Trafficking in Human Beings

Office of EU Anti-Trafficking Coordinator, European Commission, DG HOME

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Primary Law

- Explicitly prohibited under **Article 5 of the Charter of Fundamental Rights** of the European Union. So-called **Eurocrime under Article 71 and 83 of TFEU.**

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The EU Anti-Trafficking Coordinator

- Based on Article 20 of the Directive, the EU Anti-trafficking Coordinator ensures consistency and coordination in the area of trafficking in human beings and oversees the implementation of the EU legal and policy framework addressing trafficking in human beings.
- The mandate of the EU Anti-trafficking Coordinator extended to 2020

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EU legal and policy framework to address THB

The law

- Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims

The Policy

- EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016
- Communication reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions

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EU Anti-Trafficking Directive

- Milestone in the area of trafficking in human beings
- The Directive 2011/36/EU:
  - Comprehensive approach (4Ps: prevention, protection prosecution and partnership)
  - robust provisions on victims' protection, support and unconditional assistance,
  - strong human-rights approach
  - gender–specific approach
  - Child-centred

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EU Anti-Trafficking Directive – Definition of THB (Article 2)

- THB is the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of 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 the person having control over another person, for the purpose of exploitation.
- Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

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EU Anti-Trafficking Directive – Incitement, aiding and abetting and attempt (Article 3)

Incitement, aiding and abetting, and attempt to commit an offence referred to in Article 2 is punishable.

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EU Anti-Trafficking Directive – Penalties (Article 4)

- The offence of THB (Article 2) shall be punishable by **a maximum penalty of at least five years of imprisonment**…
- And by **a maximum penalty of at least 10 years of imprisonment under specific circumstances** (e.g. the victim was particularly vulnerable).
- THB committed by public officials in the performance of their duties is regarded as an **aggravating circumstance**.
- Member States shall take the necessary measures to ensure than an offence referred to in Article 3 is punishable by effective, proportionate and dissuasive penalties, which may entail surrender.

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EU Anti-Trafficking Directive –Liability of legal persons – Seizure and confiscation (Articles 5, 6, 7)

- Legal persons are **liable** under the Directive and should be subject to effective, proportionate and dissuasive sanctions which shall include criminal or non-criminal fines or other sanctions (Articles 5 and 6)
- Seizure and confiscation of instrumentalities and proceeds of the offence should be made available at national level (Article 7)

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EU Anti-Trafficking Directive – Non-punishment principle (Article 8)

- Victims of trafficking in human beings should be protected from prosecution or punishment for criminal activities that they have been compelled to commit as a direct consequence of being subject to trafficking
- The aim is to safeguard the human rights of victims, avoid further victimisation and encourage them to act as witnesses in criminal proceedings against the perpetrators

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EU Anti-Trafficking Directive – Assistance and support for victims of THB(Article 11)

- **Unconditional assistance and support** – the provision of assistance and support for a victim does not depend on the victim's willingness to cooperate in the criminal investigation.
- Assistance and support measures should include at least standards of living capable of ensuring victims' subsistence (e.g. appropriate and safe accommodation and material assistance, medical treatment, translation and interpretation services).
- Assistance to victims with special needs (pregnancy, health, disability, mental or psychological disorder, or serious form of psychological, physical or sexual violence they have suffered).

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EU Anti-Trafficking Directive – Assistance and support to child victims(Articles 13, 14 and 16)

- The **best interest of the child** is a primary consideration
- Presumption of childhood (Article 13)
- Individual assessment of the special circumstances of each particular child victim, taking due account of the child's views, needs and concerns with a view to finding a durable solution for the child
- Access to education
- Appointment of a guardian or legal representative (Article 14)
- Specific assistance and support for unaccompanied child victims due to their situation of particular vulnerability (Article 16)

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EU Anti-Trafficking Directive – Protection of victims in criminal investigation and proceedings

- Access to legal counselling and legal representation
- Appropriate protection on the basis of an individual assessment (e.g. witness protection programmes)
- Specific treatment aimed at preventing secondary victimisation by avoiding for instance unnecessary repetition of interview or visual contact between victims and defendants
- Additional protective measures to protect child victims during interviews forming part of criminal investigation and proceedings

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EU Anti-Trafficking Directive – Prevention (Article 18)

- Member States should…
- Take appropriate measures to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings by means of research, including research into new forms of trafficking in human beings, information, awareness-raising, and education.
- Promote regular training for officials likely to come into contact with victims or potential victims (e.g. police officers) in order for them to better identify and deal with such victims
- Consider taking measures to criminalise the use of services which are the objects of exploitation

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EU Anti-Trafficking Directive – NREMs and EU ATC (Articles 19 and 20)

- Member States should establish **National Rapporteurs or Equivalent Mechanisms**
- Tasks including the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations, and reporting (Article 19)
- Member States should facilitate the tasks of an anti-trafficking coordinator, in particular transmit to the **Anti-Trafficking Coordinator** the information referred to in Article 19
- The ATC should contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings on the basis of NREMs information (Article 20)

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EU Strategy towards the eradication of THB 2012-2016

- **EU Anti-Trafficking Coordinator oversees the implementation of the Strategy**
- Set of 40 **concrete and practical actions**
- **Comprehensive approach, victims-centred and anchored in human rights.**
- Based on **5 key priorities**:
  - ✓ Identifying, protecting and assisting victims of trafficking;
  - ✓ Stepping up the prevention of trafficking in human beings;
  - ✓ Increased prosecution of traffickers;
  - ✓ Enhanced coordination and cooperation among key actors and policy coherence;
  - ✓ Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

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"Communication reporting on the follow up to the EU Strategy towards the eradication of THB and identifying further concrete actions"

- *Builds on the 2012-2016 EU Strategy, ongoing efforts to fully implement Directive 2011/36/EU and extensive discussions with stakeholders*
- *Proposes a set of targeted and cross –cutting priorities to step up EU's efforts to prevent trafficking in human beings*

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Targeted Priorities

1. Stepping up the fight against organised criminal networks by means including disrupting the business model and untangling the trafficking chain
2. Providing better access to and realise the rights for victims of trafficking
3. Intensifying a coordinated and consolidated response, both within and outside the EU

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Cross-Cutting Priorities

1. Increasing the knowledge base

2. Supporting anti-trafficking priorities in EU and non-EU countries

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WHAT HAS THE EU DONE SO FAR?

- Report on MS progress in the fight against THB
- Mid-term Report on implementation of the EU THB Strategy
- Gender Study
- Handbook on guardianship systems
- Study on prevention
- Guidelines for border guards and consular services on identifying THB victims
- Study on children as high risk groups
- Publication on EU Rights of THB victims
- Study on case-law of THB for the purpose of labour exploitation
- Eurofound Study on the Regulation of LMIs and the role of social partners
- Eurostat Working papers on data
- Study Comprehensive policy review
- Reports as per Article 23 ('Transposition report' and 'User' report)
- The External Dimension of THB
- The 2017 Commission Communication
- Joint Statement of commitment to working together against THB

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WHO DO WE WORK WITH?

- Partnerships and key counterparts in our efforts are:

EU Member States

(including the EU Network of National Rapporteurs or Equivalent Mechanisms)

Other EU services, Institutions and Agencies

(EEAS, EP, CEPOL, Eurojust, Europol, EASO, EIGE, FRA and Frontex)

Civil Society

(Organisations working in the field of THB in the Member States and in four neighbouring priority countries -Albania, Morocco, Turkey and Ukraine)

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Thank you!

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