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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.3.2009
SEC(2009) 358

COMMISSION STAFF WORKING DOCUMENT

Accompanying document to the

Proposal for a

COUNCIL FRAMEWORK DECISION

**on preventing and combating trafficking in human beings, and protecting victims,
repealing Framework Decision 2002/629/JHA**

IMPACT ASSESSMENT

{COM(2009) 136 final}
{SEC(2009) 359}

EXECUTIVE SUMMARY

Trafficking is considered one of the most serious crimes worldwide, a gross violation of human rights, a modern form of slavery,¹ and an extremely profitable business for organised crime. It consists of the recruitment, transfer or receipt of persons, carried out by coercive, deceptive or abusive means, for the purpose of exploitation including sexual or labour exploitation, forced labour, domestic servitude or other forms of exploitation.

Although trafficking in the EU is often linked with illegal immigration and smuggling, there is a clear difference. Trafficking is a crime which infringes fundamental rights of the persons, while smuggling is a violation against legislation protecting the borders. In the case of illegal migration facilitated by a smuggler there is an agreement between the migrant and the smuggler, and the relationship between the two ends when the person enters the territory of the receiving State. In a case of trafficking illicit means such as coercion, deception or abuse of a position of vulnerability are used at a certain stage of the trafficking process; in addition, the transfer of the person is carried out for the purpose of further exploitation, which normally starts in the country of destination.

Social vulnerability is arguably the principal root cause of trafficking. Vulnerability derives from economic and social factors such as poverty, gender discrimination, armed conflicts, domestic violence, dysfunctional families, personal conditions such as age or health conditions or disabilities. Such vulnerability is used by international organised crime networks to facilitate migration and subsequently severely exploit people by use of force, threat, coercion, or various forms of abuse such as debt bondage. In fact the high level of profits deriving from the crime is a major underlying driver. The demand for sexual services and cheap labour in countries of destination is a concurrent driver.

A person can be trafficked for the purpose of sexual exploitation or for other illicit purposes such as labour exploitation or domestic servitude. Although also young men are trafficked, mostly for the purpose of labour exploitation, women and girls are still the majority of trafficked persons. Indeed, the root causes of trafficking include also gender discrimination and domestic violence and therefore trafficking is considered a form of gender-based violence. Children are trafficked to be exploited in activities associated with begging or illicit activities. Both girls and boys are trafficked for the purpose of sexual exploitation. Trafficking can also be carried out for the purpose of the removal of organs. Although trafficking is mostly a criminal phenomenon coming from third countries, especially after the last enlargement there are flows of trafficking within the EU area. Cases of internal trafficking are also reported by national monitoring mechanisms.²

The response to trafficking must be robust, and aimed at both prosecuting the crime and protecting victims.

At the international level, the UN 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime,³ was the first comprehensive international instrument dealing with trafficking in human beings. The Council of Europe Convention on Action against Trafficking in Human Beings⁴ is regarded as constituting the highest international standard to

¹ Georgina Vaz Cabral, *La traite des êtres humains. Réalités de l'esclavage contemporain*, Paris, 2006.

² For example, cases of internal trafficking have been reported by the Sixth Report of the Dutch National Rapporteur, 2008.

³ United Nations Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, 2000.

⁴ Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).

date. At the EU level, the Framework Decision on combating trafficking in human beings 2002/629/JHA⁵ especially addressed the need for approximation of criminal law and penalties⁶.

Although Member States generally complied with the essential requirements of the Framework Decision, more has still to be done concerning the implementation of comprehensive and effective anti-trafficking policy.

Various policy options have been examined as a means to achieve the identified objectives.

- Policy option (1): No new EU action
- The EU would take no action to combat trafficking, while Member States may continue the process of signature and ratification of Council of Europe Convention on action against trafficking in human beings.
- Policy Option (2): Non legislative measures

FD 2004/629/JHA would not be amended. Non legislative measures could be put in place in the areas of victim support schemes, monitoring, prevention measures in countries of destination, prevention measures in countries of origin, training, law enforcement cooperation.

- Policy option (3): New legislation on prosecution, victim support, prevention and monitoring

A new FD would be adopted, incorporating the provision of the existing FD, including certain provisions of CoE Convention, and additional elements. In particular, the new FD would contain provisions in the areas of substantive criminal law, jurisdiction and prosecution, victims' right in criminal proceedings, victim assistance, special protective measures for children, prevention, and monitoring.

- Policy option (4): New legislation (as in option 3) + non legislative measures (as in option 2)
 - A new FD would be adopted, incorporating the existing FD and including new provisions. The new FD would be supplemented by non legislative measures, and in particular those identified in option 2.
 - Analysis of impacts:

Option 1 (status quo) may provide significant improvement if Member States sign, ratify and implement CoE Convention CETS No. 197. However, the lengthy national ratification procedures in the absence of an EU legally binding framework make uncertain when and to what extent the benefits of that Convention will put into practice.

Option 2 would enhance the effectiveness in the implementation of the existing legal framework, but it would be insufficient to improve prosecution in a number of areas where a specific legal basis is required. In addition, the low level of implementation of non binding documents adopted in the past does not allow positive expectation concerning the effectiveness of Option 2.

⁵ 2002/629/JHA, cit.

⁶ Report based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings, COM (2006) 287 final.

Option 3 would improve matters in comparison to the current situation. It would strengthen legislation in the areas covered by the current EU legislation on prosecution of the offenders and protection of victims. It would also address prevention and monitoring. The financial cost is expected to be outweighed by the social and economic benefit of more efficient action against this crime.

Option 4 would multiply the effectiveness of the measures in option 2 and 3 by combining them and encouraging Member States to cooperate on setting up tools and acting to improve the implementation of the more comprehensive legal framework that will be put in place.

Following the analysis of economic impact, social impacts, and impacts on fundamental rights, Option 3 and 4 present the best approach to the problems and achieve the identified objectives. The preferred option would be option 4.

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1 Background

1.1.1. Policy context

The Commission's Work Programme for 2009⁷ includes a proposal to amend Council Framework Decision 2002/629/JHA on combating trafficking in human beings⁸ (hereafter: "FD on trafficking"). Together with the proposal on revising the FD 2004/68/JHA on combating the sexual exploitation of children and child pornography,⁹ this proposal will be part of an organised crime package.

The UN Convention on the Rights of the Child, adopted in 1989 set out to protect children from all forms of sexual exploitation and sexual abuse. This obligation comprises sexual exploitation and abuse perpetrated in the context of trafficking in human beings.

In 2000, the UN adopted a Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.¹⁰ The Protocol was the first comprehensive international instrument dealing with trafficking in human beings, and entered into force on 25 December 2003. So far 124 States are parties in the Protocol. All EU Member States have signed the Protocol, out of which 23 have ratified it. The European Community signed and subsequently approved the Convention on 6/9/2006. On the basis of the Protocol and the Convention, a process of harmonization of criminal legislation has been carried out at the international level.

The Framework Decision on combating trafficking in human beings¹¹ was adopted on 19 July 2002. The Framework Decision responded, as stated in its recitals, to a generally perceived need to address the serious criminal offence of trafficking in human beings at EU level. The Framework Decision went further compared to the Protocol, especially concerning the approximation of penalties. A report on the implementation of the FD was adopted by the

⁷ COM(2008) 712.

⁸ Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA), OJ L 203, 1.8.2002.

⁹ Council Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography, OJ L 13, 20.1.2004.

¹⁰ United Nations Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, 2000.

¹¹ 2002/629/JHA, cit.

Commission in May 2006.¹² The Directive 2004/81/EC on residence permits provides for assistance and residence status for third country nationals who are victims of trafficking in human beings.¹³

The importance of taking further action to strengthen the fight against trafficking in human beings was underlined in the Hague Programme for 2005-2009, on strengthening freedom, security and justice in the European Union.¹⁴ In 2005, an EU Plan on standards and procedures to prevent and combat trafficking in human beings, focusing on both regulatory and non-regulatory actions, was adopted.¹⁵

The Council of Europe Convention on Action against Trafficking in Human Beings¹⁶ entered into force on 1 February 2008. It is regarded by experts as constituting the highest international standard to date, since it provides a comprehensive and coherent framework covering prevention, cooperation between different actors, protection and assistance to victims, obligation to criminalise trafficking, rules and instruments to facilitate investigation and prosecution, including procedural law. Implementing such measures would lead to significant improvements. As of January 2009, the Convention has been ratified by 11 EU Member States. Another 14 have signed and are in the ratification process.

A Commission Working Document in October 2008 assessed anti-trafficking policy in Member States ((hereafter: 'MS')) and the implementation of the EU Action Plan, and indicated a number of key actions to be implemented in 2009.¹⁷ In the Document the Commission considered revising the Framework Decision on combating trafficking in human beings, in particular with a view to ensuring more effective victims' support.

1.1.2. Organisation and timing

An Inter-service steering group was set up, including DG RELEX, DEV, AIDCO, EMPL, SANCO, in addition to SG and SJ. The steering group met on 1 October and 1 December 2008.

The proposed new FD is scheduled for adoption as part of a package for tackling organised crime in Europe in March 2009.

1.1.3. Consultation and expertise

Following the request from the Council for an evaluation of the implementation of the EU Plan, a questionnaire was circulated by the Commission in December 2007 among Member States (MS). 23 MS, plus Norway, replied. The results fed into the above mentioned Commission Working Document adopted on 17 October 2008, the second EU Anti-Trafficking Day.¹⁸

¹² Report based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings, COM (2006) 287 final.

¹³ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, OJ L 261, 6.8.2004.

¹⁴ OJ, 12.8.2005 (2005/C 198/01).

¹⁵ OJ, C 311, 9.12.2005.

¹⁶ Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).

¹⁷ Commission Working Document "Evaluation and monitoring of the implementation of the EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings", COM(2008)657. The Document was drafted on the basis of 24 replies to a Questionnaire circulated by the Commission in December 2007, and information transmitted by various bodies such as Europol and Eurojust.

¹⁸ See previous footnote.

Three consultative meetings were carried out. The Group of Experts on trafficking in human beings met on 2-3 October 2008,¹⁹ and after extensive discussion issued a written opinion. A consultative meeting with experts from different background including governments, law enforcement, NGOs, international organisations and Universities was held on 7 October 2008. Following the meeting, all experts were invited to transmit written comments, and several experts did. A meeting with Member States' representatives was held on 17 October 2008.

The general principles for consultations laid down by the Commission have been broadly respected. A wide range of stakeholders, including governments, NGOs and independent experts took part in detailed discussions on the legislative plans well before these plans were finalized. A summary of the views of stakeholders is at paragraph 2.9 below.

2. PROBLEM DEFINITION

2.1 What is the problem?

Trafficking is considered one of the most serious crimes worldwide, a gross violation of human rights and a modern form of slavery,²⁰ and an extremely profitable business for organised crime. In conformity with the internationally agreed legal definition contained in the UN Protocol and the Council of Europe Convention,²¹ trafficking is the recruitment, transfer or receipt of persons, carried out by coercive, deceptive or abusive means, for the purpose of exploitation including sexual or labour exploitation, forced labour, domestic servitude or other forms of exploitation.

Although trafficking in the EU is often linked with illegal immigration and smuggling, there is a clear difference. Trafficking is a crime which infringes fundamental rights of the persons, while smuggling is a violation against legislation protecting the borders. In the case of illegal migration facilitated by a smuggler there is an agreement between the migrant and the smuggler, and the relationship between the two ends when the person enters the territory of the receiving State. In a case of trafficking illicit means such as coercion, deception or abuse of a position of vulnerability are used at a certain stage of the trafficking process; in addition, the transfer of the person is carried out for the purpose of further exploitation, which normally starts in the country of destination. A person can be trafficked for the purpose of sexual exploitation or for other illicit purposes such as labour exploitation or domestic servitude. Although young men are trafficked mostly for the purpose of labour exploitation, women and girls are still the majority of trafficked persons. In fact gender discrimination and domestic violence are major root causes of trafficking.. Therefore trafficking is considered a form of gender-based violence. Children are mostly trafficked to be exploited in activities associated with begging or illicit activities. Both girls and boys are trafficked for the purpose of sexual exploitation. In accordance with the UN Protocol and the Council of Europe Convention on action against trafficking in human beings,²² trafficking can also be carried out for the purpose of the removal of organs. Trafficking in Europe still remains a criminal phenomenon coming

¹⁹ Commission Decision of 17 October 2007 setting up the Group of Experts on Trafficking in Human Beings (2007/675/EC), OJ L 277, 20.10.2007; Commission Decision of 22 July 2008 on the appointment of members of the Group of Experts on Trafficking in Human Beings (2008/604/EC), OJ L 194, 23.7.2008.

²⁰ Georgina Vaz Cabral, *La traite des êtres humains. Réalités de l'esclavage contemporain*, cit.

²¹ See footnote 3.

²² See footnote 4.

from third countries. However, especially after the last enlargement, anti-trafficking legislation and policy has to deal with trafficking within the EU area.²³

There is strong evidence that victims of trafficking suffer specific physical and psychological health consequences of the crime to which they have been subjected. They can suffer serious forms of trauma or other mental or psychological problems. Moreover, victims of trafficking for sexual exploitation are at high risk of acquiring HIV and other sexually transmissible diseases.²⁴ These findings suggest that the protection of the rights of the victims must be at the core of any proposals aimed at strengthening the EU action against trafficking, and should aim to prevent further negative consequences on such victims. In addition, victims are important source of evidence in criminal proceedings; therefore their protection and assistance is crucial in order to ensure successful investigation and prosecution.

Trafficking is a very lucrative activity for criminals. The International Labour Organisation (ILO) estimates that traffickers, taking into account the estimated number of victims (see below), and the average prices of sexual services, make 27.8 billion US dollars per year from forced commercial sexual exploitation of trafficked victims. Concerning economic exploitation, the estimated annual profits from trafficked people in forced economic exploitation are estimated at 3.8 billion US dollars. In total, 31.6 billion US dollars are made yearly by exploiting trafficked victims. These profits fund the expansion of international criminal groups, contribute to corruption, and undermine the rule of law.²⁵

2.2 Who is affected and how?

Most of the people targeted for these crimes are women and children, but also cases of young men trafficked for the purpose of labour exploitation are increasingly reported by NGOs and law enforcement.

It is not easy to estimate the extent of this crime, since criminal activities related to trafficking are hidden behind widespread phenomena such as prostitution or immigration. In addition, those estimates which have been attempted for Europe are scarce and not reliable.

The only estimates on trafficking and forced labour based on transparent and accepted methodology are on a global scale and have been carried out by the International Labour Organisation (ILO), while the only source of reasonably reliable data on victims of human trafficking is the International Organisation for Migration (IOM) database.²⁶ These two sets of estimates are not necessarily comparable, since IOM figures only concern identified victims

²³ Cases of internal trafficking have also been reported by national monitoring mechanisms. See for example the Sixth Report of the Dutch National Rapporteur, 2008.

²⁴ London School of Hygiene and Tropical Medicine, The Health Risks and Consequences of Trafficking in Women and Adolescents. Findings from a European Study, Final Report of a project funded by the European Commission under the Daphne Programme. AAVV, *Stolen Smiles, The physical and psychological health consequences of women and adolescents trafficked in Europe*, 2006, Study funded by the European Commission under the Daphne programme. In 2001, 50% of women repatriated to Moldova accepted to be subjected to an HIV test. 85% tests were positive. These figures are reported by B. Limanowska, *Trafficking in human beings in South Eastern Europe 2004. Focus on Prevention*, UNICEF/UNOHCHR/OSCE-ODIHR, Belgrade, 2005. Often trafficking implies violence and psychological abuse which can result in Post-Traumatic Stress Disorder implying recurrent nightmares, psychological arousal, avoidance and numbing. Usual consequences are depression and anxiety. Cognitive functioning may also be negatively affected. See National Centre for Post Traumatic Stress Disorder, *What is PTSD?*, 8.2.2005.

²⁵ Patrick Belser, *Forced Labour and Human Trafficking: Estimating the Profits*, ILO, 2005.

²⁶ IOM Counter Trafficking Database, 2008

which have been assisted by IOM, while ILO estimates are based on assessments of the presumed global number of victims.

According to ILO²⁷, taking into account that the majority of forced labour and services is linked with traditional slavery-like practices, that is to say that the person is not transferred but exploited *in loco*, forced labour in the context of trafficking represents around 20% of total forced labour. Therefore it is believed that globally there are at least 2.45 million people in forced labour as a result of trafficking. Out of them, 1,225 million people are trafficked for the purpose of forced labour every year. These estimates include both transnational trafficking and trafficking within countries. Most people are trafficked into forced labour for commercial sexual exploitation (43%) or mixed reasons (25%). The reminder (32%) concerns trafficking for economic exploitation. Women and girls represent 56% of victims of forced economic exploitation, and men and boys represent 44%. Regarding forced commercial sexual exploitation, an overwhelming majority (98%) are women and girls. Children under 18 represent between 40% and 50% of all victims of forced labour.²⁸ These estimates are not substantially different from the ones given by the US Department of State.²⁹

The IOM database includes data collected from 12,627 victims who have been assisted by IOM worldwide from November 1999 to December 2007. Out of these, 10,473 are female and 2,154 are male. 630 persons are below 14 years of age, 1,416 between 14 and 17, 5,880 between 18 and 24, 2,485 between 25 and 30, 2,092 over 30 (124 not recorded). The most represented countries of origin are Ukraine, Republic of Moldova, Belarus, Romania.

