



EUROPEAN POLICY BRIEF



FP7 RESEARCH PROJECT
FOR NEW EUROPEAN CRIMES
AND TRUST-BASED POLICY



POLICY BRIEF ON THE FINDINGS ON HUMAN TRAFFICKING

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February 2015

KEY FINDINGS

- Human trafficking is a profit driven business in which traffickers adopt a variety of strategies to **ensure compliance and exert control over victims**. It is a process with different levels of exploitation and should be tackled at its earliest stage.
- The obvious problems in the judicial systems include the **lack of uniformity in procedures before domestic courts**, the excessive length of trials, failure to ensure convictions, and lack of resources. Successful prosecution may often be blocked by the fact that the traffickers and other key players are located outside of the EU.
- There tends to be a **lack of effective enforcement and implementation of the existing legislative framework on Human Trafficking in EU Member States**. In some Member States, the judicial authority may not have sufficient knowledge on the crime, and this often leads to a failed conviction when a case is brought to trial.
- **Normative measures based on trust** play a crucial role in identifying the victims and the exploiters. The creation of trust is related to the perceived level of efficiency, fairness or corruption of an institution. The lack of trust between victims and authorities has led to the increased victimisation of victims of human trafficking through the criminalisation of irregular migration (which effectively turns the victims into criminal offenders).

BACKGROUND

The FIDUCIA research project (New European Crimes and Trust-based Policy) attempts to shed light on a number of distinctively ‘new European’ criminal behaviours that have emerged in the last decade as a consequence of developments in technology and the increased mobility of populations across Europe. The central idea behind the project is that public trust in justice is important for social regulation: FIDUCIA builds on this idea and proposes a ‘trust-based’ policy model in relation to emerging forms of criminality. Work Package 6 focuses on trafficking in human beings, and aims at better understanding the scope and the nature of the phenomenon and reviewing the impact of relevant national and international policies. Primary data collection was undertaken in the following countries: Italy, Greece, Finland, Spain and the United Kingdom. The research methodology adopted is a mixed-method approach based on both qualitative (e.g. in-depth interviews) and quantitative methods (e.g. social network analysis). We held meetings with practitioners as well as interviews with other key informants both at the European level and at the country-level; in addition, we collected and analysed court files, victims’ testimonies and other official documents.

EVIDENCE AND ANALYSIS

Some Key Features of Trafficking Operations

- Trafficking is essentially a profit-driven business. **Economic motivations** are the main driver. In addition, trafficking appears to be a market with low barriers to entry and no monopoly control (there is no global mafia which controls the market). Traffickers may adopt a number of organizational models characterized by a varying degree of complexity, ranging from a simple ‘boyfriend’ model (i.e. a situation in which a trafficker becomes the boyfriend of his victim in order to exploit her) to more structured and coordinated arrangements, as in the case of Nigerian trafficking rings.
- Traffickers may adopt a number of strategies to exert control over victims and to ensure compliance, including intimidation and confiscation of documents; hostage-taking strategies (particularly in the country of origin); a system of informal contracts enforced through voodoo rituals (Nigerian traffickers); physical and psychological violence. In addition, traffickers may also offer positive incentives to their victims, e.g. a small level of co-participation in the earnings generated by victims.
- Human trafficking is by its nature a process rather than a single event, and as such the situation of a single victim may also change over time over a continuum of different levels of exploitation. What at the beginning is a less serious exploitation can turn into a situation of trafficking for forced labour. The evidence showed that it is important to **tackle exploitative practices** in the labour market at an early stage in the exploitative continuum. Targeted prevention efforts and services to migrant workers are the key to protecting their rights and eradicating the phenomenon from the outset.
- **Trafficking for forced labour** does not necessarily involve an extreme exertion of force, violence or control against the worker. It is important to note that also more subtle means of control may be used, such as threats by or debts to the employer, that prevent the migrant worker from exercising his or her right to freely terminate the employment.

