

## **THE HAGUE MINISTERIAL DECLARATION ON EUROPEAN GUIDELINES FOR EFFECTIVE MEASURES TO PREVENT AND COMBAT TRAFFICKING IN WOMEN FOR THE PURPOSE OF SEXUAL EXPLOITATION**

Ministerial Conference under the Presidency of the European Union, The Hague, 24-26 April 1997

### **I. GENERAL CONSIDERATIONS**

On the initiative of the Dutch Presidency a European Union (EU) Ministerial Conference was held in The Hague on the 26th of April 1997 on the question of trafficking in women for the purpose of sexual exploitation.

Representatives from the following candidate countries were present as observer: Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Cyprus.

The EU Member States reaffirmed their commitment to maximize co-operation in the fight against trafficking in human beings, and against trafficking in women in particular, and agreed this declaration with a view to responding to the concerns of the people of Europe.

They recognized that trafficking in women for the purpose of sexual exploitation is a serious and growing type of international organized crime generating high profits with relatively low forms of risk for traffickers. Over the last years, the issue of trafficking in women has received increasing national and international attention. The Beijing Declaration of the 4th UN World Conference on women stressed the urgent need to take action against this specific form of violation of human rights of women.

On the European level initiatives have been taken in the area of trafficking in human beings which include the adoption by the European Parliament of a Resolution on Trafficking in Human Beings in January 1996 and the Proposals for Action to be taken in the Member States, developed within the framework of the Council of Europe.

The Justice and Home Affairs the Council has adopted four joint actions to combat trafficking in human beings on the initiative of the Irish Presidency and Belgium:

1. the extension of the mandate of the European Drugs Unit (EDU) in the field of trafficking in human beings;
2. the establishment of an incentive and exchange program for combating trade in human beings (STOP-program);
3. the setting up by EDU of a repertoire of centers of excellence.
4. The joint action concerning action to combat trafficking in human beings and sexual exploitation of children.

The scope of these joint actions covers all human beings.

The Hague Ministerial Declaration focuses on trafficking in women as the particular needs of women and acts of violence against women also require specific actions and responses, as was underlined in the Beijing Declaration of 1995. For this reason a number of initiatives have already been taken on the European level in the field of trafficking in women. These include the initiative taken by the European Commission in collaboration with the International Organization for Migration of a European Conference on Trafficking in Women in Vienna (June 1996). This resulted in the Communication on Trafficking in Women for the Purpose of Sexual Exploitation to the Council and to the European Parliament of November 1996, following up the recommendations of the Vienna Conference.

In line with the need for a joint and co-ordinated approach within the member States of the European Union and building on the above-mentioned initiatives, the following Declaration aims to present a set of coherent and concrete measures. This Declaration covers both the field of Equal Opportunities for Women and Men, and the field of Justice and Home Affairs. It recommends measures at national and European level to prevent trafficking, to encourage and assist victims to report the trafficking to the police, to detect, investigate and prosecute traffickers, to provide the victims with adequate protection, appropriate assistance and support and to ensure the appropriate 'fair treatment' response on the part of the criminal justice systems.

For the purpose of this The Hague Ministerial Declaration trafficking in women relates to any behavior which facilitates the legal or illegal entry into, transit through, residence in or exit from the territory of a country, of women for the purpose of gainful sexual exploitation by means of coercion, in particular violence or threats, or deceit, abuse of authority or other pressure which is such that the person has no real and acceptable choice but to submit to the pressure or abuse involved.

Trafficking in women constitutes a flagrant violation of women human rights that can only be tackled through a multi-disciplinary and co-ordinated approach involving all concerned players, NGOs, social, judicial, law enforcement and migration authorities. It requires both national, European and international actions and co-operation. However, the main responsibility lies with the Member States. Since the role of NGOs is broadly recognized as agents for change and source of support for the women involved, they should be supported by the governments of the Member States.

The objective of the present The Hague Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in women for the Purpose of Sexual Exploitation is to encourage further action in the field of prevention, investigation and prosecution, and appropriate assistance and support in line with the existing legal and budgetary frameworks and competencies at national and European level.

This Declaration, drafted in the spirit of the Beijing Platform for Action, is without prejudice to obligations undertaken by Member States under international conventions they have ratified, inter alia, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the 1979 Convention on the Elimination of all Forms of Discrimination against women.

## **II. EUROPEAN AND INTERNATIONAL CO-OPERATION IN THE FIELD OF PREVENTION, INVESTIGATION AND PROSECUTION, APPROPRIATE ASSISTANCE AND SUPPORT**

### ***II.1 Co-operation between the EU Member States***

- Promote an active general co-operation process, in accordance with the integrated multi-disciplinary policy proposed in the Commission's Communication on trafficking in women of November 1996, among the Member States and institutions of the European Union.

- Develop a co-ordinated ongoing action to enhance co-operation, in particular in the judicial field, in accordance with the joint action of February 1997.