Among the countries to which people are trafficked there are several EU countries: Italy (500 victims), Greece (105), Germany (136), Czech Republic (303), Bulgaria (204), Austria (101), Poland (778). 188 recorded cases concern international trafficking, 2,389 are cases of internal trafficking. Concerning the type of exploitation, 72.46% were cases of sexual exploitation, 21.95% labour exploitation, 1.99 % mixed sexual and labour exploitation, 0.84 % low level criminal activities, 0.05 % labour and low level criminal activities and 2.72 % other types of exploitation. It is necessary to point out that these figures only concern assisted victims, and do not necessarily reflect the true extent and nature of the phenomenon. Moreover, the number of trafficked children is for sure underestimated because children are often assisted through different channels.

Further information has been collected at national level, and gives a more precise idea of the features of trafficking in the EU. For example in Italy, where there is the highest number of assisted victims, between 2000 and 2007 54,559 persons received some help, and 13,517 were covered by assistance and social integration programmes. Out of them, 748 were minors. Victims came from Nigeria (4,150), Romania (3,157), Republic of Moldova (910), Albania (873), Ukraine (691), Russia (390), and Bulgaria (190). In 2006-2007 859 cases of trafficking for sexual exploitation, 76 for labour exploitation, and 2 for begging were reported by victims assisted through the programmes.³⁰

²⁷ Patrick Belser, Michaëlle De Cock, Fährad Mehran, ILO *Minimum Estimate of Forced Labour in the World*, ILO, Geneva, April 2005.

²⁸ These percentages correspond to about 4.9 to 6.15 million children. This last estimate is considered consistent with the estimate contained in the ILO Global Report of 2002 "A future without child labour" which had estimated with a different methodology that there were 5.7 million children in forced and bounded labour.

²⁹ US Department of State, *Trafficking in Persons Report*, which is published every year. The most recent was published in 2008.

³⁰ Source: Presidenza del Consiglio dei Ministri, Dipartimento per i diritti e le pari opportunità, 2007. The data are not comparable with those given by IOM because the latter source only includes victims

The figures taken from IOM database, although only relating to assisted victims, show that several EU countries are major countries of destination for trafficking flows coming from third countries. In addition, there is evidence of flows of trafficking from certain EU countries - especially Bulgaria and Romania - to other EU countries. As one of the most significant destinations in the world, it is reasonable to estimate from the available figures that several hundred thousand people every year are trafficked into the EU area or within the EU area.³¹

2.3 The underlying drivers of the problem

Social vulnerability is arguably the principal root cause of trafficking. Vulnerability derives from economic and social factors such as poverty, gender discrimination, armed conflicts, domestic violence, dysfunctional families, personal conditions such as age or health conditions or disabilities. Such vulnerability is used by international organised crime networks to facilitate migration and subsequently severely exploit people by use of force, threat, coercion, or various forms of abuse such as debt bondage. In fact the high level of profits deriving from the crime is a major underlying driver.

The demand for sexual services and cheap labour is a concurrent driver. Although the demand itself is affected by the scale of supply, stakeholders argue that actions aimed at reducing the demand are crucial in order to remove a major concurrent factor which ultimately fosters trafficking. This argument has been developed both in the field of trafficking for sexual and for labour exploitation.³²

The institutional response is weak, first of all because actions aimed at tackling prevention rarely materialise in large-scale initiatives aimed at poverty and vulnerability reduction and addressing the demand.³³

Different but concurrent drivers are inadequate anti-trafficking policies in transit and destination countries, which increase the vulnerability of trafficked persons, miss opportunities for identification and support to victims, and discourage their participation in criminal proceedings. As a consequence, due to the lack of an accurate source of evidence which could foster further investigation, the number of criminal proceedings and convictions remain very low (see below, paragraph 2.5).

Generally speaking, victims' support schemes are insufficient, as the above mentioned figures on assisted victims show. Often such schemes do not have appropriate human rights background and therefore do not provide victims with appropriate assistance and protection.³⁴

In addition to threats addressed by traffickers to victims and their families, trafficked persons

assisted by IOM, while National data also comprise victims assisted by other NGOs or international organisations.

³¹ The press often report the estimate of 500.000 people trafficked yearly to Europe. However, such an estimate is not confirmed by any official source.

³² Regarding trafficking for sexual exploitation, it is to be mentioned the study *"How Much? A pilot study on four key EU member and candidate countries on the demand for trafficked prostitution"* project funded under AGIS 2005. Concerning trafficking for labour exploitation, see the recent ILO *"Combating trafficking in children for labour exploitation. A resource kit for policy-makers and practitioners"*, ILO, Geneva, 2008.

³³ Although good practices are in place in some Member States, stakeholders agree that the response is weak concerning prevention.

³⁴ Various studies show that in some cases victims escape from "closed" shelters, where their freedom of movement is severely restricted. In other cases the shelter was "an apartment out of the city, with minimal furniture, no television and no phone, where a paid social worker was on duty some hours a day, and did not want to speak or "getting involved with clients". AHTNET, Networking against human trafficking, *Life Stories*, Project funded under Equal, European Social Fund. See also

do not report or act as witnesses because they fear denunciation to immigration authorities and immediate deportation, being in most cases illegal migrants, and often have been even deprived of their documents by traffickers. Moreover, they fear detention and prosecution for offences they have been involved as a consequence of trafficking such as violation of immigration laws and use of false documents.

Another factor which has a strong impact on the weakness of investigation and prosecution is insufficient international cooperation. The above mentioned Commission Working Document shows that many countries have bilateral agreements for the exchange of investigative information and police cooperation in general; some forms of police cooperation have recently been put in place in a number of countries (CY, HU, IT, LV, LT, NL, SI, SE, UK), including through Europol and Interpol. However, the most effective tools such as joint investigation teams are still a rarity. Trafficking in most countries is still not dealt with by means of investigative tools that are typically used for organised crime cases.³⁵ Secondary victimisation, that is to say further harm deriving from the way the procedure is carried out, also plays a major role in the failure of a number of proceedings. In fact the victim can be induced to go back to the source country and *de facto* stop her/his cooperation with judicial authorities as consequence of lack of respect for their rights and human dignity.³⁶

2.4 State of implementation of the legal framework

As set out above (2.1), a substantive international legal framework for tackling human trafficking already exists. This current framework, however, is considered by stakeholders to suffer from insufficient or erratic implementation in Member States

The Commission's 2006 report on the implementation of the Framework Decision on combating trafficking in human beings³⁷, and its above mentioned 2008 Working Document found that the FD's requirements had been largely met by MS in terms of transposition of legislation. In fact MS comply with the essential requirements of the current FD, as a consequence of pre-existing legislation, or new legislation transposing FD. However, since a number of provisions in FD allow for exceptions or reservations, and since FD only contains criminal law provisions, implementation of comprehensive anti-trafficking policy in MS is still unsatisfactory. The above mentioned Commission Working Document found that there was still more to do in terms of implementation of anti-trafficking policy, especially in the following areas:

- effectiveness of law enforcement activities aimed at detecting and prosecuting trafficking;
- victims protection and assistance;
- monitoring of trafficking trends and anti-trafficking policy.

Furthermore, the effects of the possible ratification of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings by EU MS should be taken in due consideration.³⁸ Such an analysis will be further developed below.³⁹ Here it is important to

³⁵ For example, appropriate tools to be used in organised crime cases are financial investigation, phone tapping, electronic surveillance.

³⁶ *Life stories*, cit.

³⁷ Report based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings, COM (2006) 287 final.

³⁸ Although the ratification process is slow since MS have to adapt their internal legislation to the Convention requirements before ratification, the fact that 25 MS have already signed allows good expectation about the ratification by the vast majority of MS in the near future.

notice that the CoE Convention establishes a higher international standard and it is an important step towards harmonisation of legislation, including criminal law, victim support, prevention, and monitoring. However, the Convention contains binding and non binding provisions, and allows for reservations in crucial areas such as extraterritorial jurisdiction. Therefore the Convention itself shows a number of weak points.

Taking into account the current legal framework, relating to UN and CoE instruments, and EU legislation, the loopholes can be identified as follows:

– *Criminals not being brought to justice*

- Not enough criminal proceedings are currently undertaken.⁴⁰ In 2006, the highest figures concerning investigation and prosecution of trafficking for the purpose of sexual exploitation were recorded in AT (128), BE (291), BG (291), DE (353), IT (214), PT (65), and UK (54).⁴¹ The total number of cases investigated in the EU was 195 in 2001, 453 in 2003, 1,060 in 2005, and 1,569 in 2006.⁴² Despite the upward trend, the number of criminal proceedings is still not comparable with the presumed scale of the crime as described above. A specific aspect of this weakness concerns the protection of children. In 2006, only 180 cases were recorded of this offence being committed against children in the EU area.⁴³ As regards trafficking for labour exploitation, where anti-trafficking policy has been developed more recently, the judicial response is even less advanced. Therefore trafficking in human beings continues to be a high profit and low-risk crime concerning both trafficking for sexual and labour exploitation, and particularly regarding children.

– *Victims not receiving adequate assistance, protection or compensation*

- Concerning the numbers of victims who have received support in recent years, figures have only been provided by AT (162), BE (121), BG (81), CZ (14), FI (9) IT (2,143), LT (96), PL (10), SL (40), and NO (37).⁴⁴ Compared to the presumable scale of trafficking in Europe, it is necessary to conclude that only a few countries have taken measures that can be considered to be a real response; but at EU level the situation is still largely unsatisfactory. On the other hand, in countries such as AT, BE, IT, BG, and UK, which have a significant number of assisted victims, figures on criminal proceedings are also higher (see 1.3). Therefore, further regulation might be necessary in order to ensure more effective victim support mechanisms.
- The number of victims who received police protection is very low (FI 5, LV 1, PL 11). One particular, and positive, case is Italy, where all victims who were placed in the social integration programmes (2,039 in 2005 and 2,143 in 2006) also received police protection. As to the right to compensation, although many countries even allocate public funds for compensation (AT, BE, BG, CZ, DK, FI, FR, HU, LV, LU, MT, NL, PT, SK, SE, UK), the

³⁹ See paragraphs 4.3 and 5.1.

⁴⁰ Commission Working Document COM(2008)657, cit. is the source of all the figures this paragraph refers to.

⁴¹ In some countries figures include trafficking for labour exploitation. It is possible that a number of cases of trafficking for sexual exploitation are still prosecuted as cases of exploitation of prostitution, due to the difficulty of gathering evidence.

⁴² The number of sentenced cases is much lower. The total amount in 2006 was 284 sentenced cases of trafficking for sexual exploitation.

⁴³ These figures are certainly underestimated as many countries do not dispose of disaggregated data for children.

⁴⁴ These figures are not comparable with those included in the IOM database, for the reasons highlighted above.

only available figures show that the number of victims of trafficking who have received compensation is very low (DK 1, FR 5, NL 18, UK 4, NO 2).

– *Poor monitoring of the situation*

- In the field of victims' rights and victims' support, the vast majority of countries do not even possess figures. The national machinery still seems to be inadequate as far as monitoring mechanisms are concerned. Two countries (NL and SE) have appointed National Rapporteurs and nine indicate the appointment of comparable mechanisms (BE, BG, CY, CZ, DK, FI, PT, RO, UK). This situation might have a negative impact on the quality of the data collected.

Stakeholders have identified the following weaknesses in the legal framework, including the current Framework Decision and the CoE Convention:

Type of provision	FD	CoE
Definition of trafficking	Excludes trafficking for the purpose of the removal of organs and other forms of exploitation. ⁴⁵	Satisfactory
Penalties to be imposed on offenders	A maximum penalty is only envisaged for aggravating circumstances	No provision
Clause of non punishment for victims	None	Non-punishment clause is not binding and does not cover victims who, although not subjected to violence, have been deceived or abused.
Extraterritorial jurisdiction rule	Allows for reservations	Allows reservations
Vulnerable victims	No provisions for particularly vulnerable victims, other than only children No grounds for adults to be considered vulnerable victims are envisaged Specific treatments for particularly vulnerable victims are not specified	Protection of private life of the victim, and where appropriate, identity, and protection from intimidation are ensured. Specific treatments for vulnerable victims are only specified in the Explanatory Memorandum but are not included in the text of the Convention, and therefore are not binding.

⁴⁵ The current Framework Decision only comprises the purposes of sexual and labour exploitation. It does not include trafficking for the purpose of the removal of organs.

Type of provision	FD	CoE
Assistance to victims	None. The only measures on victim assistance in EU <i>acquis</i> are provided for by the Directive 2004/81/CE on residence permits, which only applies to third country nationals.	
Use of appropriate investigative tools	None	None
Training	None	Training for persons in charge of preventing and combating trafficking in competent authorities provided for. However, specific skills and curricula should be further identified.
Monitoring	No specific mechanism other than the implementation report on the implementation of Framework Decisions.	A CoE monitoring mechanism is provided for (GRETA)

2.5 Main issues to be addressed

On the basis of the above mentioned findings, the main problem to be addressed is the inadequate legal framework. This has led to a number of very practical problems which can be summarised as follows:

1. *Failure to convict criminals*

- a. insufficient approximation of relevant criminal law provisions in MS;
- b. victims do not report crimes for fear of denunciation to immigration authorities and immediate deportation;
- c. insufficient international cooperation and poor use of effective investigation tools.

2. *Insufficient protection and assistance to victims*

- a. assistance measures are not in place or are insufficient in many MS; the number of assisted victims is very low;
- b. victims may face sanctions for violations due to their exploitative situation such as violations of immigration laws;
- c. secondary victimisation affect vulnerable victims including children and persons with special needs, as a consequence of inadequate law enforcement and judicial practice;
- d. victims do not receive effective protection and compensation.

3. *Insufficient measures to prevent trafficking*

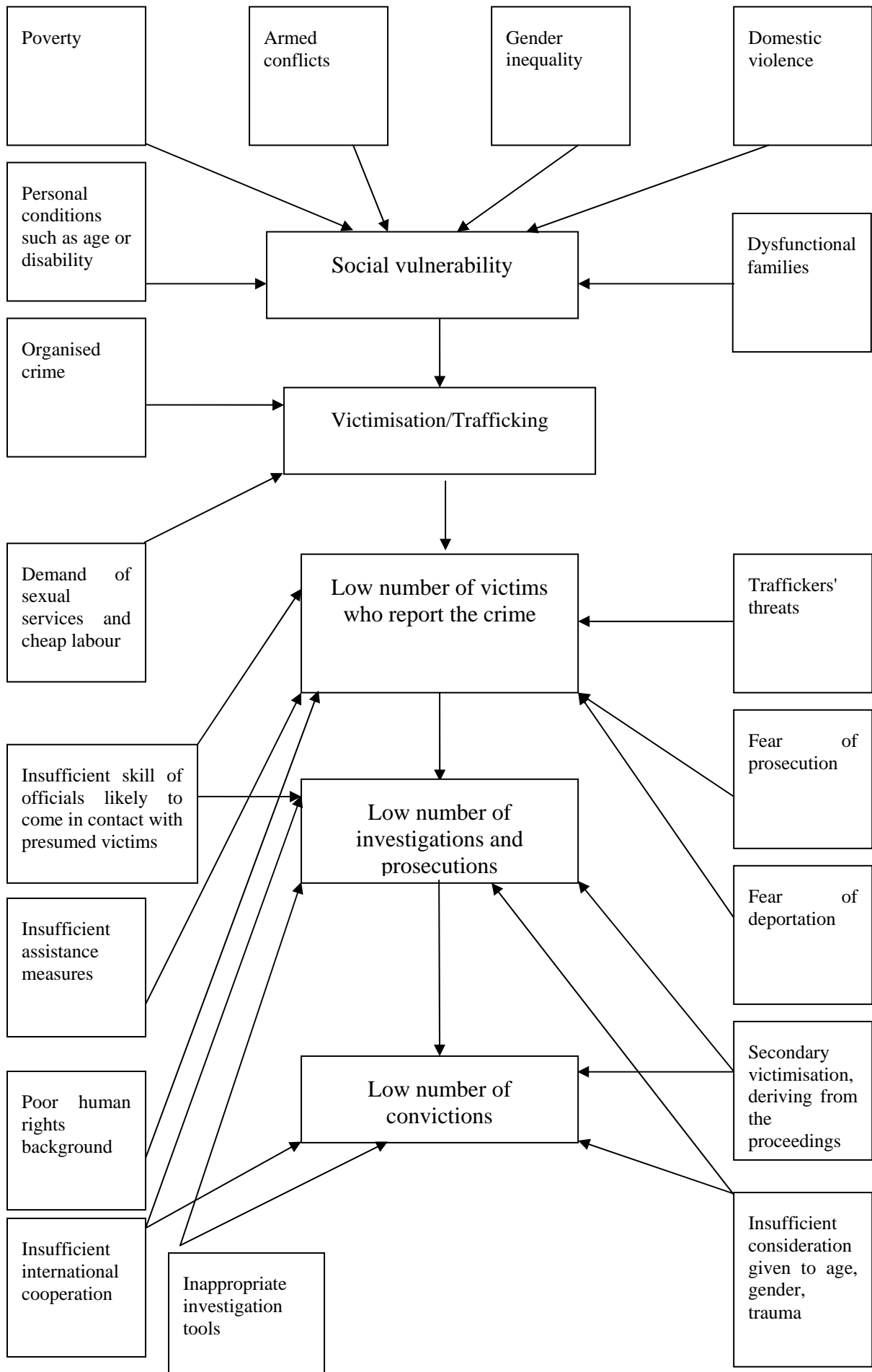
- a. lack of resources and expertise in law enforcement agencies and social authorities in countries of origin and destination;
- b. not enough action to identify vulnerable groups, potential and presumed victims of trafficking in countries of origin and destination;
- c. no sanctions against employers who knowingly employ trafficked persons, and for clients who knowingly buy sexual services from a trafficked person are envisaged.⁴⁶

4. *Insufficient knowledge*

- a. insufficient data concerning the magnitude of the crime and the effectiveness of anti-trafficking policy in MS;
- b. lack of comparable data at the EU level, due to lack of coordination between existing national monitoring mechanisms

PROBLEM TREE

⁴⁶ Criminal sanctions for employers who knowingly employ trafficked persons are currently under discussion in the framework of a Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals. The idea of criminalising clients who knowingly buy sexual services from a trafficked person has been discussed during the consultation meetings and is controversial among stakeholders.