The Response of the Justice System

- Shortcomings in the response of the justice system to trafficking were identified in some countries due to (i) the lack of procedural uniformity; (ii) the excessive length of trials and often their failure to secure a conviction for trafficking; and (iii) the lack of resources. Successful prosecution of traffickers has proved to be highly problematic due to difficulties in **international cooperation and legislative gaps**. Sometimes, key players are located outside the European Union, thus hindering the fight against human trafficking organisations.
- The evidence from some Member States also suggests that judges and prosecutors may lack knowledge of the phenomenon. Cases that are brought to trial often fail to lead to the **conviction** of the human traffickers for trafficking charges. Better training for legal practitioners would alleviate this problem.
- Problems in identification of cases and in gathering evidence as well as the lack of awareness on the part of criminal justice authorities also emerged in relation to indicators of forced labour. In addition, there is evidence of a **lack of awareness** of victims of their rights as workers. This often hinders the identification and successful prosecution of cases of trafficking for forced labour.
- In some cases, the application of the existing legislative framework in EU Member States is only partially implemented. In the case of Greece, for instance, there are shortcomings in the assistance to, and **protection** of, victims of trafficking, in the **de-criminalisation** of victims, and in the **effective prosecution** of traffickers. Key laws and initiatives may be in place, yet the problem seems to lie in the enforcement of these laws, which in turn is a significant cause of the inefficiency of the criminal justice system. Delays in processing cases before courts and the red tape of the system and lack of training of criminal justice professionals regarding the profile and the needs of the victims are prominent features of the state of affairs.

Trust and Normative Measures to Combat Trafficking

- Normative measures could help the authorities identify victims or increase the opportunities given to victims to come forward and report their exploiters to the police, as well as to increase their willingness to do so. **Trust-based measures** may play a crucial role. Analytically speaking, four distinct trust dimensions were identified: (a) trust between victims and the authorities/social workers; (b) trust between victims and their clients (in particular in sexual exploitation); (c) trust between the clients of victims, and the authorities/social workers; (d) trust between victims and traffickers.
- With regards to the authorities, the creation of trust appears to be related to the (perceived) level of efficiency, fairness or corruption of a given institution. To increase trust one should devise strategies that will reduce the **level of corruption** and increase the efficiency and fairness of institutions. Past negative experiences, e.g. in the victims' home countries, may hinder the creation of trust in the destination country.
- The evidence collected shows an alarmingly lack of trust, particularly between victims and the authorities. This negatively impacts on the identification of victims. In some cases, victims may decide to cut their contact with the authorities due to their lack of trust in the justice system. Police units may misidentify trafficking victims as irregular migrants and fail to prevent secondary victimization. This further erodes trust in the efficiency and authority of institutions. There are documented instances of several victims of human trafficking who felt uncomfortable and unsafe when approached by police units. Lack of confidence and trust in the work of the police may hinder the **identification of victims**. As is already the case in some Member States, coordinated action between police and NGOs is essential in order to improve the identification of victims.

- Trust is not necessarily associated with desirable outcomes: e.g. a high level of trust between traffickers and victims decreases the monitoring costs associated with trafficking and thus increases the trafficking capacity of the organizations involved. The traffickers can manipulate trust in order to deceive victims in the source country and **facilitate recruitment**.
- Moral stigma has emerged as a key mechanism. Stigma can work in two ways: it can facilitate trafficking, e.g. by increasing the cost for victims of leaving their exploitative situation, or it can help in tackling trafficking, e.g. by tainting the reputation of people who profit from trafficking. Often, traffickers are not perceived as deviant figures by their community; on the contrary, they may have a positive reputation. Stigmatizing their activity may have an impact on the profitability of their business – as well as on the ease of conducting it. Ethnic communities could play a key role in this respect. However, engaging these communities requires in-depth knowledge about the internal dynamics of a community, and may have severe unintended consequences.
- In cases of trafficking for labour exploitation, trust-based policies should be adopted to **disseminate information** within migrant communities and networks regarding migrants' rights and available services offered by NGOs, trade unions or the authorities. By increasing trust between victims and authorities, victims can be encouraged to seek help and report their cases to the authorities

Further remarks

- Documentation of the trafficking phenomenon, both quantitative and qualitative, is still rather unsatisfactory. Our case study on Greece showed that the actual figures might not reflect the extent of the problem. This is also a consequence of the **unwillingness** of both victims and the public to report trafficking cases, due to the low levels of trust in the capacity and efficiency of the institutions, authorities and services involved.
- Countries may lack concerted and comprehensive reintegration policies and programmes for victims of human trafficking. In the case of Greece, initial assistance – mostly of a psychological nature - is primarily left to NGOs and a few public sector services, the capabilities of which have been greatly compromised, especially in the last years, due to the reduction of public spending.
- Awareness-raising campaigns are often not targeted to specific groups. In addition, most of the campaigns launched so far have focused on human trafficking for the purpose of sexual exploitation, ignoring other forms of exploitation such as labour exploitation, forced marriage, and illegal adoption. The evidence collected suggests that campaigns should be adapted and tailored to the targeted audience and the country as well as the system of norms/culture of victims.
- Problems that migrant workers experience are often directly related to the restructuring of work and production as well as the larger changes in the economy and the effects of globalization overall. Increased **demand for cheap goods and services** and the on-going economic crisis are pressing down prices both nationally and internationally. Often the most vulnerable workers have to suffer the negative consequences of this process. It is ultimately a question of normative values and acceptance. The broader normative climate in which the exploitation of migrant labour takes place in the first place plays a key role, and should be the scope of close scrutiny with the aim of ensuring **equal rights for all workers**.