- Ensure close monitoring by the Justice and Home Affairs Council with a view of reaching its full implementation by the end of 1999, of the above-mentioned action and in particular the national measures relating to the criminalisation of certain types of behavior, the penalties and, where appropriate, the administrative measures, as well as the adequate investigation powers and techniques enabling the offenses to be investigated and prosecuted effectively.

- Develop exchange of information on criminal networks by making full use of the Europol drugs-unit's (EDU) facilities and its analytical support, pending the entry into force of the Europol convention.

- Make full use of existing community resources, in order to promote NGO networks at European level and NGO pilot projects for supporting victims of trafficking in the Member States and encourage the cooperation of European NGO networks and the European Commission on a regular basis.

Make full use of the STOP multi-annual Program adopted in November 1996 by the Justice and Home Affairs Council, devoted to persons responsible for combating trafficking in human beings and the sexual exploitation of children in order to fill the gap identified e.g. in the fields for data and research, dissemination of information between authorities and training.

### ***II.2 Cooperation between EU Member States and candidate countries***

Improve co-operation with the candidate countries in the framework of the structured dialogue, in particular in the field of Justice and Home Affairs.

Make full use of the PHARE and LIEN Programs, as well as promoting the participation of the Central Eastern European Countries in the STOP Program.

### ***II.3 Co-operation at European level and with countries of origin***

- Promote an active co-operation between Member States of the European Union, the institutions of the European Community, and the Council of Europe in order to develop a co-ordinated ongoing action to prevent and combat trafficking in women and monitor the implementation of the related policies.

- Develop existing European Community co-operation programs with countries of origin and use other existing budget lines for funding actions by NGOs, to combat trafficking in women such as assistance and social exclusion programs, and special measures facilitating reintegration in the country of origin.

#### ***II.4 Co-operation with the UN system and Interpol***

- Contribute on a regular basis, to the work of the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) by reporting on measures taken, including on the implementation of article 6 of the CEDAW Convention, and obstacles encountered in the area of combating trafficking in women and providing assistance to victims.
- Encourage and support the work in the area of trafficking in women of the UN Special Rapporteur on Violence against Women, who has explored these acts as one of the causes of violation of the human rights and fundamental freedoms of women and girls, providing her with all relevant information.
- Make full use of the Interpol facilities in particular in relation to countries of origin and of transit.

### **III. ACTION TO BE TAKEN AT THE NATIONAL LEVEL IN THE FIELD OF PREVENTION, INVESTIGATION, PROSECUTION, APPROPRIATE ASSISTANCE AND SUPPORT**

Under international law every state has the duty to respect and to ensure respect for human rights, which includes:

- to prevent violations;
- to investigate violations, and take appropriate actions against the violators;
- to afford remedies and appropriate assistance to those who have been injured by such violations.

As a consequence, measures should aim at prevention, criminal investigation and prosecution, appropriate assistance and support for the women involved, including opportunities to redress. Only within the framework of an integrated approach on all levels, can trafficking in women be effectively prevented and combated.

#### **III.1 PREVENTION**

Member States' action points:

##### ***III.1.1 Information campaigns***

- Organize or encourage and support information and prevention campaigns in the countries of origin and destination aimed at clarifying the opportunities, limitations and rights in the event of migration, so as to enable women to make informed decisions and to seek help in case of trafficking.
- Promote the involvement of embassies and consulates in the countries of origin in information and prevention activities
- Programs should be developed in co-operation with NGOs, both in countries of origin and destination, where they are in the best position to reach the women involved. To this aim NGOs should be provided with effective support, inter alia through development co-operation.

##### ***III. 1.2 Training***

- Support training and capacity building programs on behalf of the police, the Judiciary and the other practitioners in the fields of legal, psychological, medical, and social assistance and promote institutional co-operation.
- Ensure training of health and other professionals in order to enable them to recognize and treat victims of trafficking adequately.

##### ***III.1.3 Co-operation with countries of origin***

- Promote through multilateral and bilateral agreements with countries of origin the improvement of women's social, economic and legal status in the countries of origin,

by providing support to government agencies and NGOs that work towards the empowerment of women.

- Support appropriate training and capacity building programs.

- Promote and facilitate the exchange of information between relevant organizations in the countries of origin and destination.
- Provide for assistance and support programs for women of groups most at risk, including education, basic skill training, advice and counseling for employment opportunities, and exchange of best practices, in countries of origin.

#### ***III.1.4 National Rapporteurs***

- Provide or explore the possibilities for the appointment of national rapporteurs, who report to Governments on the scale, the prevention and combating of trafficking in women.
- Develop criteria for reporting on the scale, nature and mechanisms of trafficking in women and the effectiveness of policies and measures concerning this phenomena.
- Encourage the cooperation of national rapporteurs on a regular basis.

#### ***III.1.5 Research***

- Initiate, encourage and support policy-oriented research, in particular through the STOP programme, based on the minimum definitions as formulated above so as to collect comparable data with regard to 1) the scale, nature and mechanisms of trafficking in women; 2) the needs and perspectives of the women involved, and 3) the effects of policies and measures, considering that it is generally agreed that trafficking in women is a substantial problem and that there is a lack of (comparable) information, including information on the impact of measures, caused among others by the different definitions employed.
- Encourage and support co-operation in policy-oriented research activities so as to ensure comparability of data on European and International level.