2.6 How would the problem evolve, all things being equal?

Apart from the Framework Decision on trafficking, a number of legislative and non legislative instruments have been adopted in this field, including the Directive 2004/81/EC on residence permits,⁴⁷ the Framework Decision 2004/68/JHA on combating the sexual exploitation of children,⁴⁸ and the Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings.⁴⁹ A number of non legislative instruments have also been adopted.⁵⁰

Due to the lack of hard data, it is not possible to estimate precisely how this problem would evolve in the absence of EU action. However, taking into account the magnitude of the crime, which is spread worldwide, it is clear that trafficking has become an important activity for many criminal networks at the international level. According to the above mentioned ILO estimates, US\$ 31.6 are made yearly by exploiting trafficking. Taking into account the recurrent dynamics of criminal markets, any lucrative activity attracts new criminal business; in addition, profits coming from the crime are re-invested in the same or other criminal activities. In the case of trafficking, this dynamics has been studied especially with respect to the Western Balkan area, where criminals expanded their networks after 1998-99 and started to traffic not only Albanian girls, but also girls from Central and Eastern Europe. Criminal groups used money earned from sexual exploitation to buy drugs (mainly cocaine) from the Netherlands. This cross cutting business led to a constant growth for ten years. A decrease of trafficking after 2003 is considered a result of improved legislation and enhanced cooperation, especially joint operations carried out by Albanian-Italian law enforcement and prosecution.⁵¹ From this, we can conclude that the criminal phenomenon is expected to remain stable or even grow if no effective deterrents are put in place in the near future.

Some further considerations on the implementation of the CoE Convention on action against trafficking will be developed in paragraphs 4.3 and 5.1.

2.7 Right to act, subsidiarity and fundamental rights

In accordance with Article 29 of the Treaty on the European Union, the Union's objective shall be to provide citizens with a high level of safety. This objective shall be achieved, in particular, by preventing and combating trafficking in persons.

Action of the Union in this field should be taken only if and in so far as this objective cannot be sufficiently achieved by the Member States and can be better achieved by the Union. As mentioned before, trafficking in human beings by its very nature is a trans-border crime, while cases of internal trafficking are marginal in the EU area. It affects all Member States, and there is evidence that a considerable proportion of it involves trafficking from one Member State to another. The consensus among experts is therefore that this requires EU

⁴⁷ See footnote 13.

⁴⁸ Council Framework Decision of 22 December 2003 on combating the sexual exploitation of children and child pornography, OJ L 13, 20.1.2004, p. 44-48.

⁴⁹ Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA), OJ L 82, 22.3.2001, p. 1-4.

⁵⁰ Brussels Declaration, Council Conclusions of 8 May 2003 (2003/C 137/01) which take note of the Brussels Declaration (OJ C 137, 12.6.2003); European Commission Experts Group, Report 2004; Recommendations on identification and referral to services of victims of trafficking in human beings, issued by the Commission on the occasion of the first EU Anti-Trafficking Day, 18 October 2007: www.ec.europa.eu/justice_home/news/information_dossiers/anti_trafficking_day_07/documents_en.htm

⁵¹ J.Arsovska, *Decline, Change or Denial: Human Trafficking and EU Response in the Balkan Triangle*, in Policing Advance Access, April 2008

action, and that the objective of effectively preventing and combating such crime, and protecting victims, cannot be sufficiently achieved by Member States alone.

Any action of the Union in this field must respect fundamental rights and observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union (EU Charter) and the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), notably human dignity, the rights of the child, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour, prohibition of trafficking in human beings, right to fair and just working conditions, right to liberty and security, respect for private and family life, protection of personal data, non-discrimination, as well as the special procedural rights contained in Article 47 to 50 EU Charter (Articles 6, 7 and 13 ECHR). Member States, when implementing Union law, must do so in accordance with these rights and principles.

Of particular importance in this respect is Article 5 of the EU Charter which explicitly prohibits trafficking in human beings. This is an innovative provision even compared to the ECHR, which, however, also prohibits slavery and forced labour (Article 4 ECHR). Furthermore, as many of the victims of trafficking are children, Article 24 of the EU Charter is of relevance. This provision foresees a positive obligation to act with the aim of ensuring the necessary protection of children. It states that children shall have the right to such protection and care as is necessary for their well-being. In addition, it requires that in all actions relating to children, whether taken by public authorities or private institutions, the child's best interest must be a primary consideration. Finally, as regards Articles 1 and 3 of the ECHR, the European Court of Human Rights has held that Contracting States are required to take measures to ensure that individuals within their jurisdiction are not subjected to ill-treatment, including ill-treatment administered by private individuals.⁵²

2.8 Views of stakeholders and Member States consulted

- The Group of Experts of the European Commission on Trafficking in Human Beings⁵³ in its written opinion underlined, as guiding principles, the need for an adequate legal framework in each country, the need to make human rights a paramount issue, to take a holistic, coordinated and integrated approach; to link government policies on trafficking to migration policies, to respect children's rights, to promote research about trafficking and to monitor the impact of anti-trafficking policies.
- Many stakeholders agreed on the need for specific provisions aimed at strengthening investigation and prosecution. Lack of effective provisions in the current legislation was particularly underlined by Europol's experts. The most effective investigative tools especially designed to deal with organised crime cases should be made available and should be used in trafficking cases.
- NGOs and the Expert Group underlined the need for a holistic approach including prevention and protection of victims. In addition to the rights acknowledged to any victims, trafficked persons should be protected from detention and prosecution, and from secondary victimisation. The crucial role of assistance measures was generally underlined, and several experts insisted on the need for a binding provision obliging Member States to make such schemes available. Experts from NGOs dealing with children's rights and especially UNICEF called for a specific provision concerning identification, assistance and protection for children.

⁵² ECHR, *M.C. v. Bulgaria*, par. 149.

⁵³ See footnote *.

- The issue of introducing a specific obligation to criminalise clients who knowingly use sexual services from a trafficked person was highly controversial among stakeholders. Several MS underlined that in any case such a provision should not be binding, taking into account that this issue is linked with prostitution policy, and that a difficult debate is going on in many MS on such a sensitive issue.
- On various occasions the European Parliament has underlined the need for more effective measures against trafficking in the field of the legal framework and law enforcement, prevention and reduction of the demand, protection of victims, coordination of actions at national and EU level.⁵⁴
- While acknowledging its weaknesses, stakeholders praised the Council of Europe Convention on trafficking for its comprehensive, human rights centred approach, and for the provisions concerning victims' identification, protection and assistance.
- Stakeholders and MS tend to echo the remarks of a study carried out by the Odysseus Academic Network on the implementation of Directive 2004/80/EC on residence permits and a study by the ECLAN on the FD⁵⁵ that FD needs to be revised, in particular to improve victim support mechanisms and to promote more prosecutions.

3. OBJECTIVES

3.1 General, specific and operational objectives

The overall goal of the exercise is to combat crime, organised or otherwise, in particular trafficking in persons and offences against children, in conformity with Article 29 of the EU Treaty, by building a more coherent framework for the fight against trafficking within the third pillar and to increase its effectiveness.

A Specific objective: To prosecute the crime

- Operational objectives:
 - A1 To impose effective, proportionate and dissuasive penalties;
 - A2 To facilitate victims' cooperation with judicial authorities;
 - A3 To remove obstacles to international cooperation and generalise the use of investigative tools which are effective in organised crime and transnational cases;
 - A4 To facilitate prosecution of traffickers when the offence has been committed out of the territory of the State.

B Specific objective: To protect victims' rights

⁵⁴ Report with a proposal for a European Parliament recommendation to the Council on fighting against trafficking in human beings – an integrated approach and proposals for an action plan (2006/2078(INI), 18.10.2006, Committee on Civil Liberties, Justice and Home Affairs, Rapporteur Edit Bauer, A6-0368/2006. Written Declaration by Marusya Ivanovna Lyubicheva, Zita Gourmai, Diana Wallis, Eva-Britt Svensson and Anna Zaborska on combating the trafficking of children, m4.6.2008 (0050/2008) subsequently approved by EP.

⁵⁵ A.Weyenbergh, V.Santamaria (ed.), The evaluation of European Criminal Law. The example of the Framework Decision on combating trafficking in human beings, IEE, 2009, Study carried out by ECLAN Network, funded under the financial programme JPEN. The study also highlights that generally speaking the assistance and protection mechanism is remains insufficient, that Italian law contains more favourable provisions, and that some countries such as FI, BE, LT, GR and LU are making an effort to develop a global approach to trafficking, more focussed on victims.

- Operational objectives:
- B1 To provide any presumed victim with unconditional and individualised assistance before, during and after criminal proceedings;
- B2 To protect victims from detention and prosecution for crimes they have been induced to commit such as violation of immigration laws;
- B3 To increase the protection of victims from secondary victimisation, which derives from the way the proceedings are carried out by the competent authorities;
- B4 To establish specific means aimed at ensuring effective protection and compensation.

C Specific objective: To prevent trafficking

- Operational objectives:
- C1 To reduce vulnerability factors in countries of origin;
- C2 To improve skills of public officials likely to come into contact with potential victims;
- C3 To discourage the demand of sexual services and cheap labour.
- **D Specific objective: To establish effective monitoring systems**
- Operational objectives:
- D1 To set up consistent national mechanisms such as National Rapporteurs or equivalent mechanisms;
- D2 To establish close cooperation between National Rapporteurs or equivalent mechanisms.

3.2 Consistency of the objectives with other EU policies and horizontal objectives

The fight against all forms of gender-based violence including trafficking forms integral part of the commitment taken by the Commission in the Roadmap on Gender equality.⁵⁶ The fight against child trafficking is also included in the strategy on the rights of the child.⁵⁷ The objective of fighting trafficking in human beings and assisting victims is consistent with the regulation contained in the Directive 2004/86/EC on residence permit,⁵⁸ which deals with immigration issues and only applies to third country nationals. It is also consistent with Council Directive relating to compensation for crime victims which aims at facilitating access to compensation in cross-border situations,⁵⁹ and with Framework Decision 2008/841/JHA on the fight against organised crime.⁶⁰ Trafficking in human beings is included in the list of crimes which give rise to surrender pursuant a European arrest warrant in accordance with

⁵⁶ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, A roadmap for equality between women and men 2006-2010, {SEC(2006)275}, COM(2006)92 final.

⁵⁷ Communication from the Commission Towards an EU Strategy on the Rights of the Child {SEC(2006)888}, {SEC(2006) 889}, Brussels, 4.7.2006, COM(2006) 367 final.

⁵⁸ See footnote 35.

⁵⁹ Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, OJ L 261, 6.8.2004.

⁶⁰ Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime, OJ L 300/42, 11.11.2008.

Council Framework Decision 2002/584/JHA on the European arrest warrant.⁶¹ The objectives stated above are fully consistent with these instruments, as well as with the Council of Europe Convention on action against Trafficking in Human beings and with the mandates of Europol and Eurojust.

4. POLICY OPTIONS

4.1 Policy option (1) Status quo

This option implies that EU does not take any further major and independent action in the field of the fight against trafficking in human beings. The EU has already encouraged the speedy ratification of the Council of Europe Convention⁶² and would continue to do so. Ratification of Conventions tends in practice to be slow. Where provisions are non-binding or permit reservations, such as the establishment of extraterritorial jurisdiction, MS may not implement them.⁶³

A simplification initiative was also considered, but has been excluded because the situation is such that the minimal and in principle very clear existing legislation needs to be strengthened, not reduced.

4.2 Policy option (2) Non legislative measures

Non legislative measures would focus on victim identification and support, prevention and monitoring, and should aim at favouring further coordinated action at the national level. A non legislative package would include the following actions, which are presented below starting with the most important:

Measure	Description	Justification
Victims' support schemes	Establishment of victims' support schemes for unconditional assistance, indication of quality standards, and model cooperation agreements between public institutions and civil society organisations which provide services to victims.	This measure is absolutely crucial to enhance a human rights centred approach to anti-trafficking policy. Such an approach has proven effective not only in terms of recovery and subsequent social inclusion of victims, but also in the interest of justice. As a matter of fact, whenever victims are properly assisted and protected, in most cases they have been willing to cooperate with law enforcement and judicial authorities. Victim's support schemes should be implemented by MS. Quality standard and modalities such as model cooperation agreements between public institutions and civil society organisations such as NGOs service providers should be established at EU level.

⁶¹ Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, OJ L 190, 18.7.2002.

⁶² EU Plan on best practices, standards, and procedures for combating and preventing trafficking in human beings (2005/C, 311/01), OJ C 311, 9.12.2005.

⁶³ Further considerations on the implementation of the CoE Convention will be developed in paragraph 5.1.

Measure	Description	Justification
Monitoring	Establishment of National Rapporteurs or equivalent mechanism.	This measure is also crucial, being the basis for the establishment of effective anti-trafficking policy. Such mechanisms should be in charge of data collection, have access to official sources, produce figures and estimates on trafficking trends, and measure the results of anti-trafficking policy. MS should implement such measures. Guidelines for data collection should be issued at EU level, to ensure that figures and estimates produced at national level are comparable, and lead to European reliable assessments.
	Establishment of a network of such monitoring mechanisms, with a view to set up agreed methodology for data collection and assessment, and exchange information and best practices.	In order to ensure exchange of information, best practice and data between National Rapporteurs or equivalent mechanisms, and harmonisation of methodology and practice, such institutions responsible for monitoring mechanisms should meet on a regular basis. For this purpose, a network should be established. This goal would require an agreement among MS concerned.
Prevention measures in countries of destination	Adoption of preventive measures aimed at discouraging the demand for sexual services and cheap labour including through targeted information and awareness raising campaigns, and sensitisation to gender equality.	Preventive measures dealing with the demand in destination countries are needed in order to discourage pull factors which foster exploitation in countries of destination. Measures addressing the demand should cover both the fields of sexual exploitation and labour exploitation. Concerning sexual exploitation, so far there is no clear evidence that a specific prostitution policy such as legalisation, or the punishment of clients, has a positive or negative impact on trafficking. Therefore the idea of recommending the adoption of a particular approach to prostitution has been discarded at this stage. However, measures aimed at discouraging the demand should be taken in the field of awareness raising, information and education, especially targeting young males, and dealing with the gender dimension. Such measures should promote gender equality and respectful relationship between the sexes, and should be implemented by MS. EU funding should contribute to these actions. Measures aimed at discouraging the demand of cheap labour should involve trade unions and employers' associations, with a view to sensitising major stakeholders and promote workers' rights.

