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Opinion

Title **Impact Assessment report on: Proposal for a Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing the Framework Decision 2002/629/JHA**
(draft version of 12 December 2008)

Lead DG **DG JLS**

1) Impact Assessment Board Opinion

(A) Context

The prevention of and fight against the trafficking in human beings has been the subject of several initiatives: at the EU level, Council Framework Decision 2002/629/JHA of 19 July 2002 followed by a series of monitoring reports and non-binding actions plans; at the international level, the 2000 UN Protocol on Trafficking in Persons and the 2008 Council of Europe Convention on Action against Trafficking in Human Beings (so far ratified by 12 MS and signed by 13 others).

The 2009 Commission Work Programme includes a proposal to substitute FD 2002/629/JHA with a new framework decision as part of an organised crime package. Article 29 of the Treaty on the European Union provides the legal basis by mentioning the Union's objective to provide citizens with a high level of safety, in particular by preventing and combating trafficking in persons.

(B) Positive aspects

The report makes a valuable effort to provide figures and a complete overview of a complex phenomenon. The analysis is balanced and proportionate.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The IA report should be significantly improved on several aspects. It should: provide a better justification for new binding rules through EU legislation on trafficking in human beings; explain more clearly the

value added of each of the individual measures proposed compared to existing provisions in this field; and provide a better overview of implementation costs. The IA report should also pay greater attention to the gender dimension of trafficking, the specificities of third-pillar issues and the proportionality of suggested measures following the expected ratification of the Council of Europe Convention by Member States. During the IAB meeting, DG JLS has stated its intention to take on board these recommendations.

(1) Provide a better justification for the proposed EU initiative. Starting with a clearer presentation of existing data and drawing more widely from existing evaluation and consultation results, the report should present more explicitly the "implementation" shortcomings that explain why new legislative measures at the EU level are seen as necessary to add renewed impetus to the fight against trafficking in human beings. In doing so, greater attention should be paid to the value and/or limits of the 2008 Council of Europe Convention as well as to the factors which could continue to restrain a more effective policy development at the level of MS. The status quo option should thus more clearly integrate all of these elements.

(2) Deepen the analysis of the individual measures proposed. To strengthen the argumentation for the preferred policy options, it is important to avoid presenting the non-specialist reader with ready-made lists of non-exclusive measures. Accordingly, the justification for each individual measure proposed should be considerably strengthened. Given that the measures vary significantly in nature (from administrative such as training to "quasi-constitutional" such as enlarging binding extraterritorial jurisdiction rules), this should be done in a manner proportionate to each measure importance in terms of implied harmonisation, effectiveness and/or cost implications. The report should therefore more systematically highlight the value added of each measure relative to the provisions of the Council of Europe convention, its relations with the main problem drivers and its interplay with other measures within the proposed holistic approach. Drawing upon the existing evidence and a more elaborate presentation of the consultation results, proposed measures should also be compared to the alternative options which were discarded as inferior (or too contentious) during the overall IA process.

(3) Provide more detail on implementation costs. Whilst acknowledging the difficulties of providing precise estimates, a greater effort needs to be made to assess the costs on national systems of future transposition and effective implementation of the proposed measures.

(4) More explicitly deal with some cross-cutting issues. These include paying greater attention to the gender dimension of trafficking and highlighting possible relations with national prostitution policies. The specificities stemming from the third-pillar environment – including possible opt-outs - should be systematically recalled - in the analysis of the problem, the identification of possible measures, the assessment of the preferred option and the evaluation of transposition.

(D) Procedure and presentation

An executive summary should be added and short annexes highlighting the main findings of the various monitoring reports and consultation processes could also be usefully included. The analysis of impacts should clearly distinguish between costs and benefits, thus avoiding potentially confusing summary measurements such as "--/++".

2) IAB scrutiny process

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External expertise used	No
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