

COMMUNICATION AND COOPERATION BETWEEN EUROPEAN UNION AUTHORITIES FIGHTING TRAFFICKING IN HUMAN BEINGS

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Abstract

Human trafficking is the equivalent of modern day slavery and it is spread across the world in various degrees and forms. Europe is not sheltered from the human trafficking business and this is the reason why during the last 20 years European authorities have intensified their fight against this phenomenon. Communication and cooperation are key to succeed in such an endeavour. Transnational anti-trafficking networks have been set by the European authorities, facilitating communication and making the fight against human trafficking more efficient. The article presents different channels of communications that European Union established for fighting trafficking in human beings.

Keywords: *human trafficking, modern slavery, transnational crime.*

1. INTRODUCTION

Human trafficking is a crime that transcends national frontiers. Victims are recruited, transported and harboured by force or deceit and exploit afterwards. Prostitution, forced labour, begging, drug trafficking, domestic servitude, removal of organs are the most common forms of exploit for human trafficking victims. Anyone can be the victim of human trafficking: women or men, children or adults.

In Europe, human trafficking varies in degrees and forms influenced by political, economic and social factors. During the last 20 years, human trafficking has become an acknowledged European reality that national and continental authorities have to deal with. Economically, human trafficking is very profitable, generating estimated gains of dozens of billions of euro annually, money that are fuelling the underground economy.

Thus, curbing and better, eradicating human trafficking in Europe has become a priority for the Council of Europe, the European Union and other European and international organizations.

However, due to the nature of this crime, fighting cannot be done without cooperation between nations. Communication of information is essential in the case of international criminal justice.

In time, the formal, diplomatic traditional channels have been replaced with less formal transnational intergovernmental criminal law networks that specialise in different operations and different phases of uncovering and sanctioning human traffickers. Usually, there are two types of networks: the coordination and support networks and the joint action networks¹. These networks not only facilitate operative actions across countries but also contribute to the development international criminal law.

2. EUROPEAN UNION NETWORKS FIGHTING HUMAN TRAFFICKING

Europe faces an ultra-active organized crime proliferating trafficking in human beings. European Union (EU) legislation in this field is considered by practitioners and theoreticians as one of the best in terms of objectives, the broad legal language and the various common criminal law tools it provides for EU member states. However, in spite of an articulated legal framework, positive results are awaited since not all member states comply with the EU directives or the provisions of the conventions in the field and, at the same time, due to the lack of sanctions for EU member states that would force them to promptly act and support the common efforts to control and ideally stop human trafficking in Europe.

The European Union Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 confirms the commitment of member

states to fight this lucrative crime with all legal and infrastructure means that it possess. Of course, the strategy does not rely solely on the application of material and procedural criminal law provisions but also on different policy instruments that are dealing with various factors that determine human trafficking on the EU territory, such as lack of democracy, of social integration, of education, of employment, discrimination, poverty, gender inequality etc.

Article 5 of the Charter of Fundamental Rights of the European Union prohibits human trafficking. Also, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victim² is the most important and comprehensive legal common instrument that the EU presently has.

EU legal efforts have also been coupled with a lot of joint actions and funding programmes in partnership with various European governments and other regional and international organizations.

The EU strategy against trafficking in human beings reveals a multi-disciplinary approach, stating as key goals: "identifying, protecting and assisting victims of trafficking; stepping up the prevention of trafficking in human beings; increased prosecution of traffickers; enhanced coordination and cooperation among key actors and policy coherence; increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings"³.

Coordination and cooperation among EU member states to eradicate human trafficking can be achieved through channels of communication that already exist at EU level. We present some of these communication channels that can make the anti-trafficking fight efficient and versatile.

One of the results of the 2002 Brussels Conference on Preventing and Combating Trafficking in Human Beings⁴ was to organize a group of experts, operating under the authority of the European Commission. The body was founded in 2003 by Commission Decision 2003/209/EC and it was initially composed of 20 members selected from EU member states' administrations (seven), candidate countries (four) and representatives of international and

intergovernmental organizations, and NGOs (nine).

The Anti-trafficking Expert Group mission is to substantially contribute to the creation and implementation of specific measures for prevention and combating human trafficking initiated by the European Commission. Thus, the experts will offer recommendations, opinions and reports on their own initiative or at the request of the Commission, in the hope of finding the best solutions to discourage human trafficking in the region and also at global level.

Following the two waves of accession to the European Union and the extension of the European regulations, the European Commission has reorganized its expert group on human trafficking by Decision 2007/675/EC. The group included as well specialists in trafficking for sexual exploitation and labour exploitation. Also, the group composition has also been changed, adding a Europol specialist on human trafficking cases and two academics, experts in analyzing trafficking in human beings.

In 2007, the expert group published a manual (*Trafficking in Human Beings: Time for Action*) on measures of prevention and combating human trafficking and the protection of victims. In fact, the manual summarises the answers of EU member states given to 55 questions formulated by the expert group. The answers to these questions were evaluated by the experts based on their outcome and on their impact on anti-trafficking policies⁵. The experts are in constant interaction with member states' authorities specialised in fighting human trafficking, providing guidance and quantifying the best practices in the field.

Besides the expert group, several coordination and support transnational anti-trafficking networks have been created, dealing exclusively with the investigation, prosecution and judicial aspects of human trafficking cases. These networks are Europol, Eurojust and the European Judicial Network. They provide the much needed direct and less formal channels of communications between the national specialised anti-trafficking structures of EU member states.

In 1995, Europol has been created on the original structure of the European Drug Unit at

the initiative of the European Council⁶. Europol has, among other things, an important role in preventing and combating “illegal migration and human trafficking”⁷, being empowered to ensure communication and to coordinate cooperation between member states’ corresponding authorities.