Measure	Description	Justification
		These measures should be implemented by civil society organisations at national and international level, with the contribution of EU funding.
Prevention measures in countries of origin	Adoption of preventive measures aimed at promoting gender equality, reducing poverty in targeted areas of countries of origin, promoting information and awareness, and developing research.	Preventive measures in countries of origin should be developed especially in the external dimension, and in cooperation with countries of origin. Such measures should deal with root causes of trafficking, and address major factors of vulnerability which lead to trafficking. In particular, such measures should target specific areas where situations of extreme poverty increase social vulnerability, specific groups such as children without a family or coming from dysfunctional families, girls and young women who are particularly vulnerable to sexual exploitation. Information about legal and safe channels for immigration is also needed especially in areas particularly affected by phenomena of massive migration. Since gender discrimination and lack of opportunities for women are major root causes of trafficking, specific action aimed at promoting gender equality in countries of origins are needed. Such actions should be implemented by MS in cooperation with countries of origin. Research is also needed, aimed at better identifying root causes, trends, and vulnerability profiles in different regions. The use of EU funding, which already fosters a number of targeted projects in third countries, should be further enhanced.
Training	Establishment of regular training for public officials likely to come into contact with potential and/or presumable victims such as law enforcement, consular officials, healthcare professionals, labour inspectors, aimed at improving their skills concerning the identification of a case of trafficking and the approach to a vulnerable victim.	Although training for senior officials has been provided at the European level especially by CEPOL, the efficiency of anti-trafficking action on a daily basis implies enlargement of the scope of training. On one hand, targeted training course should be part of the curricula for law enforcement, and especially target front line police officers. On the other hand, such training should also involve other personnel that on various occasions could come into contact with potential victims in countries of origin such as consular officials, border guards, or school teachers. Public officials likely to come into contact with presumed victims in countries of destination such as health care personnel or labour inspectors should also be involved. Such officials should acquire appropriate background to identify situations where trafficking could be hidden, and should also be able to approach vulnerable victims

Measure	Description	Justification
		in a way that does not cause or increase the risk of secondary victimisation, that is to say further victimisation or trauma deriving from the way the procedures are carried out by the competent authorities. Training courses should be established by competent authorities in MS in the context of regular curricula, and by MS in cooperation with countries of origin as far as training in such countries is concerned. EU funding could contribute to enhance such actions. Model curricula could be established at EU level.
Law enforcement cooperation	Establishment of appropriate means including funding to improve international law enforcement cooperation, and especially the use of Joint Investigation Teams;	Law enforcement cooperation is crucial to detect and prosecute not only final exploiters, but the whole criminal network which run a trafficking process from a country of origin until the final destination. EU legislation provides for effective means for law enforcement cooperation. However joint investigation teams, which are considered the most effective tools, in fact are scarcely used. From information coming from EUROPOL and national law enforcement agencies, such poor implementation is not actually related to possible legal obstacles. Therefore a specific legislative measure dealing with law enforcement international cooperation, which had been taken into consideration during the consultation phase, has subsequently been discarded. Since a major difficulty is the cost of JIT, EU funding should be more extensively and systematically used for this purpose.

4.3 Policy option (3) New legislation on prosecution, victim support, prevention and monitoring

This policy option assumes that legally binding instruments are needed to improve the effectiveness of anti-trafficking policy. A new Framework Decision would repeal the FD and incorporate the stronger provisions of the Convention but make all of them binding. The provisions of the new FD would enable an integrated approach which deals with different aspects of anti-trafficking action including substantive criminal law and criminal procedure, victim support, prevention and monitoring, to the extent possible according to the legal basis.⁶⁴ The following measures, which would be included in the new Framework Decision, are divided in different paragraphs, taking into account the nature of the provisions concerned. Within every paragraph, measures are mentioned in the order of importance:

⁶⁴ Some measures such as training and monitoring systems may require a separate EU legal instrument, according to Article 34 EU Treaty.

Measure	Description	Justification
Definition of trafficking	Provision aimed at bringing the definition of trafficking in line with international instruments such as the 2000 UN Protocol on trafficking in persons supplementing the UN Convention against transnational Organised Crime, and the 2005 Council of Europe Convention on Action against Trafficking in Human Beings.	The existence of a unique international standard would favour the process of approximation of legislation. The adoption of the definition under UN and CoE instruments is justified not only because such instruments provide for a consolidated and worldwide agreed definition of trafficking, but also because they provide for a broad definition, including all forms of exploitation, while the current Framework Decision only covers sexual and labour exploitation. The added value of the UN and CoE definition consists of comprising other forms such as trafficking for the purpose of the removal of organs. Since the list of illicit purposes is a non exhaustive list, other forms of exploitation such as exploitation of activities associated with begging which is crucial for child trafficking, and exploitation of people in illicit activities, would be mentioned, to make it easier the task of interpreters and national legislators.
Penalties and aggravating circumstances	Provisions aimed at further approximation of penalties.	This would be a strong added value compared to UN Protocol and CoE Convention, which do not envisage any specific level of penalties. Current FD only envisaged a maximum penalty for aggravating circumstances. In addition, such penalty (8 years) is not considered adequate taking into account the perceived gravity of the crime. The new FD would imply a significant step forward in the process of approximation of penalties, also concerning the basic crime. Aggravating circumstance would also be improved, and include the new aggravating circumstance of the offence being committed against a child.
Non punishment of the victim	Provisions aimed at protecting victims from prosecution, detention and punishment for crimes they have committed as a direct consequence of their being victims of trafficking	Stakeholders have pointed out that victims of trafficking are normally detained or prosecuted or punished for minor offences which are typically connected with the victimisation process, such as violations of immigration laws, use of false documents, and prostitution, in countries where prostitution as such is criminalised. The fear of punishment and/or deportation is considered a major obstacle for victims to come forward, report the crime, and act as witnesses. Therefore the clause must be considered a major element of a successful anti-trafficking legislation. A similar non punishment clause has been included in the

Measure	Description	Justification
		CoE Convention, but the formulation is not clearly binding; moreover it does not cover all victims, since it only refers to victims who have been compelled to commit a crime, while in some cases they are trafficked by means of deception and abuse, according to the legal definition of trafficking. The added value of the new FD would be a better and binding formulation of the clause. In order to avoid an abuse of the clause, MS could be allowed not to apply the clause in case of extreme gravity of the crime committed by the victim.
<i>Jurisdiction and prosecution</i>		
Jurisdiction	Provisions aimed at enlarging and making more binding extraterritorial jurisdiction rules, and enhancing the role of Eurojust in the solution of jurisdiction conflicts.	A major obstacle to prosecution of trafficking is the extreme mobility of criminal groups, moving from a country to another country within the EU area and beyond. A binding provision on extraterritorial jurisdiction would oblige MS to establish jurisdiction over a case of trafficking when committed abroad by a national or habitual resident. This provision would be an improvement compared to CoE Convention, which allows for reservations. If more than one MS have jurisdiction on that case, they should cooperate with each other to identify the State which is better placed to prosecute the crime. Eurojust would facilitate the solution of the conflict, on the basis of information transmitted by MS.
Investigation and prosecution	Provisions aimed at ensuring ex officio initiation of the proceedings, and a period of prescription of sufficient duration to allow initiation after the victim has reached the majority	Since trafficking is a serious crime, criminal proceedings should not be dependent on a report of an accusation of the victim, and should not be terminated if the victim withdraws her/his declarations. The latter would be new compared to the current Framework Decision. Another new provision, which takes inspiration from the CoE Convention on the protection of children from sexual exploitation aims at allowing the initiation of the proceedings after the child victims has reached the age of majority.
Investigation tools	Provision obliging MS to make effective	One of the reasons why prosecution is not effective must be found in the way of dealing with

Measure	Description	Justification
	investigation tools available to units in charge of trafficking cases.	trafficking cases by law enforcement and judicial competent units. Police officials and prosecutors often treat a trafficking case as a case of illegal migration, or exploitation of prostitution. On the contrary, trafficking cases must be tackled as serious and organised crime cases. Therefore more sophisticated investigative techniques should be used by competent units or services. Under the third pillar EU legislation cannot oblige MS and national competent authorities to a particular means of investigation. However, if such tools are available for law enforcement authorities in general MS would have an obligation to make such tools available to competent services in charge of trafficking.
Training	Provision aimed at ensuring that training is available for law enforcement, especially front line police officers	Investigators and prosecutors should be trained on a regular basis for the purpose of carrying out successful investigation and prosecution in trafficking cases. The training needs mentioned here are different from those indicated under option 2, and are specifically related to investigative skill, appropriate for serious and organised crime cases. Such training should be part of the regular curricula for law enforcement and prosecutors.
<i>Victim protection</i>		
Victims' rights in criminal proceedings	Provisions aimed at strengthening victims' rights in criminal proceedings, especially dealing with protection, compensation, and specific treatments aimed at preventing secondary victimisation including specific treatment for child victims, and for adult victims under certain circumstances.	FD on the standing of victims in criminal proceedings, which is going to be revised next year, provides for a set of victims' rights in criminal proceedings. In addition to these rights applicable to any kind of victims, FD on trafficking would provide for specific treatment applicable to trafficking victims as particularly vulnerable victims. This would be a significant added value compared to the CoE Convention, where such treatment are only listed in the explanatory memorandum, but do not form the object of specific obligations of the Parties. Compared to the current FD, the new FD would imply substantial improvements. As in the current text, all child victims would be entitled to such treatments. A new provision would allow the competent authorities to consider an adult victim as particularly vulnerable, on a case by case basis. Furthermore, such treatments would be specifically identified, and therefore the obligation on MS will

Measure	Description	Justification
		<p>be more stringent and accountable. In particular, such treatment would aim to prevent secondary victimisation, and would include avoiding questioning on private life, visual contact with the offender, giving testimony in open court, unnecessary repetition of the testimony. A non binding provision would deal with the possibility of not disclosing the identity of a victim acting as a witness. Protection and compensation would also be addressed, as far as specific needs of trafficking victims are concerned.</p>
Victim support	<p>Obligation on MS to establish adequate victim support schemes for victims based on unconditional assistance since the first stage of the identification process;</p>	<p>Policy needs in this field are not different from those described under option 2. This measure is absolutely crucial to enhance a human rights centred approach to anti-trafficking policy. Such an approach has proven effective not only in terms of recovery and subsequent social inclusion of victims, but also in the interest of justice. As a matter of fact, whenever victims are properly assisted and protected, in most cases they have been willing to cooperate with law enforcement and judicial authorities. However, differently from option 2, under option 3 the new FD would only provide for an obligation to establish such schemes. Under the third pillar the legal basis does not allow to deal with quality standards, and cooperation agreements for the establishment and functioning of such schemes, which would be the object of a separate non binding document. The provisions dealing with assistance would only apply to victims who do not fall within the scope of application of the Directive 2004/81/EC on residence permits which only apply to victims who are third country nationals. Therefore the provisions included in the new FD concerning assistance to victims apply to EU nationals, who will be entitled at least to the same treatment envisaged for third country nationals.</p>
Special measures for children	<p>Provisions aimed at ensuring a child friendly approach during the proceedings</p>	<p>In addition to the specific treatment listed above and applying to every particularly vulnerable victim, further protective measures would apply to child victims. In particular, all the provisions included in the proposal for a new FD on sexual exploitation and sexual abuse, such as the appointment of a special representative, the</p>

Measure	Description	Justification
		presumption of minor age, and the way of taking interviews from a child, would also apply to child victims of trafficking. Special provisions would deal with unaccompanied minors, concerning the establishment of identity and nationality, and the location of the family. In this case the competent authorities should start identifying a durable solution for the child.
Training	Obligation on MS to establish regular training for law enforcement officials likely to come into contact with potential and/or presumable victims, aimed at improving their skills in the identification of a case of trafficking and a trafficking victim;	Training needs addressed here are not different from those indicated under option 2 for law enforcement and other officials likely to come into contact with victims. However, the legal basis concerning the third pillar does not allow to establish training for other public officials. Therefore the wide set training needs listed under option 2 should be dealt with under a different non legislative instrument, as far as officials other than law enforcement are concerned.
<i>Prevention</i>		
	Provisions aimed at reducing the demand of sexual services and cheap labour, including the possibility to criminalise employers who knowingly use services exacted from a trafficked person; ⁶⁵	MS would be obliged to take action to discourage the demand of sexual services and cheap labour by any means. A specification would be the criminalisation of users of services exacted from a person, with the knowledge that the person has been subjected to trafficking. In the field of trafficking for labour exploitation, the obligation to criminalise employers of illegally staying third country nationals who knowingly employ trafficked persons is envisaged by the proposal for a Directive on sanction for employers, currently under discussion. The provision under the new FD would apply to those who are not covered by the

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A provision on the criminalisation of employers has been included in the Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals (COM(2007)249 final) which is close to being agreed. In particular, the Commission's proposal would require MS to criminalise an infringement committed by an employer who uses work or services exacted from a person, with the knowledge that that person is a victim of trafficking in human beings. Since the Directive would only apply in relation to illegally staying third-country nationals, a similar provision could be included in the new Framework Decision to cover EU nationals. Concerning the criminalisation of the buyers of sexual services from trafficked persons, this proposal is highly controversial among stakeholders and MS. See paragraph 2.9.

Measure	Description	Justification
		<p>Directive proposal, that is to say employers of legally staying third country nationals, and employers of EU nationals. In the field of trafficking for sexual exploitation the new provision would cover clients who knowingly buy sexual services from a trafficked person of whatever nationality. A similar provision is included in a non binding formulation in the CoE Convention. During the consultation, the discussion showed that the provision is controversial especially because a sensitive debate is going on in many MS on prostitution policy and legislation. Therefore the idea of a binding provision has been discarded, and a formulation leaving to MS room for manoeuvre has been included, similar to the one envisaged by the CoE Convention.</p>
<i>Monitoring</i>		
	<p>Establishment of National Rapporteurs or equivalent mechanism.</p>	<p>This measure is crucial, taking into account that better knowledge of the situation of trafficking is the necessary starting point for the establishment of effective anti-trafficking policy. In this field policy needs do not differ from those highlighted in option 2. Such monitoring mechanisms should be in charge of data collection, have access to official sources, produce figures and estimates on trafficking trends, and measure the results of anti-trafficking policy. MS should implement such measures. Guidelines for data collection should be issued at EU level, to ensure that figures and estimates produced at national level are comparable, and lead to European reliable assessments. The new FD would only contain an obligation to establish such mechanisms. Tasks and structure would not be covered by the legislation.</p>
	<p>Establishment of a network of such monitoring mechanisms, with a view to set up agreed methodology for data collection and</p>	<p>In order to ensure exchange of information, best practice and data between National Rapporteurs or equivalent mechanisms, and harmonisation of methodology and practice, such mechanisms should meet on a regular basis. For this purpose, a network should be established. However, in the context of option 3 this goal would be achieved</p>

Measure	Description	Justification
	assessment, and exchange information and best practices.	through a specific binding instrument such as a Council Decision. ⁶⁶

Comparison of the policy option with CoE Convention

The added value of an EU instrument is related to the advantages of the more integrated institutional framework of the European Union concerning third pillar instruments, in particular Framework Decisions, vis-à-vis international treaties and conventions. In particular:

- In contrast with the lengthy procedures to sign and ratify international conventions that can last for many years, Framework Decisions enter into force exactly as first pillar instruments do and set out a restricted period for implementation.
- Member States must notify the national measures implementing Framework Decisions to the Council and Commission. The correct and full implementation of Member States is evaluated in an implementation report from the Commission, later assessed by the Council. In addition, the European Court of Justice is entitled to interpret Framework Decisions via preliminary rulings. Sixteen Member States have accepted so far the authority of the European Court of Justice to deliver preliminary rulings as regards instruments of the third pillar.

Moreover, the new FD would provide for a specific legal regime, in particular:

- Rules on penalties: the new FD would impose a detailed regime on penalties.
- Rules on jurisdiction: the new FD would include rules solving positive conflicts of jurisdiction, a set of criteria to determine jurisdiction when several Member States are competent, and encourage the recourse to Eurojust for the solution of the conflicts. Such rules contribute to ensure fast and efficient prosecution of trafficking as a trans-national offence.
- Victim rights and support: the new FD would provide for higher standards concerning assistance to victims, and specific treatment for particularly vulnerable victims in criminal proceedings.

In conclusion, although it is difficult to assess how far MS will go in the implementation of the Convention especially concerning non binding provisions, the adoption of EU legislation in this field implies a clear added value.

4.4. Option (4) New legislation (as in option 3) + non legislative measures (as in option 2)

This option implies that new legislation including all the provisions described under Option (3) will be accompanied by non legislative measures, including those described under Option (2). For example, concerning prevention and victim support, the new Framework Decision would contain an obligation on MS to make specific tools such as victim support schemes available to presumed and identified victims, within the limits provided for by the Treaty, while the non legislative instrument would contain the indication of specific assistance

⁶⁶ A proposal for a Council Decision may be submitted at a later stage, following a Conference which will be held by the Czech Presidency in March on this subject.

measures, criteria, methods, procedures and quality standard for the establishment of such measures.