- EU Member States should promote tolerance, trust and non-discrimination in order to foster a culture and a normative climate that understands and appreciates the positive social and economic contribution of migrant workers to the society of their host country. EU Member States should mobilise efforts and public attitudes to **combat discriminatory and xenophobic attitudes**, and prioritise protection of migrant workers over immigration controls. Monitoring and enforcement activities should aim at protecting the fundamental rights of migrants at work and at preventing their abuse and exploitation.
- **Criminalisation of migration** reinforces negative stereotypes against migrants and makes them even more vulnerable to exploitation at the hands of traffickers and exploiters, who can exercise even more control over their victims because of the fear that victims have of arrest and expulsion. All Member States should harmonize their legislation in terms similar to the European Union Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. This includes appointing anti-trafficking coordinators in all Member States and setting up joint investigation teams when working on transnational cases.
- Member States should improve the **training of officials** and other professionals likely to come into contact with victims and potential victims, and possibly adopt a European Protocol for the identification of presumed victims of human trafficking. Lack of special training in both prosecuting offenders and in satisfactorily protecting victims results in low levels of trust in their efficiency and capability, and reluctance to cooperate with them.
- Member States should promote and protect human rights, giving priority to victim support and protection, avoiding secondary victimization, also with the collaboration of the country of origin of victims. Adequate **public funding** is required to implement victim-centred assistance measures (also through the creation of public assistance centres for all types of victims).
- Member States should address the shortcomings in the response of the justice system to trafficking, including the lack of procedural uniformity, the excessive length of trials and their **failure to secure a conviction** for trafficking offences in most cases; and the lack of resources.
- Member States should implement strategies that will reduce the level of corruption and increase the efficiency and fairness of institutions. Professionalism and fairness of some police forces should also be improved.
- Better engagement with migrants' communities will help the authorities to strengthen the censure and condemnation that society should direct towards the behaviour of traffickers. The FIDUCIA project has shown that traffickers are often not perceived as deviant figures in their community; on the contrary, they may have a positive reputation. Changing the moral climate around their activity may have an impact on the profitability of their business – as well as make it more difficult to conduct it.
- Law enforcement and labour inspection authorities should seek to detect and address indications of labour and other exploitation before investigating the legal status of the migrant workers. This will help build a **foundation of trust** between migrants, migrant communities and law enforcement and inspection authorities.
- EU Member States should enhance the awareness-raising and capacity-building activities of labour inspectorates, police, immigration, prosecutors and judges in order to detect and respond to indications of abuse, exploitation and trafficking of migrants. EU Member States should promote awareness-raising on safe migration opportunities aimed at empowering potential migrants to

make informed decisions on the basis of accurate and practical information about concrete opportunities, realistic benefits, and potential risks.

- **Misrepresentation of migration prospects** should be avoided. Instead, clear information should be provided to migrants on the immigration process and procedures, including giving them concrete tips on how to protect themselves from deceptive recruitment, and where and how to report abuse and seek assistance.
- EU Member States should promote the self-regulation of businesses in order to prevent trafficking and exploitation during recruitment as well as in the workplace and in the labour supply chains.

Further recommendations

- Improved campaigns better targeted to specific audiences should be devised, addressing so far largely neglected issues such as labour exploitation, forced marriage and illegal adoption.
- More effort should be placed on the coordination of actions between the different authorities and bodies dealing with the trafficking phenomenon. More social and victim-oriented measures are required, such as **better integration of the victim** into the job market, financial support for their autonomous livelihood for short-term periods, and social housing.
- EU Member States should ensure that when purchasing goods, works and services, all public sector organisations, including state-owned, controlled or supported enterprises, have in place appropriate **due-diligence procedures** to guarantee respect for human rights and labour rights and to prevent exploitation and trafficking of migrant workers.

ABOUT THE PROJECT

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FUNDING SCHEME	European Commission’s Seventh Framework Programme – COOPERATION Collaborative project, SSH.2011.3.2-1, Criminal behaviour and policy responses in the European Union
DURATION	1 February 2012 – 31 May 2015 (40 months).
BUDGET	2 700 000 €.
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FURTHER READING	Ana Isabel Pérez Cepeda & Demelsa Benito Sánchez, <i>Trafficking in Human Beings: A Comparative Study of the International Legal Documents</i> , Europe Law Publishing, 2014.