In achieving this mission, Europol’s main functions are: facilitating the exchange of information between member states; obtaining, completing and analyzing information; promptly providing information to member states in the ongoing investigations and maintaining a computerized data collection system; providing expert help in investigating criminal cases; promoting the harmonization of techniques for investigating crimes at European Union level. In fact, its most important function is to collect and analyze data provided by the national police forces of member states. In other words, Europol directs the exchange of information on crime at EU level, including on trafficking in human beings, ensuring communication at all times.

In 1997, through the establishment of the Action Plan on Combating Organized Crime in the European Union, Europol has strengthened its leadership role in the field, extending its jurisdiction over trans-national human trafficking crimes committed only by organized criminal groups.

Two years later, in Tampere, the European Council decided to add a complementary body to the Europol, a functional unit designed to coordinate judicial cooperation in preventing and combating crimes committed by organized criminal groups. Thus, Eurojust emerged as the first permanent international judicial network in the world. It is composed of prosecutors, judges and police officers delegated as representatives by EU member states. The decision of the European Council⁸ expressly states that this permanent network will also ensure communication and coordination in investigating human trafficking cases, taking specific measures on extradition and letters rogatory.

The role of Eurojust is underlined by its main activities: to stimulate and improve the coordination of investigations, including criminal ones, and their specific activities conducted by the national authorities of member states; to

provide information requested by member states; to improve communication and cooperation between member states by facilitating mutual legal assistance and solving extradition requests; and to assist the investigation of crimes committed by organized criminal groups, including human trafficking cases.

Also, the European Judicial Network is a EU structure operating in a more flexible and less bureaucratic and formal way than Eurojust. It was also created after the enactment of the Action Plan on Combating Organized Crime in the European Union. The network became operational in 1998.

This structure is actually the first EU network meant to ensure judicial cooperation. Its specific mission is to identify and to bring together experts from EU member states, persons who are engaged in judicial activities, particularly magistrates, and who know the rigors of international judicial cooperation in order to be able to honour requests for mutual legal assistance.

Providing direct contact between the competent judicial authorities of the member states through this network, without government intermediaries, proves that EU authorities are focusing more on the principle of celerity of justice, specifically, in our case, detecting and punishing human trafficking crimes as fast and as efficient as possible.

Also, another advantage of having such a network is knowing *a priori* the corresponding judicial authorities of each Member State and their equivalent legal competences, advantage that equally supports the expedience of judicial activities.

Aiming to create solid operational structures able to effectively enable the fight against human trafficking and other transnational crimes, the European Council is also the initiator of many judicial personnel exchange programmes meant to provide professional training and expertise in combating organized crime⁹.

To these networks that facilitate direct communication and cooperation between member states’ specialised operatives we can add the European Court of Justice as another common judicial structure meant to ensure freedom, security and justice in the European Union.

Article 35 of the EU Treaty of Amsterdam¹⁰ first established the competence of the European Court of Justice in relation to intergovernmental cooperation in police and judicial matters stipulated in Title VI of the Treaty.

The powers of European Court of Justice are extremely limited when it comes to human trafficking cases. Extending the Court's jurisdiction over cases relating to EU members states' national criminal matters that are also impacting on the control of crime in the region could pave the way for European justice in cases of trafficking in human beings, particularly those of transnational nature. This would actually imply a cession of national courts' prerogatives to the European Court in certain criminal cases and, as a consequence, recognizing and enforcing the decisions on criminal matters given by supranational courts. We believe that by extending the jurisdiction of the European Court of Justice over transnational crimes, including human trafficking, criminal justice in the EU will better serve its purpose.

Another structure created to indirectly facilitate communication and cooperation in criminal matters between European Union members is Frontex. Frontex is a specialized independent agency that coordinates member states' cooperation activities in the field of border security. The agency uses an integrated border management, which also focuses on detection of cross-border crimes. One of its key activities is evaluating potential security risks on European Union territory and at its borders by analysing and assessing latent threats and vulnerabilities and predicting their consequences. Especially today, when the European Union is facing an unprecedented migration crisis, Frontex has to prove its efficiency in preventing and combating security risks, including crimes such as smuggling and trafficking in human beings.

The information provided by the agency is essential to the success of preventing and combating human trafficking, imposing quantitative and qualitative adjustments to such actions. Also, Frontex provides specialized training for personnel and customs workers in order to catch human traffickers and also to identify and assist human trafficking victims¹¹.

Frontex collaboration with national agencies in the field, with Europol, Interpol, International Labour Organization, United Nations High Commissioner for Refugees and with other governmental and non-governmental organizations has strengthened the agencies' actions against human trafficking, proving that only communication and cooperation could lead to significant results in preventing and combating this type of crime in Europe.

3. CONCLUSIONS

The European Union territory has always been recruitment ground or destination for human trafficking victims. During the last two decades, the fight against human trafficking in the region has intensified. Member states have finally understood that only acting together against this form of modern slavery will curb or even eradicate trafficking in human beings.

Different channels of communication have been created together with the establishment of coordination networks and operating procedures in various fields of expertise that are impacting directly or indirectly on anti-trafficking fight. Thus, trans-national cooperation in criminal cases at EU level has become possible. Problems caused mainly by differences in national criminal procedural law rules were mostly overcome. In time, the difficulty of identifying the corresponding national competent authorities, the lack of information concerning the functioning of EU members' national justice systems or the formalities to be completed or hierarchies to be followed have been slowly managed by EU trans-national specialised networks. However, the success of these structures will always largely depend on constant communication and cooperation between EU members' national authorities in charge of investigating, prosecuting and sanctioning crimes, including trafficking in human beings.

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