Legislative and non legislative measures are divided in different chapter. In the context of every chapter, the most important are first mentioned.

Measure	Description	Justification
Definition of trafficking	Provision aimed at bringing the definition of trafficking in line with international instruments such as the 2000 UN Protocol on trafficking in persons supplementing the UN Convention against transnational Organised Crime, and the 2005 Council of Europe Convention on Action against Trafficking in Human Beings.	As in Option 3.
Penalties and aggravating circumstances	Provisions aimed at further approximation of penalties.	As in Option 3.
Non punishment of the victim	Provisions aimed at protecting victims from prosecution, detention and punishment for crimes they have committed as a direct consequence of their being victims of trafficking	As in option 3.
<i>Jurisdiction and prosecution</i>		
Jurisdiction	Provisions aimed at enlarging and making more binding extraterritorial jurisdiction rules, and enhancing the role of	As in Option 3.

	Eurojust in the solution of jurisdiction conflicts.	
Investigation and prosecution	Provisions aimed at ensuring ex officio initiation of the proceedings, and a period of prescription of sufficient duration to allow initiation after the victim has reached the majority	As in option 3.
Investigation tools	Provision obliging MS to make effective investigation tools available to units in charge of trafficking cases.	As in Option 3.
Training	Provision aimed at ensuring that training is available for law enforcement, especially front line police officers	As in Option 3.
<i>Victim protection</i>		
Victims' rights in criminal proceedings	Provisions aimed at strengthening victims' rights in criminal proceedings, especially dealing with protection, compensation, and specific treatments aimed at preventing secondary victimisation including specific treatment for child victims, and for adult victims under certain circumstances.	As in Option 3
Victim support	Obligation on MS to establish adequate	As in Option 3. Concerning the relationship between legislative

	victim support schemes for victims based on unconditional assistance since the first stage of the identification process;	and non legislative measures in the context of Option 4, the new FD would provide for an obligation to establish victim support schemes, while quality standards, and cooperation agreements for the establishment and functioning of such schemes would form part of a non legislative document such as Council Conclusions.
Special measures for children	Provisions aimed at ensuring a child friendly approach during the proceedings	As in Option 3.
Training	Obligation on MS to establish regular training for law enforcement officials likely to come into contact with potential and/or presumable victims, aimed at improving their skills in the identification of a case of trafficking and a trafficking victim;	As in Option 3. Concerning the relationship between legislative and non legislative measures in the context of Option 4, the wide set of training needs listed under option 2 should be dealt with under a different non legislative document such as Council Conclusions , as far as officials other than law enforcement are concerned.
<i>Prevention</i>		
Criminalisation of users	Provisions aimed at reducing the demand of sexual services and cheap labour, including the possibility to criminalise employers who knowingly use services exacted from	As in Option 3.

⁶⁷

A provision on the criminalisation of employers has been included in the Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals (COM(2007)249 final) which is close to being agreed. In particular, the Commission's proposal would require MS to criminalise an infringement committed by an employer who uses work or services exacted from a person, with the knowledge that that person is a victim of trafficking in human beings. Since the Directive would only apply in relation to illegally staying third-country nationals, a similar provision could be included in the new Framework Decision to cover EU

	a trafficked person; ⁶⁷	
Prevention measures in countries of destination	Adoption of preventive measures aimed at discouraging the demand of sexual services and cheap labour including through targeted information and awareness raising campaigns, and sensitisation to gender equality.	As in Option 2.
Prevention measures in countries of origin	Adoption of preventive measures aimed at promoting gender equality, reducing poverty in targeted areas of source countries, promoting information and awareness, and developing research.	As in Option 2.
Training	Regular training for officials other than law enforcement officials	Since under the third pillar legal basis only covers training for law enforcement, training for other officials likely to come into contact with potential victims, in order to improve prevention, must be organised at national level, in cooperation with source countries.
Law enforcement cooperation	Establishment of appropriate means including funding to improve international law enforcement cooperation, and especially the use of Joint Investigation Teams;	As in Option 2.

nationals. Concerning the criminalisation of the buyers of sexual services from trafficked persons, this proposal is highly controversial among stakeholders and MS. See paragraph 2.9.

<i>Monitoring</i>		
	Establishment of National Rapporteurs or equivalent mechanism.	As in Option 3.
	Establishment of a network of such monitoring mechanisms, with a view to set up agreed methodology for data collection and assessment, and exchange information and best practices.	As in Option 3.

5. ANALYSIS OF IMPACTS

The impact of every policy option is measured below as a function of the magnitude of the impact, seen as the level of influence a particular policy option would have on specific issues falling within the economic, social and fundamental rights context. No significant environmental impacts are involved in any of the considered policy options.

Generally speaking, the expected impact in the long run is the reduction and hopefully the eradication of the crime. Impact on the short and medium terms has been taken into consideration in particular. When impacts on the long run have been considered, this is specified in the text.

Table of symbols (distinguishes "-" for costs and "+" benefits)

Small negative magnitude: - Small positive magnitude: +

Medium negative magnitude: -- Medium positive magnitude: ++

Significant negative magnitude: --- Significant positive magnitude: +++

No impact 0

5.1. Option (1) Status quo

This option would not address the problem of the ineffectiveness of current legislation and anti-trafficking policy. Member States could not be expected to continue tackling the crime on a national level, or in bilateral cooperation with each other. As a matter of fact, the results achieved at national level are not adequate, due to the prevalent nature of trafficking as a transnational crime, and therefore the need arises for further approximation of legislation, and

adoption of comparable policies, especially concerning victims' support. In addition, taking into account that trafficking must be considered a high priority within EU policy, and a cross-cutting issue affecting many fields of EU action, the option of not taking any action at the EU level would be not justified.

In principle, all EU Member States may ratify the Council of Europe Convention on action against trafficking in human beings. The CoE Convention is an important instrument, whose implementation would be a significant step forward. In fact the Convention adopts a comprehensive and human rights centred approach dealing with prevention, assistance to victims, non punishment and residence status of victims, obligation to criminalise, and prosecution. The implementation of such provisions by MS is to be seen as an important achievement, and therefore the EU has always encouraged MS to ratify the Convention. Since the large majority of MS have signed the Convention, out of which 11 have already ratified, it is possible to conclude that there is no reluctance to ratify and implement the Convention by MS.

However, it is necessary to point out that the provisions of the Convention can be said to fall into 3 categories: those that are binding on signatories, those that are non-binding, and binding provisions which allow states to make a reservation. For example, the criminalisation of users of services exacted from a victim with the knowledge that the person has been trafficking is a non binding provision. The non punishment of the victim for unlawful activities she/he has been compelled to commit is just a possibility. The extraterritorial jurisdiction rule for the prosecution of nationals and habitual residents who commit the crime abroad allows reservations. Therefore the impact of ratification should be assessed taking into account that MS are not bound to implement all the provisions under the Convention.

Moreover, approximation that could be achieved through MS' ratifications would not bring about the same results as legislation at EU level.

In addition and beyond the Council of Europe Convention, all the considerations developed under paragraph 2.6 must be recalled here, with respect to the crime being expected to remain stable or even grow if no effective deterrence is put in place in the near future. For all the above mentioned reasons, this option has been discarded at an early stage, and will not be subject to further evaluation.

5.2. Option (2) Non legislative measures

5.2.1. Economic impact

The economic impact of this option is mostly linked to the establishment of victims support schemes and training. Taking into account that so far such measures have been scarcely implemented, it is not easy to quantify the economic impact of this policy option on the national budget. Some indications derive from the replies given by Member States to the questionnaire circulated by the Commission in December 2007, which are analysed more in details under Option 4. However, under this policy option the estimated costs are less significant, due to the low level of compliance of MS which is expected by stakeholders.

The costs of preventive measures aimed at reducing social vulnerability in countries of origin cannot easily be assessed. MS' replies to the abovementioned questionnaire do not allow a precise overview or a cost estimate. Although the question has been addressed to stakeholders during the consultation, no valuable information has been transmitted. However, the positive effects of such policies could also be undermined as a consequence of the expected low level of implementation deriving from the non binding nature of the instrument under this option.

Concerning law enforcement cooperation, according to Europol the estimated cost of a Joint Investigation team which is going to be established by the London Metropolitan Police is EUR 1,645,800 for 12 months investigation.

Magnitude of the positive economic impact: +

Magnitude of the negative economic impact: -

5.2.2. Social impact

This policy option would have in principle considerable social impacts, especially concerning victims who benefit from assistance and social integration schemes, assuming compliance was high. In particular, the main social impact of option 2 is related to the fact that victims are supported in the process of recovery and rehabilitation, and receive help to their social integration including the integration in the labour market, in the country of origin or in the receiving country. However, as in the case of the economic impact, the magnitude of such an impact both concerning costs and benefits is dramatically reduced as a consequence of the low level of expected compliance.

Magnitude of the positive social impact: +

Magnitude of the negative social impact: -

5.2.3. Fundamental rights impact

This option would have a positive impact on fundamental rights. Measures to effectively address trafficking of human beings, in particular children, contribute to promote the rights enshrined in Article 5 (3) and 24 of the EU Charter. However, since assistance programmes normally imply the collection of personal data, in case of incorrect implementation of this option, a negative fundamental rights impact could affect the right to privacy, the protection of personal data, and even the right to safety. However, these risks could be minimised by ensuring the data are stored in the respect of the specific rules aimed at ensuring the privacy and safety of the person concerned. However, the impact on fundamental rights could be not significant, due to poor implementation.

Magnitude of the positive fundamental rights impact: +

Magnitude of the negative fundamental rights impact: -

5.2.4. Relevance of the measure

<i>Leg/ non leg</i>	<i>Measure</i>	<i>Link to specific objective</i>	<i>Cost</i>
<i>N</i>	<i>Establish victim support schemes, including quality standards of assistance and cooperation agreements</i>	<i>A2, B1, B3</i>	<i>Depends on implementation. System in Italy costs EUR 18-21,000 per victim. Estimated cost of victim support schemes at EU level in the short term: EUR 79,273,184 (for further details see Annex I, tables 24 and 25).</i>

<i>N</i>	<i>Establishment of National Rapporteurs or equivalent mechanisms</i>	<i>D1</i>	<i>Annual budget of the Dutch National Rapporteur: EUR 560,000. Annual budget of the 'Centre pour l'égalité des chances' (BE): EUR 236,000.</i>
<i>N</i>	<i>Establishment of a network of such monitoring mechanisms, with a view to set up agreed methodology for data collection and assessment, and exchange information and best practice</i>	<i>D2</i>	<i>The estimated global cost of the network (2 meetings a year) is around EUR 100.000.</i>
<i>N</i>	<i>Regular training and joint training for public officials likely to come into contact with victims</i>	<i>A2, A3, B2, B3, C2</i>	<i>CEPOL training course for 20 law enforcement officials EUR 30-35,000 Unable to quantify the cost for other public officials.</i>
<i>N</i>	<i>Preventive measures in source countries</i>	<i>C1, C2</i>	<i>Unable to quantify</i>
<i>N</i>	<i>Measures to improve international law enforcement cooperation</i>	<i>A3</i>	<i>Joint Investigation Team for 12 months investigation: EUR 1,645,800</i>
<i>N</i>	<i>Awareness raising and sensitisation campaigns</i>	<i>C3</i>	<i>Unable to quantify</i>

5.3. Option (3) New legislation on prosecution, victim support, prevention and monitoring

5.3.1. Economic impact

The budgetary consequences of the criminal law provisions cannot be quantified since they are included in the general costs of the criminal justice system.

The economic impact related to the decrease of severe forms of exploitation has to be considered, since this option is most likely to produce deterrent effects and a substantial reduction of the scale of the crime on the medium-long term. It is necessary to point out that the current dimension of trafficking has a remarkable negative economic impact. In fact the massive demand of cheap labour creates favourable conditions for private individuals and enterprises which use such services, and therefore causes distortions of competition. Although it is impossible to quantify the economic advantages deriving from the reduction of the scale of the crime, the effects should be significant taking into account the above mentioned estimates on the proceeds of crime (see paragraph 2.3).

Concerning the cost of assistance measures for victims, some figures are available concerning national systems, on the basis of which an extrapolation of estimated costs will be developed under option 4, since that option implies the highest level of expected implementation.

As an example of the cost of an excellent national monitoring mechanism, the Dutch National Rapporteur office has an annual budget of EUR 560,000. The Belgian Centre pour l'égalité des chances indicates the annual budget of EUR 236,000.

Magnitude of the positive economic impact: +

Magnitude of the negative economic impact: -

5.3.2. Social impact

In the long run significant impacts are expected, relating to security and victims' rights in criminal proceedings. The assumption is that, by improving the process of approximation and therefore law enforcement and judicial cooperation, the number and the quality of investigation and prosecution will significantly increase. A positive impact is also connected with the protection of victims from prosecution, which will favour their cooperation with judicial authorities, and with the increased use of investigative tools which have proven effective in organised crime cases. Concerning victims, the expected impact is also positive especially concerning their access to justice. An increased capacity to claim their rights, and especially to claim compensation, should derive from an improved role of victims in the procedure and the establishment of appropriate means designed for this purpose.⁶⁸

Concerning the obligation to criminalise clients who knowingly buy sexual services from trafficked persons, some stakeholders have underlined the potential positive impact of the criminalisation of clients in relation to the reduction of the demand of sexual services, and therefore the reduction of prostitution.⁶⁹ On the contrary, some other stakeholders highlighted a risk connected with such measures, which could turn to a great disadvantage for prostitutes themselves, could increase the level of illegality of prostitution, and deprive trafficked persons of the help of clients. As a matter of fact, in various national experiences it is reported that clients have been of some help. In a certain number of cases they have accompanied trafficked women to services.⁷⁰

The social impact of victim support measures will be further analysed under option 4, which is expected to have the best chances of good implementation. However, it is possible to anticipate that the expected social impact is positive, in terms of social integration of victims during and after criminal proceedings.

Magnitude of the positive social impact: ++

Magnitude of the negative social impact: -

5.3.3. Fundamental rights impact

This option has a positive impact on fundamental rights. As explained above, the right to be protected from slavery, forced labour and servitude has been acknowledged by the European Court of Human Rights in the leading case *Siliadin v. France*.⁷¹ In addition, measures to

⁶⁸ OSCE-ODIHR, *Compensation for Trafficked and Exploited Persons in the OSCE Region*, Warsaw, 2008.

⁶⁹ See paragraph 2.9.

⁷⁰ Ahtnet, *Networking against human trafficking, Life Stories*, June 2007, Project funded under Equal, European Social Fund

⁷¹ European Court of Human Rights, Second Section, Case of *Siliadin v. France* (Application no. 73316/01), Judgement of 26 July 2005.

effectively address trafficking of human beings and, in particular children, promote the rights enshrined in Article 5 (3) and 24 of the EU Charter. The right of the victim to accurate, impartial, effective, and quick investigation⁷² is also involved, and would be made effective by an increased recognition of the role of the victim in the criminal procedure.

A possible negative impact deriving from the increased role of the victim in criminal proceedings could accrue, if this strengthened role would be such as to endanger the defendant's procedural rights, in particular the right to a fair trial (Article 47 EU Charter) and the right of defence (Article 48 of EU Charter) However, the European Court of Human Rights has established clear principles to reconcile the respective rights of the defendant and the victim.⁷³ Especially in cases of sexual abuse where children are involved the relevance of the right to respect for private life of the child concerned must be taken into account.⁷⁴ Therefore the risk of violation of the defendant's rights can be avoided through a careful drafting of the legislative texts as well as proper implementation and application by Member States.

Magnitude of the positive fundamental rights impact: ++

Magnitude of the negative fundamental rights impact: -

5.3.4. Relevance of the measure

<i>Leg/ non leg</i>	<i>Measure</i>	<i>Link to specific objective</i>	<i>Cost</i>
<i>L</i>	<i>Bringing definition of trafficking into line with international instruments</i>	<i>A1, A3</i>	<i>No direct cost</i>
<i>L</i>	<i>Approximation of penalties</i>	<i>A1</i>	<i>No direct cost</i>
<i>L</i>	<i>Protecting victims from prosecution for crimes committed as result of victimisation</i>	<i>A2, B2</i>	<i>No direct cost</i>
<i>L</i>	<i>Enlarged and more binding extraterritorial jurisdiction rules</i>	<i>A4</i>	<i>No direct cost</i>

⁷² See in particular, as first examples of this relatively recent jurisprudence, the following cases: *Aksoy v. Turkey*, 18.12.1996; *Kaya v. Turkey*, 19.2.98; *Selmouni v. France*, 28.7.99.