### **III.2 INVESTIGATION AND PROSECUTION**

Investigation and prosecution of trafficking in women must be targeted at offenders and not at those who are the victims of such practices.

A critical condition to an effective detection, investigation and prosecution of traffickers is the readiness of the women concerned to report to the police and act as a witness.

Practice shows that women often refrain from reporting to the authorities, as women are faced with arrest, detention and expulsion as illegal aliens and/or prostitutes.

Therefore there is a need for measures to encourage and assist victims to report to the police against their offenders and to act as a witness, to upgrade and ensure the appropriate 'fair treatment' response on the part of criminal justice systems, e.g. through the development of specific guidelines for the police and public prosecutors, and to train and educate the police and other judicial officials dealing with victims of trafficking.

Member States' action points:

#### ***III.2.1 Measures to encourage and assist victims to report to the police and to act as a witness***

- Provide, in appropriate cases, where compatible with national law, a temporary residence status during criminal proceedings pursuant to having been victim of trafficking 10 enable women to make a complaint to the police and to be available where required by the Member States' criminal justice system. During this time they should have access 10 social, medical, financial and legal assistance.
- Enable victims of trafficking in women to defend their interest during criminal proceedings by providing for legal advice and/or other appropriate assistance, and for competent and qualified translators.
- Provide for adequate victim support, including safe shelter, medical and social assistance, counseling in their mother language or in another language which they understand and speak sufficiently, and adequate financial support.
- Ensure that no action, including detention, is taken for immigration reasons, which might undermine the value of victims of trafficking as witnesses in criminal proceedings.

- Encourage and support the development of co-operation between the victims, law-enforcement agencies and NGOs who assist victims.

### ***III.2.2 Measures to upgrade and ensure the appropriate fair treatment ' response on the part of criminal justice systems***

- Ensure that all practitioners involved in any capacity with criminal justice processes are aware of the need to take action to remove gender bias and discrimination and strengthen the position of women.

- Enable that, with the agreement of the victims, female practitioners are employed to the extent possible on various capacities dealing with female victimization.

- Protect witnesses who provide information concerning trafficking in women against all forms of direct and indirect threat, pressure or intimidation and ensure proper and effective protection of witnesses before, during and after criminal proceedings, where the competent authorities deem this necessary and extend this protection also to the parents, children and other close relatives of the witnesses if necessary in order to avoid any form of indirect pressure.

- Allow, if the threat is extremely serious, a change of identity for the witness and, if necessary, for members of the immediate family.

- Promote the notification of victims, upon their request, of any form of release of the perpetrator at any time after the perpetrator was arrested or taken into custody during official proceedings.

- Promote women's safety and respect for her integrity during the criminal proceedings on trafficking and prosecution.

- Develop methods of investigation, detection and the gathering of evidence that are not gender-biased and do not overburden the victim.

- Ensure that the public prosecution and the police promote that the personal history, the alleged character or the current or previous occupation of the victim shall not be used in itself against her nor serve as a reason to disqualify the victim's complaint.

- Promote that the privacy of the victim is protected by guaranteeing that the victim's history of her being trafficked shall not of itself be used against her, particularly with regard to the right to freedom of travel, marriage, search for gainful employment.

### ***III.2.3 Measures to improve the repression of trafficking in women***

- Ensure that the training and educational programmes for authorities responsible for combating trafficking in women, such as Ministerial Departments, police services, the judicial authorities, visa issuing authorities as well as public bodies with special responsibilities in this area, take due account of the special situation and needs of women victims of trafficking.

- Ensure the availability of police personnel competent to deal with the complexities and victim sensitivities involved in this type of criminality.

- Ensure, as far as reasonably practicable, women's access of female police officers.

- Ensure that information concerning persons convicted of offences relating to trafficking in women, and information which could be useful for the investigation and prosecution of such offences, is organized in a way which is accessible and can be effectively used and exchanged with other States. In that context, the feasibility of a specialized data-base could be examined with regards to legislation and police practice and procedures for every Member State, including data concerning court cases, investigated cases and means of investigation.

- Adopt measures that will make possible:

- the confiscation, where appropriate, of the instruments and proceeds of trafficking in women;

- where appropriate and as provided by the administrative or criminal law of the Member States, the temporary or permanent closure of establishments, which have been used or intended for trafficking in women.

### **III.3 APPROPRIATE ASSISTANCE AND SUPPORT**

Trafficking in women may have major consequences for the women involved both material and non-material, which are not accommodated by criminal investigation and prosecution of the offender.

Appropriate assistance and support not only serve to remove or redress the consequences but also, by strengthening the position of women, contribute to the prevention and deterrence of trafficking.

Member States' action points:

#### ***III.3.1 Information***

Provide information about access to health care and to social services for the women involved and about available procedures for compensation through public and private mechanisms.