooth, efficient and innovative cooperation it is important to have structural and formal ways of cooperation as well as to establish distinct roles and responsibilities for different operators. From the authorities' point of view transparency is the key for building trust and complementarity, which is also the basis for equality.

3. At practical level the legislation is the point of reference and in most cases also a national plan of action is needed. The cooperation should be seen as a joint process between authorities and third sector operators. Developing the plan of action and combining it with existing legislation (or in some cases, revising legislation) should thus be a joint effort by different operators. National focal point for coordination and cooperation such as national rapporteur, who would also facilitate international cooperation, should be appointed.
4. The cooperation could for example be based on an agreement or a memorandum of understanding where roles and responsibilities of law enforcement, other stakeholders and third sector operators would be defined. Basic conditions, such as who can work together and how, questions about information and confidentiality, data security etc. should also be addressed at this time.
5. When implementing actions in cooperation, training is crucial, including special focus on child's rights both for third sector and authorities. Also regular meetings between different service providers are important to discuss not only cases but also structural issues. In these discussions openness and honesty are important in order to facilitate building partnership between law enforcement and third sector.

III Criminal justice response to trafficking in children

1. Multi-agency cooperation in the investigation and prosecution of trafficking cases creates a larger net of actors being able to comprehend the matter. In this cooperation it must be ensured that the victim does not "fall between the chairs". Therefore, all the actors should be aware of their own roles, but simultaneously be aware of the roles of the other players, as all sectors are needed for a firm process and rehabilitation of victims. To ease the victim's contact with law enforcement officers, it is necessary that the authorities have good solid relations with the other agencies and local NGO's specialised in child protection. The risk of re-trafficking must be kept in mind at all stages of the process.

2. Prosecution and investigation processes may often depend largely on the victim's testimony. The need for the child victim's testimony shall be assessed carefully and avoided if possible. Child victims need to be taken care of during and after the process. Therefore, guardianship services and/or social workers should be integrated in the system from the very beginning, following the process and giving care during and after it. The atmosphere shall convey the child victim the feeling that there is no interrogation going on, he/she is not being punished or pressured in any way.
3. Child victims should receive protection and care even if they were not able or willing to cooperate with the investigators. In addition to lack of trust, there are several reasons why the cooperation with the authorities or third sector might be hindered. The victimized child may have been threatened with his/her family's situation or is in debt bondage. These circumstances shall be taken into consideration, also when considering the child's best interest, return and rehabilitation.
4. Cooperation must be encouraged at all levels (national, regional, international). There is already a range of cooperation instruments at EU level (Europol, Eurojust, possibilities for joint investigation teams, intelligence sharing etc.). However, more commitment and resources are needed to ensure that these tools are used. Awareness raising on how to use these tools of cooperation is also needed, many of them are new and not widely known. For example, only five joint investigation teams have been used since 2003. Participants of the Seminar also noted that it is sometimes challenging to cooperate with other countries because of the lack of responsiveness to requests for cooperation.

IV Protection and support of child victims

1. Adults and children have got different kind of needs, the time for assistance varies, so do the actors involved. Those providing care should be able to do so in a flexible manner and have the freedom to choose from a variety of methods and be aware of the most appropriate methods for children. Victim care is "a toolbox", the tools that are used depend on the victim and his/hers situation.

2. When determining whether to give protection and support to a child victim in the country of destination, the country of origin or in a third country, the decision must be made based on the best interest of the child, which is to be determined individually. The determination shall not depend on the legal status of the child (i.e. whether the child is a legal migrant or not). A robust assessment with a multi-agency and multi-actor approach is needed. This is a highly complicated and sensitive area. The child should also have the possibility to express his/her views during the decision-making process.
3. If a child victim is being returned, the support should not only be the support for the victim, but for the whole family. That requires multi-agency and international cooperation. Grassroot NGOs in the countries of origin should be involved in assessing the possibility for a durable solution on return. These organisations are also able to take cultural particularities into account in the assessment. The real ability to protect the child shall be evaluated when considering the return. A real follow up is needed in the receiving country and a social worker or a third sector representative shall be named prior to the actual return.
4. Countries of destination must take a long-term approach to care and follow up victims of trafficking. Victims may suffer from the consequences of their trafficking experience for their whole life. If countries of destination are to offer victims the possibility to stay then they must also be cognisant of the fact that a large number of costs (of different types) will be incurred and therefore adequate resources must be committed from the outset.