⁷³ In particular, in *Doorson v. The Netherlands* – 26.3.96 (under Art. 6) the Court stated that, although Article 6 of the Convention does not explicitly require the interest of witness in general, and those of victims called upon to testify in particular, to be taken into consideration, however when their life, liberty or security of person may be at stake, such interest of witnesses and victims are protected by other Articles of the Convention. Therefore the principles of fair trial also require that, in appropriate cases, the interest of the defence are balanced against those of witnesses or victims called upon to testify. In the case *Birutis and others v. Lithuania* – 28.3.02 (under Art. 6) the Court identified the limits of such a balance, stating that, in principle, no conviction may be based, either solely or to a large extent, on the statement of a witness the defendant was not able to confront, either as a consequence of the absence or the anonymity of the witness.

⁷⁴ *S.N. v. Sweden*, 2.7.02. The Court did not hold a breach of Article 6 of the Convention in a case where the testimony of the child had been videotaped at an early stage of the proceedings by a police official. Judgement of the European Court of Justice, *Pupino*, Case C-105/03 (16 June 2005).

<i>L</i>	<i>Generalised use of effective investigation tools for organised crime</i>	<i>A3</i>	<i>No direct cost</i>
<i>L</i>	<i>Increased protection of victims' rights in criminal proceedings</i>	<i>B3, B4</i>	<i>No direct cost</i>
<i>L</i>	<i>Obligation on MS to provide adequate victim support</i>	<i>A2, B1, B3, B4,</i>	<i>Depends on implementation. System in Italy costs EUR 18-21,000 per victim. Estimated cost of victim support schemes at EU level in the short term: EUR 79,273,184 (for further details see Annex I, tables 24 and 25).</i>
<i>L</i>	<i>Measures aimed at reducing the demand of sexual services and cheap labour⁷⁵</i>	<i>C3</i>	<i>Unable to quantify</i>
<i>L</i>	<i>Obligation to establish regular training for law enforcement</i>	<i>A2, A3, B2, B3, C2</i>	<i>CEPOL training course for 20 law enforcement officials EUR 30-35,000</i>
<i>L</i>	<i>National Rapporteurs or equivalent mechanisms for the monitoring</i>	<i>D1</i>	<i>Annual budget of the Dutch National Rapporteur: EUR 560,000. Annual budget of the 'Centre pour l'égalité des chances' (BE): EUR 236,000.</i>
<i>L</i>	<i>Network of such monitoring mechanisms</i>	<i>D2</i>	<i>The estimated global cost of the network (2 meetings a year) is around EUR 100.000.</i>

Magnitude of the positive fundamental rights impact ++

Magnitude of the negative fundamental rights impact -

⁷⁵ These measures could eventually include the criminalisation of employers and clients who knowingly use the services of a trafficked person, taking into account the results of the ongoing debate on this issue.

5.4. Option (4) New legislation (as in option 3) + non legislative measures (as in option 2)

This option is based on a combination of legislative⁷⁶ and non legislative measures. Therefore concerning its impact, all the considerations and evaluations developed with respect to option 2 and option 3 must be recalled. This combination includes the highest level of regulation and therefore implies higher costs and benefits compared to the previous options. Furthermore, it is necessary to underline that the level of implementation is most probably higher compared to the one which could be expected if the two instruments would stand alone.

Therefore, the following impact can be expected:

5.4.1. Economic impact

In addition to all the considerations developed under option 2 and 3, the costs related to victim support and prevention measures must be more carefully assessed, since this option is considered to be better place to ensure an excellent level of implementation. As examples of the costs bore by MS to assist victims of trafficking, we have figures given by MS. In 2005 Belgium spent 635.381 EUR (amount provided to the three centres services providers), and assisted 121 victims. In 2006 Italy spent EUR 4,000,000 and assisted 2,143 victims; the Czech Republic spent EUR 72,000 and assisted 14 victims; Finland spent EUR 100,000 and assisted 9 victims; Lithuania spent EUR 12,000 and assisted 96 victims; Slovenia spent EUR 40,740 and assisted 40 victims.⁷⁷

For other countries we know the amount spent for victims support schemes but we do not dispose of figures concerning assisted victims. DKK 8,25 million were spent in Denmark, EUR 195,825.69 in Germany, PLN 400,000 in Poland, EUR 40,740 in Spain, EUR 1,337,759 in Sweden. Further public funds have been devoted in 2006 to other actions against trafficking, such as EUR 10,000 in Cyprus, 30,000 in the Czech Republic, 2,500,000 in Italy, 406,000 in Luxembourg, PLN 100,000 in Poland, EUR 91,195 in Slovenia.⁷⁸ The country that spent the highest level of public funds to victims' assistance is Italy, where EUR 6,500,000 in total was devoted in 2006 to such purposes. Although further increase would be needed to improve the policy goals, the total amount of the costs is affordable. Some support can be offered by the EU funding.

According to stakeholders from Italy, the cost of an assistance and social integration programme including accommodation, protection, healthcare, psychological assistance, legal counselling, education or training, language training, support in the social integration at work, amounts to EUR 50-60 a day for every victim. The medium annual cost in Italy goes from EUR 18,000 to 21,000 per victim. However, it would be for Member States to decide the most appropriate means for implementing the types of assistance to be set out.

The costs of preventive measures cannot easily be assessed. We only dispose of estimates concerning the cost of training for law enforcement officials. According to estimates related to costs of training courses run by CEPOL, for a training of law enforcement officials involving around 20 people for 5 days, the total cost is around EUR 30-35,000.

⁷⁶ See footnote 64.

⁷⁷ Source: MS Replies to the questionnaire. It has to be underlined that the figures are not completely comparable due to the different types of assistance measures, the different institutional framework (federal/national/local funding), and the different methodology used to identify the public funding devoted to victims.

⁷⁸ Source: *idem*.

Since good implementation is expected in the short-medium term for such an option, and therefore a significant increase of victims assisted, and public officials participating in training on a regular basis, this option has a considerable potential economic impact on MS. On the other hand, the expected benefit in terms of the reduction of the scale of the crime and protection of fundamental rights fully justify such costs.

Magnitude of the positive economic impact: ++

Magnitude of the negative economic impact: --

5.4.2. *Social impact*

In addition to the considerations developed under option 3, the impact of social assistance measures for victims must be underlined here. Under this option good results are expected in terms of victim support. If victims receive help in the process of recovery, rehabilitation and social integration, there will be a positive impact relating to the access of such workers to the labour market in the country of origin or destination. Although there are considerable flows of trafficking within the EU area, the positive impact will particularly affect third country nationals. The dimension of such an impact will depend on the implementation of social integration schemes. In the long run it could have an impact comparable to the actual scale of the criminal phenomenon, and therefore involve several hundred thousand people currently subject to economic exploitation.

Theoretically there could be a negative impact on the labour market, related to the competition between migrant workers and nationals. However, since trafficking victims who receive help for their social inclusion normally specialise in areas where competition is scarce and job opportunities are higher; it cannot be excluded that they therefore contribute to the differentiation of skills within the labour market.

A positive impact on public health is also expected. Especially concerning trafficking for sexual exploitation, there is an increasing risk of exposure to HIV concerning first of all victims who are compelled to accept non protected sexual intercourse, for clients who ask for such services, and consequently for people, mostly women, who have sexual relationships with such clients. By empowering women, the whole dimension of the health problem will be positively influenced.⁷⁹

Preventive measures have a specific positive impact on third countries, as a consequence of programmes aimed at poverty reduction, empowerment of women, reduction of vulnerability of children and targeted groups, especially the most at risk of poverty, the unemployed, those at risk as a consequence of armed conflicts.

Magnitude of the positive social impact: +++

Magnitude of the negative social impact: -

5.4.3. *Fundamental rights impact*

All the considerations developed under Option 2 and 3 must be recalled here. Furthermore, a positive impact is expected concerning the respect for victims' dignity, in accordance with Article 1 of the EU Charter and Article 2 of the Framework Decision on the standing of victims in criminal proceedings, as a consequence of full implementation of victim support mechanisms. Every provision aimed at supporting victims in the concrete exercise of their rights in criminal proceedings such as assistance measure, psychological assistance and legal counselling, will empower them and contribute to strengthen the respect for their dignity. In

⁷⁹ Humanist Committee on Human Rights (HOM), *Health Rights of Women, Assessment Instrument*, 2006

addition, specific provisions aimed at protecting victims from secondary victimisation may contribute to enhance the respect for victim's dignity.

Magnitude of the positive fundamental rights impact: +++

Magnitude of the negative fundamental rights impact: -

5.4.4. Relevance of the measure

<i>Leg/ non leg</i>	<i>Measure</i>	<i>Link to specific objective</i>	<i>Cost</i>
<i>L</i>	<i>Bringing definition of trafficking into line with international instruments</i>	<i>A1, A3</i>	<i>No direct cost</i>
<i>L</i>	<i>Approximation of penalties</i>	<i>A1</i>	<i>No direct cost</i>
<i>L</i>	<i>Protecting victims from prosecution for crimes committed as result of victimisation</i>	<i>A2, B2</i>	<i>No direct cost</i>
<i>L</i>	<i>Enlarged and more binding extraterritorial jurisdiction rules</i>	<i>A4</i>	<i>No direct cost</i>
<i>L</i>	<i>Generalised use of effective investigation tools for organised crime</i>	<i>A3</i>	<i>No direct cost</i>
<i>L</i>	<i>Increased protection of victims' rights in criminal proceedings</i>	<i>B3, B4</i>	<i>No direct cost</i>
<i>L</i>	<i>Obligation on MS to provide adequate victim support</i>	<i>A2, B1, B3, B4,</i>	<i>Depends on implementation. System in Italy costs EUR 18-21,000 per victim. Estimated cost of victim support schemes at EU level in the short term: EUR 79,273,184 (for further details see Annex I, tables 24 and 25).</i>
<i>N</i>	<i>Description of victim support schemes, including quality standards of assistance</i>	<i>A2, B1, B3</i>	<i>(See above)</i>

	<i>and cooperation agreements</i>		
<i>L</i>	<i>Measures aimed at reducing the demand of sexual services and cheap labour⁸⁰</i>	<i>C3</i>	<i>Unable to quantify</i>
<i>L</i>	<i>Obligation to establish regular training for law enforcement</i>	<i>A2, A3, B2, B3, C2</i>	<i>CEPOL training course for 20 law enforcement officials EUR 30-35,000</i>
<i>N</i>	<i>Training for other public officials</i>	<i>A2, A3, B2, B3, C2</i>	<i>Unable to quantify</i>
<i>N</i>	<i>Training for prosecutors and judges</i>	<i>A2, A3, B2, B3, C2</i>	<i>Unable to quantify</i>
<i>L</i>	<i>National Rapporteurs or equivalent mechanisms for the monitoring</i>	<i>D1</i>	<i>Annual budget of the Dutch National Rapporteur: EUR 560,000; Annual budget of the 'Centre pour l'égalité des chances' (BE): EUR 236,000</i>
<i>L</i>	<i>Network of such monitoring mechanisms</i>	<i>D2</i>	<i>The estimated global cost of the network (2 meetings a year) is around EUR 100.000.</i>
<i>N</i>	<i>Preventive measures in source countries</i>	<i>C1, C2</i>	<i>Unable to quantify</i>
<i>N</i>	<i>Measures to improve international law enforcement cooperation</i>	<i>A3</i>	<i>Joint Investigation Team for 12 months investigation: EUR 1,645,800</i>
<i>N</i>	<i>Awareness raising and sensitisation campaigns</i>	<i>C3</i>	<i>Unable to quantify</i>

⁸⁰

These measures could eventually include the criminalisation of employers and clients who knowingly use the services of a trafficked person, taking into account the results of the ongoing debate on this issue.

6. COMPARING THE OPTIONS

6.1. Summary table: costs and benefits

Options	Economic impact	Social impact	Fundamental rights impact
Option 2 Non legislative instrument	negative: - positive: +	negative: - positive: +	negative: - positive: +
Option 3 New legislation	negative: - positive: +	negative: - positive: ++	negative: - positive: ++
Option 4 New legislation + non legislative instrument	negative: -- positive: ++	negative: - positive: +++	negative: - positive: +++

6.2. Advantages and drawbacks of the policy options

Policy options	Advantages	Drawbacks
Option 2: Non legislative measures	<p>Detailed description of assistance measures to be available for trafficked persons</p> <p>Detailed description of cooperation agreements between law enforcement and service providers</p> <p>Generalisation of the best national practices on victims assistance and protection</p> <p>Establishment of quality standard of assistance measures based on best practices</p> <p>Detailed description of training modules for law enforcement and other public officials</p> <p>Detailed description of preventive measures based on best practices</p>	<p>No binding rules concerning the establishment of victims support schemes</p> <p>No new rules on substantive criminal law, penalties and jurisdiction will be established.</p> <p>Lack of control on national implementation.</p> <p>EU trafficking legislation to prevent and combat trafficking continue to be outdated in relation to the UN and CoE.</p> <p>No binding rules concerning the establishment of training for law enforcement</p> <p>No binding rules concerning prevention</p>
Option 3: New legislation on prosecution, victim support, prevention and monitoring	<p>Provisions concerning definition and penalties will facilitate approximation and international cooperation</p> <p>Non-punishment clause will facilitate cooperation of victims</p> <p>The need for appropriate organised crime investigation tools will be addressed</p> <p>The need to extend extraterritorial jurisdiction rules will be addressed.</p> <p>The obligation to establish victims support schemes will be addressed, although in general terms</p> <p>The training needs will be addressed, although in general</p>	<p>No specific indications concerning standard assistance measures</p> <p>No specific indications concerning memorandum of understanding between public institutions and NGOs or other service providers in the field of assistance measures, nor in the field of prevention measures.</p> <p>No specific indications concerning curricula for training</p> <p>Increase of illegality of prostitution</p> <p>Clients not anymore a resource in the fight against trafficking</p>

	<p>terms</p> <p>The need for preventive measures will be addressed, although in general terms</p> <p>Possibility to discourage the demand of sexual services</p> <p>Possibility to discourage the demand of cheap labour</p> <p>The need for a network of national monitoring mechanisms addressed</p>	<p>Risk for immediate deportation of workers, if effective measures to protect them are not in place⁸¹</p>
<p>Option 4: New legislation (as in option 3) + non legislative measures</p>	<p>Provisions concerning definition and penalties will facilitate approximation and international cooperation</p> <p>Non-punishment clause will facilitate cooperation of victims</p> <p>The need for appropriate organised crime investigation tools will be addressed</p> <p>The need to extend extraterritorial jurisdiction rules will be addressed.</p> <p>The obligation to establish victims support schemes will be addressed, although in general terms</p> <p>The training needs for law enforcement and other public officials, and the judiciary will be addressed</p> <p>The need for preventive measures will be addressed, although in general terms</p> <p>Possibility to reduce the demand of sexual services</p> <p>Possibility to discourage the demand of cheap labour</p> <p>Detailed description of</p>	<p>Increase of illegality of prostitution</p> <p>Clients not anymore a resource in the fight against trafficking</p> <p>Risk for immediate deportation of workers, if effective measures to protect them are not in place⁸²</p>

⁸¹

The last three drawbacks would be expected if the legislation provided for criminalisation of users.

⁸²

Idem.

	<p>assistance measures to be available for trafficked persons</p> <p>Detailed description of cooperation agreements between law enforcement and service providers</p> <p>Generalisation of the best national practices on victims assistance and protection</p> <p>Establishment of quality standard of assistance measures based on best practices</p> <p>Detailed description of training modules</p> <p>Detailed description of preventive measures based on best practices</p> <p>The need to establish a network of national monitoring mechanisms will be addressed</p>	
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6.3. Comparison of options

Option (2) Non legislative measures

This option has all the advantages and disadvantages related to a soft law instrument. The positive side is that it is possible to describe each policy option in a way which is consistent with the best national practices, and thereby facilitate the identification of which measures are best in terms of effectiveness. However, this option, in so far as it implies that no EU new legislation will be adopted, is not consistent with the need for more effective provisions which has been highlighted in the recently adopted Commission Working Document,⁸³ especially concerning victims' support schemes. Furthermore, although non legislative documents were adopted on many occasions,⁸⁴ the response was not satisfactory. Therefore the expected level of compliance concerning this option is particularly low. In addition, option (2) implies that criminal law issues will not be addressed, while certain problems related to substantive criminal law and prosecution are crucial to curb and eradicate the crime. Finally, the relevant stakeholders, both from governments and civil society organisations welcomed the revision of legislation, and showed a general awareness that legislation is needed in this field.

Option (3) – New legislation on prosecution, victim support, prevention and monitoring

This option has the added value of establishing binding provisions, and therefore a higher level of implementation and effectiveness is expected. In addition, it would address the criminal law legal framework and at the same time victim support, prevention and monitoring. The need for such a holistic approach has been particularly highlighted by many experts during the consultation phase, and strongly underlined by the whole Experts Group on trafficking in human beings.⁸⁵ Especially the alignment of the substantive criminal law provisions, the non punishment clause, the enlargement of the extraterritorial jurisdiction rule, and the obligation to establish victims support schemes must be considered at the core of the revision. Taking into account the results of such a policy in national good practice, both in terms of human rights protection and prosecution, such an obligation is itself an added value of the proposal.

Option (4) New legislation (as in option 3) + non legislative measures (as in option 2)

This option is expected to maximise the positive impact of both the legislative and non legislative instruments. The binding nature of the provisions of the legislation⁸⁶ based on integrated approach and dealing with all the essential aspects of anti-trafficking policy would establish an obligation to take action in certain fields and would be complemented by a non binding instrument containing more precise indications on standards, procedures and criteria to adopt such measures in the most effective way. This option is expected to be particularly effective because of the binding nature of the obligation to take action on certain aspects which are considered crucial to effectively prevent and fight against the crime. In addition, MS would be offered guidance for the concrete adoption of such measures through the non legislative instrument, which would be based on good practices, and therefore would favour the establishment of the highest quality standards. In addition, further action aimed at the implementation of the new provisions would be identified. Therefore this option appears better placed to achieve the identified objectives.

⁸³ Commission Working Document COM(2008)657, cit.

⁸⁴ Brussels Declaration, cit., Experts Group Report 2004, cit., Recommendations on identification and referral to services, 2007, cit.,

⁸⁵ Written opinion issued by the Expert Group after the meeting on 2-3 October 2008.

⁸⁶ See footnote 56.

6.4. Added value of Option (4)

6.4.1. Compared to the current Framework Decision 2002/629/JHA

Compared to the current Framework Decision, Option (4) shows the added value of a broader approach including criminal law, victim support, prevention, and monitoring. In addition, the combination of legislative and non legislative instruments enables MS to achieve better results concerning implementation, since the obligation to establish measures will be complemented by guidance based on best practice.

In particular, the following new elements would be included in the legislative or in the non legislative instrument:

6.4.1.1. Substantive criminal law

- Broader definition of trafficking, in line with other international instruments, and comprising any illicit purpose including the removal of organs (legislation);
- Further approximation of penalties and higher standard of penalties (legislation);
- Clause of non punishment (legislation);
- Broader and more binding extraterritorial jurisdiction rule (legislation);
- Provision aimed at strengthening investigation and prosecution (legislation).

6.4.1.2. Victims protection and support

- Provisions aimed at protecting victims from secondary victimisation including all child victims and on a case by case basis also adult victims on certain grounds (legislation);
- Provisions aimed at improving protection (legislation);
- Provisions aimed at enabling victims to claim compensation (legislation);
- Provisions concerning the establishment of a national mechanism to refer victims to services (legislation + non legislative measures).

6.4.1.3. Prevention

Awareness raising (non legislative measures);

Training for law enforcement (legislation + non legislative measures);

Training for other public officials (non legislative measures);

Measures aimed at discouraging the demand of sexual services and cheap labour (legislation + non legislative measures).

6.4.1.4 Monitoring systems

Establishment and networking of National Rapporteurs or equivalent mechanisms.

6.4.2. Compared to the Council of Europe Convention on Action against Trafficking in Human Beings

- Approximation of penalties;
- Better formulation of the non punishment clause;
- Broader and more binding extraterritorial jurisdiction rules;
- Better standards of victim assistance;

- Binding and more detailed regulation of training for law enforcement;
- Obligation to make available investigative tools designed for organised crime cases;
- More binding nature of the EU *acquis*.

7. MONITORING AND EVALUATION

For the evaluation of anti-trafficking policy falling under the competence of Member States, the relevant indicators are contained in an Assessment Manual which is the result of a study funded by the Commission.⁸⁷ Regarding indicators for data collection from unofficial sources and assessment of the scale of the crime, a consultation⁸⁸ is ongoing in cooperation between the Commission and ILO. Two projects funded by the Commission and led by Austria in cooperation with IOM and Portugal in cooperation with ICMPD will be the basis for the issuing of Guidelines on data collection on trafficking in human beings at the European level. The Guidelines will establish the common framework and methodology for national monitoring mechanisms and comprise specific indicators on both the scale of crime and the results achieved in anti-trafficking policy.

With respect to the specific and operational objectives identified in this impact assessment, rough indicators could be the following:

Objective	Indicator
Specific Objective:	
A. To prosecute the crime	
A.1 To impose effective, proportionate and dissuasive penalties	Number of investigated and prosecuted cases
	Number of convictions
	Level of penalties
A.2 To facilitate victims' cooperation with judicial authorities	Number of victims who reported the crime
	Number of victims who acted as witnesses
A.3 To remove obstacles to international cooperation and generalize the use of investigative tools which are effective in organised crime and transnational cases	Number of cases in which some international cooperation tools have been used
	Number of cases in which Joint Investigation Teams have been used
	Number of cases in which exchange of information through Europol has been carried out
A.4 To facilitate prosecution traffickers when the offence has	Number of cases prosecuted on the basis of extraterritorial jurisdiction

⁸⁷ Mike Dottridge, *Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual*, 2007, Study funded by JLS.

⁸⁸ The consultation on line is based on the DELPHI method. The results will be available by the end of 2008.

been committed out of the territory of the State	Number of jurisdiction conflicts solved through Eurojust
Specific Objective: B. To protect victims' rights	
B.1 To provide any presumed victim with unconditional and individualised assistance before, during and after criminal proceedings	Number of victims who have received assistance;
	Number of victims who have been subsequently integrated into the labour market, in countries of origin or destination
B.2 To protect victims from detention and prosecution for crimes they have been induced to commit such as violations of immigration laws	Decreased number of victims held in detention or prosecuted for such crimes
B3 To increase the protection of victims from secondary victimisation deriving from the way the proceedings are carried out	Number of victims including child victims who benefited from specific treatment;
	Types of treatment available and implemented in trafficking cases
B4 To establish specific means aimed at ensuring effective protection and compensation	Number of victims who were considered at risk on the basis of a risk assessment
	Number of victims who were enrolled in protection programmes
	Number of victims who received legal counselling
Specific Objective: C. To prevent trafficking	
C.1 To reduce vulnerability factors in countries of origin	Number of women, children and other targeted groups who received support in each third-country
	Number of targeted actions carried out in third countries
C.2 To improve skills of public officials likely to come into contact with potential victims;	Number of training available for law enforcement and the judiciary
	Number of training available for other relevant public officials
	Number of participants for each type of training

C.3 To discourage the demand of sexual services and cheap labour	No indicators have been identified at this stage
Specific Objective: D. To establish effective monitoring systems	
D.1 To set up consistent national mechanisms such as National Rapporteurs or equivalent mechanisms	Monitoring mechanism established at national level
	Tasks, human resources and budget set up
D.2 To establish close cooperation between such mechanisms	Rules for cooperation set up
	Number of meetings of the network
	Number of information exchanged through the established channels

ANNEX I
FIGURES

1. Cases of trafficking for sexual exploitation investigated or prosecuted⁸⁹

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	48	223	93	128
Belgium⁹⁰	n/a	n/a	n/a	291
Bulgaria	n/a	n/a	191/211⁹¹	291/329
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	27	10	16	16
Finland	n/a	n/a	3	6
France	n/a	n/a	n/a	n/a
Germany	n/a	n/a	317	353
Hungary⁹²	0	0	5	5
Italy⁹³	n/a	60	201	214
Latvia	12	13	17	24
Lithuania	19	18	18	21
Luxemburg	2	2	1	4
Netherlands	n/a	n/a	n/a	n/a
Malta	0	1	1	1
Poland⁹⁴	31	14	19	21
Portugal	46	51	67	65

⁸⁹ Figures included in Tables 1-23 of Annex I derive from the replies given by 23 MS and Norway to the Questionnaire circulated by the Commission in December 2008. They have been used for the Commission Working Document Evaluation and monitoring of the implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings, COM(2008)657 final. Romania sent a reply after the deadline. However, relevant answers have been included in Tables 9-21. Figures related to Tables 1-8, and 22-23 were not available. Tables 24-25 of Annex I contain a cost extrapolation based on the previous tables. However, Romania has been included in the estimated extrapolation of costs.

⁹⁰ Statistics on prosecution are only available since 2006.

⁹¹ Number of proceedings vs number of victims; including trafficking of labour.

⁹² The figure also includes cases of forced labour.

⁹³ The figures are related to the crime of reduction to slavery, slave trade, and trafficking in human beings, including for the purpose of sexual and labour exploitation (source: National Antimafia Directorate).

⁹⁴ The figure also includes cases of forced labour.

Slovakia	6	28	14	11
Slovenia	4	4	5	6
Spain⁹⁵	n/a	n/a	n/a	n/a
Sweden	n/a	22	44	27
UK	n/a	n/a	37	54
Norway	n/a	n/a	8	29

2. Cases investigated or prosecuted, in which the offence was committed against a child

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	n/a	n/a
Belgium	n/a	n/a	n/a	n/a
Bulgaria	n/a	n/a	61⁹⁶	62
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	5	1	4	6
Finland	n/a	n/a	1	2
France	n/a	n/a	n/a	n/a
Germany	n/a	n/a	51	62
Hungary⁹⁷	0	0	5	2
Italy	n/a	12	14	32
Latvia	2	0	1	
Lithuania	n/a	0	0	3
Luxemburg	0	0	0	1
Malta	0	0	0	0
Netherlands	n/a	n/a	n/a	n/a
Poland	n/a	n/a	n/a	n/a
Portugal	10	2	2	2
Slovakia	4	5	4	8

⁹⁵ These statistics are already included in the reply to question 1.1.1.4.

⁹⁶ Including trafficking of labour.

⁹⁷ The figure also includes cases of forced labour.

Slovenia	0	1	0	0
Spain	n/a	n/a	n/a	n/a
Sweden	n/a	n/a	n/a	n/a
UK	n/a	n/a	n/a	n/a
Norway	n/a	n/a	n/a	n/a

3. Cases of trafficking for sexual exploitation sentenced

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	11	11	25	18
Belgium	23	46	47	n/a
Bulgaria	n/a	n/a	27	72
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	0	15	19	10
Finland	n/a	n/a	n/a	1
France⁹⁸	n/a	n/a	n/a	2
Germany	n/a	n/a	n/a	1⁹⁹
Hungary	n/a	n/a	n/a	n/a
Italy	n/a	n/a	n/a	n/a
Latvia	0	20	21	36
Lithuania	n/a	n/a	n/a	n/a
Luxemburg	0	0	1	4
Netherlands	n/a	n/a	n/a	n/a
Malta	0	0	0	1
Poland¹⁰⁰	10	6	16	14
Portugal	22	41	55	49
Slovakia¹⁰¹	8	7	6	32
Slovenia	0	0	0	1

⁹⁸ Legislation establishing trafficking as a criminal offence was passed in 2003.

⁹⁹ Sentence against one person, but involving several cases.

¹⁰⁰ The figure also includes cases of forced labour.

¹⁰¹ The figures include cases of forced labour etc.

Spain¹⁰²	n/a	n/a	n/a	n/a
Sweden	n/a	1	7	11
UK	n/a	n/a	21	29
Norway	n/a	n/a	n/a	n/a

4. Cases sentenced, in which the offence was committed against a child

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	n/a	n/a
Belgium	2	7	4	n/a
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	n/a	n/a	n/a	n/a
Finland	n/a	n/a	n/a	n/a
France	n/a	n/a	n/a	n/a
Germany	n/a	n/a	n/a	n/a
Hungary	n/a	n/a	n/a	n/a
Italy	n/a	n/a	n/a	n/a
Latvia	n/a	n/a	n/a	n/a
Lithuania	n/a	n/a	n/a	n/a
Luxemburg	0	0	0	1
Netherlands	n/a	n/a	n/a	n/a
Malta	0	0	0	0
Poland	n/a	n/a	n/a	n/a
Portugal	6	n/a	n/a	n/a
Slovakia	n/a	n/a	n/a	n/a
Slovenia	0	0	0	0
Spain	n/a	n/a	n/a	n/a
Sweden	n/a	n/a	n/a	n/a

¹⁰²

These statistics are already included in the reply to question 1.1.1.6.

UK	n/a	n/a	n/a	n/a
Norway	n/a	n/a	n/a	n/a

5. Cases of trafficking for labour exploitation investigated or prosecuted

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	16	9
Belgium¹⁰³	n/a	n/a	n/a	135
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	n/a	n/a	n/a	n/a
Finland	0	0	4	3
France	n/a	n/a	n/a	n/a
Germany	n/a	n/a	2	22
Hungary	0	0	5	5
Italy¹⁰⁴	n/a	60	201	214
Latvia	0	0	0	1
Lithuania	n/a	n/a	0	0
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Malta	0	0	0	0
Poland	23	11	17	18
Portugal¹⁰⁵	n/a	4	17	11
Slovakia	4	5	4	8
Slovenia	0	0	0	2
Spain¹⁰⁶	235	441	681	456
Sweden	n/a	n/a	0	11

¹⁰³ Statistics on prosecution are only available since 2006.

¹⁰⁴ The figures are related to the crime of reduction to slavery, slave trade, and trafficking in human beings, including for the purpose of sexual and labour exploitation (source: National Antimafia Directorate).

¹⁰⁵ Data related to investigations for slavery.

¹⁰⁶ Number of victims.

UK	0	0	0	0
Norway	n/a	n/a	0	1

6. Cases of trafficking for labour exploitation investigated or prosecuted, in which the offence was committed against a child

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	n/a	n/a
Belgium	n/a	n/a	n/a	n/a
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	n/a	n/a	n/a	n/a
Finland	n/a	n/a	0	0
France	n/a	n/a	n/a	n/a
Germany	n/a	n/a	n/a	n/a
Hungary	0	0	0	0
Italy	n/a	12	14	32
Latvia	0	0	0	0
Lithuania	n/a	n/a	0	0
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Malta	0	0	0	0
Poland	n/a	n/a	n/a	n/a
Portugal	0	0	1	0
Slovakia	4	5	4	8
Slovenia	0	0	0	0
Spain¹⁰⁷	n/a	n/a	n/a	n/a
Sweden	n/a	n/a	n/a	n/a
UK	0	0	0	0

¹⁰⁷ These numbers are included in the figures indicated in section 1.1 above.

Norway	n/a	n/a	0	0
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7. Cases of trafficking for labour exploitation sentenced

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	0	0
Belgium	78	156	88	n/a
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	n/a	n/a	n/a	0
Finland	n/a	n/a	0	0
France	61	61	89	85
Germany	n/a	n/a	n/a	16 ¹⁰⁸
Hungary ¹⁰⁹	n/a	n/a	n/a	n/a
Italy	n/a	n/a	n/a	n/a
Latvia	0	0	0	0
Malta	0	0	0	0
Lithuania	n/a	n/a	0	0
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Malta	0	0	0	0
Poland	7	5	9	13
Portugal	n/a	n/a	n/a	n/a
Slovakia ¹¹⁰	n/a	n/a	n/a	n/a
Slovenia	n/a	n/a	n/a	n/a
Spain ¹¹¹	n/a	n/a	n/a	n/a
Sweden	0	0	0	0
UK	0	0	0	0

¹⁰⁸ Number of convicted persons.

¹⁰⁹ The figure also includes cases of forced labour.

¹¹⁰ Reference is made to the figures indicated in 1.1.2.7 above.

¹¹¹ These numbers are included in the figures indicated in section 1.1 above

Norway	n/a	n/a	0	0
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8. Cases of trafficking for labour exploitation sentenced, in which the offence was committed against a child

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	n/a	n/a
Belgium	n/a	n/a	n/a	n/a
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	n/a	n/a	n/a	n/a
Finland	n/a	n/a	0	0
France	0	0	0	11
Germany	n/a	n/a	n/a	n/a
Hungary	n/a	n/a	n/a	n/a
Italy	n/a	n/a	n/a	n/a
Latvia	0	0	0	0
Lithuania	n/a	n/a	0	0
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Malta	0	0	0	0
Poland	n/a	n/a	n/a	n/a
Portugal	n/a	n/a	n/a	n/a
Slovakia	n/a	n/a	n/a	n/a
Slovenia	n/a	n/a	n/a	n/a
Spain ¹¹²	n/a	n/a	n/a	n/a
Sweden	n/a	n/a	n/a	n/a
UK	0	0	0	0
Norway	n/a	n/a	0	0

¹¹² These numbers are included in the figures indicated in section 1.1 above

9. Number of victims who have been assisted

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	183 Females	142 Females	151 Females	162 Females
Belgium¹¹³	n/a	114 (2004)	121	n/a
Bulgaria	n/a	n/a	41 F- 45 M	81 families and persons
Cyprus	n/a	n/a	41 persons	86 persons
Czech Rep	n/a	5 persons	17 persons	14 persons
Finland	n/a	n/a	n/a	9 persons
France	n/a	n/a	n/a	n/a
Germany	n/a	n/a	n/a	n/a
Hungary	n/a	n/a	n/a	n/a
Italy	1,755	1,797	2,039	2,143
Lithuania	173 persons	168 persons	105 persons	96 persons
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Poland	n/a	n/a	n/a	10 persons
Portugal	n/a	n/a	n/a	n/a
Romania	n/a	n/a	175 (150F+25M)	424 (374F+50M)¹¹⁴
Slovakia	n/a	n/a	n/a	n/a
Slovenia	n/a	26 persons	16 persons	40 persons
Spain	n/a	n/a	n/a	n/a
Sweden	n/a	n/a	n/a	n/a
UK¹¹⁵	n/a	n/a	n/a	n/a
Norway	n/a	n/a	n/a	37 in 2007¹¹⁶

¹¹³ Figures only concern sheltered victims during the reflection period.

¹¹⁴ These figures do not appear in the text because Romania sent the reply to the Questionnaire after the deadline. These figures probably also include victims assisted abroad.

¹¹⁵ This information is not held centrally. It is estimated that around 155 victims have benefited from the reflection period between March 2003 and December 2006.

¹¹⁶ Women admitted into the ROSA project and provided with housing. No figures are available for other measures).

10. Countries in which the appointment of a guardian¹¹⁷ for children who are presumed to have been trafficked

YES: AT, BG, CY, FI, DE, HU, IT, LT, NL, PL, SK, SI, ES, SE, BE, UK, PT, RO, Norway

NO: CZ, LX

11. Countries in which victims are protected from criminal prosecution or sanctions for offences they were forced to commit in relation to their situation as victims of trafficking

YES¹¹⁸: AT, BG, CY, CZ, DE, HU, LT, NL, SI, ES, RO¹¹⁹

NO:FI, FR, LX, PL, SK, SE, BE¹²⁰, UK¹²¹, PT

12. Countries in which only child victims are protected from criminal prosecution or sanctions for offences they were forced to commit in relation to their situation as victims of trafficking

YES: BG, IT, NL, ES, SE

NO: AT, CY, CZ, FR, HU, LT, LX, PL, SK, SI, BE, UK, RO

13. Countries in which new legislation concerning the non punishment of the victim is under discussion

YES: LX, SK, RO

NO: CY, CZ, FI, FR, SE, BE

14. Countries in which legislation provides for compensation to victims

YES: AT, BE, BG, CY, CZ, FI, FR, DE, HU, IT, LV, LT, LX, MT, NL, PL, PT, SK, SI, ES, SE, UK, RO, Norway

NO: AT,

15. Countries in which legislation establishes a public fund to compensate victims

YES: AT, BE, BG, CZ, FI, FR, HU, LV, LX, MT, NL, PT, SK, SE, UK, RO

NO: CY, DE, IT, LT¹²² PL, ES, Norway

16. Number of victims who received compensation in 2006

AT: 648

BE 0 (The relevant law was passed in 2003. A few victims have applied so far, due to strict grounds)

BG: 0 (law in force since 1/1/2007)

CY: n/a

CZ: 0

FI: n/a

¹¹⁷ In the French version the term "guardian" has been translated as "psychologue". Given the different meaning of the question, the answer given by FR is not relevant.

¹¹⁸ The comments made in the replies show that the word "guarantee" has been interpreted in different ways by those answering. As an example, Spain has answered this question with YES and Sweden with NO, although their laws may be very similar. A detailed analysis may be needed here.

¹¹⁹ For prostitution and begging.

¹²⁰ Not directly. However general clauses apply. In addition the prosecution can terminate the case.

¹²¹ However, guidance have been issued to prosecutors to take into consideration the fact that victims of trafficking often find themselves in a position where they are vulnerable to pressure and coercion from their traffickers when deciding whether it is in the public interest to prosecute.

¹²² Only governmental fund

FR: 5

DE: around 15.000 in 2006

HU: n/a

IT: n/a

LV: 0

LT: information not public

LX: 0

MT: 0

NL: 18 in 2007

PL: 0

PT n/a

SK: n/a

SE: n/a

UK: 4

RO: n/a¹²³

Norway: 2 in 2007

17. Countries in which legislation provides for protection programmes for victims of crime, also available to victims of trafficking

YES: AT, BE, BG, CY, CZ, FI, FR, HU, IT, LV, LT, MT, PL, PT, SK, SE, UK, RO, Norway

NO: DE, LX, NL, ES,

18. Number of victims placed in a protection programmes in 2006

AT: 0

CY: 0

CZ: n/a

FI: 0 in 2005, 5 in 2006

HU: n/a

IT 2.039 in 2005; 2.143 in 2006¹²⁴

LV: 1 in 2006

LT: information not public

MT: 0

PL: 6 in 2005 10 in 2006

SK: classified data

SE: n/a

UK: information not held centrally

RO: 4

19. Countries in which a National Rapporteur or equivalent mechanism has been established

¹²³ A new law providing for compensation was passed in 2007.

¹²⁴ Victims admitted yearly into the social integration programmes receive assistance and also police protection.

YES: BG, CY, CZ, NL, SE, BE, PT, RO

NO: AT, FR, DE, HU, LT, LX, PL, SK, SI, ES, UK, Norway

20. Types of equivalent mechanisms

FI (planned to be set up in 2008),

BE: Centre pour l'égalité des chances et la lutte contre le racisme

UK: UK Human Trafficking Centre (UKHTC)

21. Countries in which the National Rapporteur or equivalent mechanism is an independent body

YES: CY, FI, NL, SE, BE

NO: CZ, RO

22. Amount of public funds spent for services to victims

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	n/a	n/a
Belgium	n/a	n/a	635 381 EUR	635 381 EUR¹²⁵
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	n/a
Czech Rep	n/a	UN FUNDS	124 000 EUR	72 000 EUR
Finland	n/a	n/a	n/a	100 000 EUR
France	n/a	n/a	n/a	n/a
Germany¹²⁶	148 908,64 EUR	159 662 EUR	120 700 EUR	195 825,69 EUR
Hungary	n/a	n/a	n/a	n/a
Italy	7 500 IT lira	2 480 513 EUR	4 272 000 EUR	4 000 000 EUR¹²⁷
Lithuania	n/a	80 000 EUR	12 000 EUR	12 000 EUR
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Poland	n/a	n/a	n/a	400 000 PLN
Portugal¹²⁸				
Slovakia	n/a	n/a	n/a	n/a

¹²⁵ Amount of the funding for the three centres providing services to victims.

¹²⁶ The figures only concern funding at federal level; this funding is complemented by the *Länder*.

¹²⁷ Under Article 18 D.L. 286/98

¹²⁸ Between 2004 and 2007 the CAIM Project (from Equal Initiative) spent one million EUR for services and other actions against trafficking.

Slovenia	n/a	n/a	60 000 EUR	40 740 EUR
Spain¹²⁹	n/a	n/a	147 991 EUR	1 337 759 EUR
Sweden	n/a	n/a	n/a	n/a
UK¹³⁰				
Norway	n/a	n/a	n/a	n/a

23. Amount of public funds spent for other actions against trafficking in

<i>Country</i>	<i>2001</i>	<i>2003</i>	<i>2005</i>	<i>2006</i>
Austria	n/a	n/a	n/a	n/a
Belgium	n/a	n/a	n/a	n/a
Bulgaria	n/a	n/a	n/a	n/a
Cyprus	n/a	n/a	n/a	10 000 CYP
Czech Rep	n/a	0	0	30 000 EUR
Finland	n/a	n/a	n/a	n/a
France	n/a	n/a	n/a	n/a
Germany¹³¹	n/a	n/a	n/a	n/a
Hungary	n/a	n/a	n/a	n/a
Italy	0	0	0	2 500 000 EUR¹³²
Lithuania	n/a	347 000 EUR	20 000 EUR	406 000 EUR
Luxemburg	n/a	n/a	n/a	n/a
Netherlands	n/a	n/a	n/a	n/a
Poland¹³³	n/a	n/a	250 000 PLN	100 000 PLN
Slovakia	n/a	n/a	n/a	n/a
Slovenia	n/a	n/a	20 500 EUR	91 195 EUR

¹²⁹ These numbers are included in the figures indicated in section 1.1 above

¹³⁰ Around £230 million is spent annually in supporting and compensating victims of crime in the UK. The Government has awarded Eaves Housing for Women a grant of £2.4 million over two years to provide tailored high-level support for victims of trafficking. We are investing an additional £100k to top-up this grant for Pentameter 2. This takes to the total specialist support for victims of trafficking within England and Wales to around £4.5 million over the last 5 years.

¹³¹ This is *Länder* competency.

¹³² Under Article 13 Law 228/2003

¹³³ It is likely that additional funding is provided by other government agencies.

Spain¹³⁴	n/a	n/a	n/a	n/a
Sweden	n/a	n/a	n/a	n/a
UK¹³⁵				
Norway	n/a	n/a	n/a	n/a

¹³⁴ These numbers are included in the figures indicated in section 1.1 above

¹³⁵ Polices forces in the UK receive over £11 billion in grant annually. Human trafficking is core police business and all forces now have the capacity to deal with trafficking problems in their area. In addition to this the Home Office provides approximately £400 million to fund the Serious Organised Crime Agency which has organised immigration crime, including human trafficking, as it second highest priority. We have also agreed a further 3 year funding allocation for the UKHTC for the period 2008-11 totalling £4.916 million over the 3 year period. In respect of children local authorities are provided with around £142 million annually to support unaccompanied asylum seeking children, which includes trafficked children.. The Department for Children Schools and Families also provided a strategic grant of £220,000 to ECPAT UK to develop multi agency training on child trafficking and the Home Office has funded the same organisation with £30,000 to develop and deliver an e-learning toolkit for professionals and others working with children who may have been trafficked . The Home Office is providing £100,000 per annum for a three year period to match fund a Comic Relief grant for a telephone advice line for professionals to help in the identification and appropriate treatment of child victims of trafficking.

24. Number of victims to be assisted in the short/mid term¹³⁶

Country	Population	Number of victims assisted	number of victims assisted / population (100.000 inh)	Short-term objective: number of victims assisted / population	Mid-term objective: number of victims assisted / population
				3,595 vict / 100.000 inh	7,189 vict / 100.000 inh
EU 27	497.481.657			17.882	35.764
BE	10.666.866	121	1,134	383	767
BU	7.640.238			275	549
CZ	10.381.130	14	0,135	373	746
DK	5.475.791			197	394
DE	82.221.808			2.955	5.911
EE	1.340.935			48	96
GR	11.214.992			403	806
ES	45.283.259			1.628	3.255
FR	63.753.140			2.292	4.583
IE	4.419.859			159	318
IT	59.618.114	2.143	3,595	2.143	4.286
CY	794.580			29	57
LV	2.270.894			82	163
LT	3.366.357	96	2,852	121	242
LU	483.799			17	35
HU	10.045.000			361	722
MT	410.584			15	30
NL	16.404.282			590	1.179
AT	8.331.930			299	599
PL	38.115.641			1.370	2.740
PT	10.617.575			382	763
RO	21.528.627			774	1.548
SI	2.025.866	40	1,974	73	146
SK	5.400.998			194	388
FI	5.300.484	9	0,170	191	381
SE	9.182.927			330	660
UK	61.185.981			2.199	4.399

¹³⁶

The short-term objectives of victims' assistance have been identified taking into account the Italian experience (2,143 victims yearly), which is the best practice in the EU, in relation to the population of every EU MS. In the medium term the number of assisted victims should be the double.

25. Estimated costs of victims' assistance in the short/mid term¹³⁷

Country	Cost of victim assistance	Cost per assisted victim	Price index	Costs weighted	Average cost per assisted victim	Equivalent average cost per assisted victim in each country (weighted)	Short term objective: total cost of assistance to victims	Mid-term objective: total cost of assistance to victims
EU 27					4.179 €		79.273.184 €	158.546.368 €
BE	635.381 €	5.251 €	100	5.251 €	4.179 €	4.179 €	1.602.348 €	3.204.697 €
BU			69,7		4.179 €	2.913 €	799.944 €	1.599.889 €
CZ	72.000 €	5.143 €	81,2	6.334 €	4.179 €	3.393 €	1.266.254 €	2.532.508 €
DK			139,4		4.179 €	5.826 €	1.146.647 €	2.293.294 €
DE			99,3		4.179 €	4.150 €	12.264.684 €	24.529.369 €
EE			83,6		4.179 €	3.494 €	168.397 €	336.794 €
GR			95,3		4.179 €	3.983 €	1.605.506 €	3.211.012 €
ES			100,4		4.179 €	4.196 €	6.829.541 €	13.659.081 €
FR			117,4		4.179 €	4.906 €	11.243.196 €	22.486.392 €
IE			121,8		4.179 €	5.090 €	808.678 €	1.617.357 €
IT	6.500.000 €	3.033 €	110,6	2.742 €	4.179 €	4.622 €	9.904.977 €	19.809.954 €
CY			89,9		4.179 €	3.757 €	107.304 €	214.609 €
LV			83,6		4.179 €	3.494 €	285.183 €	570.365 €
LT	12.000 €	125 €	77,4	161 €	4.179 €	3.235 €	391.400 €	782.801 €
LU			100		4.179 €	4.179 €	72.675 €	145.350 €
HU			89,8		4.179 €	3.753 €	1.355.022 €	2.710.044 €
MT			84,8		4.179 €	3.544 €	52.302 €	104.604 €
NL			111,5		4.179 €	4.660 €	2.747.592 €	5.495.183 €
AT			107,8		4.179 €	4.505 €	1.349.225 €	2.698.451 €
PL			80,7		4.179 €	3.372 €	4.620.584 €	9.241.168 €
PT			92,2		4.179 €	3.853 €	1.470.538 €	2.941.077 €
RO			78,8		4.179 €	3.293 €	2.548.371 €	5.096.742 €
SI	40.740 €	1.019 €	88,3	1.153 €	4.179 €	3.690 €	268.715 €	537.430 €
SK			81,3		4.179 €	3.398 €	659.606 €	1.319.212 €
FI	100.000 €	11.111 €	117,8	9.432 €	4.179 €	4.923 €	937.953 €	1.875.905 €
SE			117		4.179 €	4.889 €	1.613.939 €	3.227.878 €
UK			143,1		4.179 €	5.980 €	13.152.602 €	26.305.203 €

¹³⁷

On the basis of the objectives identified in the previous table, the estimated costs of victims' assistance have been identified taking into account the medium cost of victims' assistance. This cost has been calculated on the basis of the real amount of funds spent by every country yearly, and the real number of victims assisted (concerning countries that were able to give such figures).

ANNEX II

REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

Based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings

SEC(2006)525

Summary

On the basis provided by member States, the requirements set out in the Council Framework Decision appear to have been largely met by MS, either a, or through the implementation of s a result of pre-existing domestic laws, or through new legislation.

MS generally dispose of legislation criminalise trafficking for sexual and labour exploitation. Particularly severe penalties are provided for, concerning aggravating circumstances. However, the level of penalties varies considerably, and the Commission may have to examine the possibility of further harmonisation.

Concerning protection to victims, MS forwarded information indicating that they comply with Article 7 regarding the ox officio initiation of the proceedings. However, protection and assistance regimes may be subject to further examination as the Commission received limited information with respect to specific treatment that should be ensured to children as particularly vulnerable victims.

COMMISSION WORKING DOCUMENT

Evaluation and monitoring of the implementation of the EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings

COM(2008)657 final

Summary

The past years have witnessed a process of approximation of legislation both in the field of criminal law and victims' assistance. However, the figures available indicate a serious gap between the legislation in force and actual implementation of comprehensive anti-trafficking policy. Figures concerning criminal proceedings are not high enough. Especially in the field of victims' assistance and protection, a critical lack of effective implementation must be underlined.

On the other hand, figures show that in countries where there is a significant number of assisted victims, statistics on criminal proceedings are higher. This implies that a human rights centred approach is needed not only to protect victims' rights but also to in the interest of justice. The Commission is considering revising the Framework Decision on trafficking, also with a view to ensuring more effective victims' support mechanisms.

The trend toward more law enforcement and judicial cooperation is positive, although substantial improvement is still needed. Weak points still remain victims' police protection, compensation, and police risk assessment before return.

Concerning the establishment of national machineries, MS now dispose of government coordinating mechanisms, while monitoring systems still need to be established or improved.

Regarding the implementation of the EU Action Plan, all stakeholders have taken action and achieved some results. However, some measures have not yet been implemented. Moreover, it

is difficult to assess the real impact of actions that have been implemented on the actual development of anti-trafficking policy. Although the Commission and the Council have been particularly active in the field of victims' assistance and protection, the factual situation shows substantial weaknesses.

The Commission suggests concentrating efforts in 2009 on a few key actions, with a view to set up a new strategy on the basis of the results achieved by the end of 2009: