"Non dare mai alla gente i tuoi dati personali: il tuo indirizzo, il nome della tua scuola, le tue fotografie, le password che usi.
Potrebbero avere cattive intenzioni!"
"Se vedi una cosa proprio brutta o se qualcuno ti dà fastidio online, non pensare che è colpa tua. Dillo subito ai tuoi genitori."
Fonte: www.net-consumers.org
(23) Codice deontologico dei prestatori di servizi Internet irlandesi, punto 5.1.1, p. 11; consultabile sul sito www.iab.ie/Publications/ Reports/d33.PDF

COUNCIL OF EUROPE CONSEIL DE L'EUROPE
Committee of Ministers
Comité des Ministres

Ministers' Deputies

CM Documents

CM/AS(2003)Rec1551 final 22 April 2003

Building a 21st century society with and for children: follow-up to the European strategy for children (Recommendation 1286 (1996)) Parliamentary Assembly Recommendation 1551 (2002)

(Reply adopted by the Committee of Ministers on 16 April 2003 at the 837th meeting of the Ministers' Deputies)

1. The Committee of Ministers wishes to express its satisfaction that the Parliamentary Assembly, in its Recommendation 1551 (2002) "Building a twenty-first century society with and for children: follow-up to the European strategy for children (Recommendation 1286 (1996))", is showing such commitment and determination to work for the benefit of children and for better protection of children in Europe. It shares the concerns which are at the basis of the Recommendation prepared by the Parliamentary Assembly. It considers it to be of great importance that states live up to their commitments with respect to the protection of children's rights, as contained in particular in the United Nations' Convention on the Rights of the Child.

2. The Committee of Ministers would like to underline that a considerable work has already been carried out by the Council of Europe in the field of child protection and children's rights, some of which will be referred to below. In order to reply to the Recommendation it has requested and received opinions from the European Committee on Legal Co-operation (CDCJ), which consulted the Committee of Experts on Family Law (CJ-FA), and the European Committee for Social Cohesion (CDCS). The opinions are appended to this reply.

A binding action plan (paragraph 3 of the Recommendation) and a binding legal instrument concerning the rights of children (paragraph 4)

3. With regard to the preparation of a binding action plan and a binding legal instrument concerning the rights of children, the Committee of Ministers would like to underline the importance of making greater use of the existing texts and in particular the United Nations Convention on the Rights of the Child and the reporting mechanism set up under Article 44 of this Convention. It encourages member states to ratify the European Convention on the exercise of children's rights (ETS No.160), which so far has only been ratified by eight states (see also paragraphs 18 and 19 below). It also encourages them to sign the Convention on contact concerning children, which will be opened for signature on the occasion of the next ministerial session on 15 May 2003.

4. The Committee of Ministers also recalls the contribution made by the Council of Europe to the Second World Congress against commercial sexual exploitation of children ("Yokohama Congress", 17-20 December 2001), namely Recommendation Rec(2001)16 of the Committee of Ministers to member states on the protection of children against sexual exploitation, the European Action Plan to combat sexual exploitation, drawn up at a regional meeting held in Budapest on 20 and 21 November 2001 and the Convention on Cybercrime (Article 9 of which contains provisions to combat child pornography on the Internet). It recalls that an Explanatory Declaration based on the regional action plan and on Recommendation Rec(2001)16, prepared and published by the European States, was appended to the "Global commitment" adopted by the Yokohama Conference on 20 December 2001.

Compatibility of national legislation with the UN Convention on the Rights of the Child (paragraph 4 i)

5. The Committee of Ministers underlines that, as is the usual practice, member states of the Council of Europe have already, before ratifying the United Nations Convention on the Rights of the Child, examined the compatibility of their legislation with the Convention and have, where necessary, revised it.

6. Furthermore, it underlines that the Committee on the Rights of the Child, set up under the United Nations Convention (Article 43), has the task to consider reports submitted by States Parties and to evaluate and consider the optimal implementation of the Convention and make suggestions to Parties to make sure that their domestic legislation is compatible with the provisions of the Convention. As the CJCD has pointed out, the UN Committee is the most appropriate body to deal with the matters referred to in paragraph 4 i of the recommendation.

National structures for the protection of children's rights (paragraph 4 iii, vi-viii)

7. The Committee of Ministers notes in particular that the European Convention on the exercise of children's rights already contains provisions concerning the bodies, which could promote the exercise of children's rights (Article 12). It considers that it should be left to states to decide upon the nature of the structure and the functions of bodies such as national ministers of children's rights (paragraph 4 iii of the recommendation), permanent inter-ministerial bodies at a national level (paragraph 4 vi), national ombudsmen for children (or similar independent institutions) (paragraph 4 vii) and the national children's observatories (paragraph 4 viii).

8. However, being aware that discussions are continuing in many member states on the nature and duties of the new bodies that are needed at national level to actively promote the exercise of children's rights, the Committee of Ministers notes the availability of the Forum for Children and Families to launch a multisectorial and multidisciplinary debate on the advantages and drawbacks of various solutions already being implemented in different member states.

9. The Committee of Ministers observes that the important Standing Committee of the European Convention on the exercise of children's rights (Chapter III of the Convention) will hold its first meeting in 2004. This Standing Committee has the task to keep under review problems relating to the Convention and in particular may consider any relevant questions concerning the interpretation or implementation of the Convention and may make recommendations, propose amendments to the Convention and provide advice and assistance to national bodies dealing with the exercise of children's rights.

10. Therefore, the Committee of Ministers considers that many of the tasks proposed under paragraphs 3 and 4 of the recommendation might be carried out, if necessary, by the existing machinery set up under the United Nations Convention (i.e. the Committee on the Rights of the Child) and under the European Convention on the exercise of children's rights (i.e. the Standing Committee).

European children's ombudsman (paragraph 5 i)

11. As to the institution of a children's ombudsman in the Council of Europe, the Committee of Ministers notes the strong hesitation expressed by the CJ-FA. Like the CDCS, the Committee of Ministers considers that the advantages of such an institution must be examined carefully as must its possible powers as compared with the other international bodies responsible for children's issues, for children's rights and for child welfare. It considers that in the immediate future, the priority must be to strengthen existing bodies and to ensure that they have sufficient funding to carry out their activities.

A European Convention on Children's Rights (paragraph 6)

12. The rights of children are protected by the European Convention on Human Rights, which applies to all children in member states of the Council of Europe. They are also protected by the European Social Charter and the Revised European Social Charter. In addition, in order to give greater effect to the United Nations Convention on the Rights of the Child and, in particular Article 4 which requires parties to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the UN Convention, the Council of Europe prepared the European Convention on the exercise of children's rights (ETS No. 160) and the Convention on contact concerning children.

13. Therefore, the Committee of Ministers considers that it is not necessary, at the present time, to draft a European Convention on Children's Rights nor to include such rights in the European Convention on Human Rights (see also paragraph 10 above). The various proposals set out in the Recommendation (paragraphs 2, 3 and 4) have more to do with putting existing commitments into practice than with any lack of legal rules.

European data centre on missing children (paragraph 7)

14. The Committee of Ministers considers that before setting up a new computerised European data centre on missing children, consideration should be given, if necessary, to the strengthening of the role of and access to existing data centres (for example the Interpol data base of missing and abducted children covering 181 states) and to greater co-operation between such centres.

The Forum for Children and Families

15. The Committee of Ministers is of the opinion that greater emphasis should be put on political measures and recommendations to encourage effective implementation of the rules on children's rights. It recalls that the Council of Europe has a special body responsible for such matters, namely the Forum for Children and Families. It comprises a number of operators in the child welfare field and several young people, while being a CDCS consultative body, and it is already serving as an informal European children's observatory.

16. The Committee of Ministers notes that a European Union informal group of experts, "Children's Europe", has recently created a mechanism for information and data exchange through the Network of Observatories for Child Policy. It would like to explore the possibility of establishing links between the European Union, the Committee on Children's Rights set up under Article 43 of the United Nations Convention, and the Council of Europe before exploring the possibility of setting up an observatory in the Council of Europe, which could be liable to duplicate work in these other two bodies.

17. As the Forum for Children and Families provides unique opportunities for exchange and co-ordination among the main actors in the field of policies on children and families, it should forge even closer and more effective links with the other bodies in order to improve its capacity for advising, inspiring and guiding policies and measures in the interest of children and families in Europe. Being convinced of the interdependence of all policies in the social cohesion field, the Committee of Ministers would call upon all Council of Europe steering committees to make maximum use of the Forum for Children and Families.

18. The social sector prioritises development of national policies by means of very specific studies and recommendations and through co-operation among the different countries and competent institutions, including the non-governmental organisations actively involved in this particular field. The Forum might, moreover, provide liaison facilities for the national structures of the United Nations Convention on the Rights of the Child.

19. The Committee of Ministers notes that for these reasons, the CDCS points out that upgrading the Forum's status, along the lines of Paragraph 5 ii of the recommendation, would be an extremely welcome move. It also notes that if it had greater human and financial resources the Forum could, in particular, more regularly involve those member states which most need its facilities and which are expressing an interest in this form of co-operation.

20. The Committee of Ministers is aware that the Forum for Children and Families is a flexible Council of Europe instrument which could achieve a desired higher profile by conducting longer-term activities with appropriate and reliable resources. This new approach could take the form of practical programmes in specified member states, conferences and seminars, reports widely distributed through various technological channels, etc.

21. The Committee of Ministers will study the various possibilities and proposals referred to in the opinion of the CDCS in the context of the renewal of the terms of reference of the Forum for Children and Families, which is due to expire at the end of 2003.

Final remarks

22. In conclusion, the Committee of Ministers would like to underline that in its view the vast majority of Council of Europe activities have a direct or indirect impact on the lives of children. In fact, the political message sent by the Committee of Ministers to the Special Session of the United Nations General Assembly on Children (New York, May 2002) provides confirmation of this, and also commits the Organisation to continue promoting children's rights and interests.

I

(*Comunicazioni*)

CONSIGLIO

CONCLUSIONI DEL CONSIGLIO

dell'8 maggio 2003

(2003/C 137/01)

IL CONSIGLIO:

1) prende atto della dichiarazione di Bruxelles [1] fatta in occasione della Conferenza europea sulla prevenzione e la lotta alla tratta di esseri umani — una sfida globale per il XXI secolo, tenutasi il 18-20 settembre 2002;

2) si compiace per l'approccio generale dato nel documento alla prevenzione e alla lotta contro la piaga della tratta di esseri umani;

3) raccomanda agli Stati membri di:

   a) adottare, al più presto possibile, le misure appropriate per consentire il deposito degli strumenti di ratifica della convenzione delle Nazioni Unite contro la criminalità organizzata transnazionale, del protocollo addizionale della convenzione delle Nazioni Unite contro la criminalità organizzata transnazionale per prevenire, reprimere e punire la tratta di persone, in particolare di donne e bambini, e del protocollo addizionale della convenzione delle Nazioni Unite contro la criminalità organizzata transnazionale per combattere il traffico di migranti via terra, via mare e via aria;

   b) attuare al più presto possibile, entro il 1° agosto 2004, la decisione quadro sulla tratta degli esseri umani;

4) conviene di esaminare proposte appropriate relative all'attuazione di elementi specifici contenuti nella dichiarazione sulla prevenzione e la lotta alla tratta di esseri umani;

5) rileva che la Commissione contribuirà all'elaborazione di un piano d'azione per l'attuazione degli obiettivi della dichiarazione;

6) in considerazione di quanto precede, esorta gli Stati membri a considerare i seguenti punti come priorità politica:

   a) fatti salvi i progressi compiuti nell'elaborazione di uno studio di fattibilità nell'ambito dei lavori per lo sviluppo del sistema di informazione Schengen II, creare, in collaborazione con organi come l'Interpol, l'Europol e l'Eurojust, una base di dati europea sulle persone scomparse, che includa dettagli specificamente registrati sulle persone scomparse ritenute vittime di trafficanti di esseri umani;

   b) assicurare misure adeguate in modo che, una volta scoperte prassi illegali finalizzate alla tratta di esseri umani, cioè nell'ambito di agenzie di collocamento e agenzie di viaggio, possano essere imposte sanzioni adeguate;

   c) intensificare la cooperazione giudiziaria e di polizia con i pertinenti paesi terzi confinanti con l'Unione europea;

   d) continuare a elaborare adeguate misure di sostegno per proteggere le vittime della tratta e in particolare le donne e i bambini; tale assistenza dovrebbe essere fornita, ove opportuno, in stretta collaborazione tra le autorità statali e le organizzazioni indipendenti specializzate (ONG); incoraggiare l'ulteriore sviluppo della condivisione delle migliori pratiche.

[1] Cfr. pagina 2 della presente Gazzetta ufficiale.

BRUSSELS DECLARATION ON PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS (*)

The European Conference on preventing and combating trafficking in human beings, global challenge for the 21st Century, brought together on 18 to 20 September 2002, the EU Member States, candidate countries, neighbouring countries such as Russia, the Ukraine, the NIS, and the countries of the stabilisation and association process as well as US, Canada, China, regions, international organisations (IOs), intergovernmental organisations (IGOs), non-governmental organisations (NGOs) and the institutions of the European Union. More than 1 000 representatives of the abovementioned sectors participated.

Initiated by the European Commission under the STOP II Programme, which was set up to financially support actions to fight and prevent trafficking in human beings and the sexual exploitation of children, the Conference was organised by the International Organisation for Migration (IOM), in close cooperation with the European Parliament and the European Commission, and supported by a broad range of interested parties and participants, in particular those governments that hosted preparatory meetings.

The overarching objective of the Conference was to provide an opportunity to take stock of trends in human trafficking and a European policy to respond to a challenge that risks undermining our fundamental values and the full realisation of an area of freedom, security and justice.

The Conference was built on the vast experience gathered so far in the fight against trafficking in human beings, including legislative initiatives, numerous workshops, conferences and meetings on how to improve the intergovernmental and inter-institutional cooperation, projects, and policy implementation at European level and beyond. After some years of development of a comprehensive policy, the Conference provided yet another important milestone in the fight against human trafficking which invited actors to take the next crucial steps towards reinforcing efforts to implement best practices identified in a comprehensive and coordinated European approach.

Trafficking in human beings is an abhorrent and worrying phenomenon involving coercive sexual exploitation, labour exploitation in conditions akin to slavery, exploitation in begging and juvenile delinquency as well as domestic servitude. These practices constitute serious violations of the victims' human rights as enshrined in international law and the EU Charter on Fundamental Rights. Trafficking in human beings has been identified as a criminal activity increasingly penetrated by transnational organised crime that generates substantial illicit proceeds, often laundered and fed into licit markets, with a too low risk of prosecution and confiscation.

The international community, including institutions at local, regional and governmental level, NGOs, IOs, IGOs, and the EU institutions are called upon to match up to the challenges posed by this international crime phenomenon with all its repellent aspects and to provide an unambiguous and comprehensive response, at national, European and international levels, working towards a comprehensive, multidisciplinary and effectively coordinated policy that involves actors from all fields concerned. Such an unambiguous response must be consistent with, and indeed put at the front, human rights standards such as the Principles and Guidelines elaborated by the UN High Commissioner for Human Rights, and must give particular attention to trafficking in children taking into account their best interest and the consistency with international instruments on children's rights.

The comprehensive European policy against human trafficking needs to address the entire trafficking chain, comprising countries of origin, transit and destination alike, targeting recruiters, people who transport the victims, exploiters, other intermediaries, clients, and beneficiaries. Also the development of a broader policy on migration management can offer a substantial contribution in reducing and preventing trafficking in human beings. Furthermore, root causes of trafficking, not least including unemployment, poverty, gender inequalities, including the status of girls, social and cultural attitudes, and the demand for sexual services, cheap labour and other forms of exploitation must continue to be at the forefront of the long-term efforts to fight human trafficking effectively. A global approach to trafficking must address all forms of exploitation, including sexual exploitation, labour exploitation, in particular child labour, and begging.

The Brussels Declaration, prepared in the spirit of contributions submitted in the preparations of the Conference and in the spirit of contributions made at the Conference, aims at further developing European and international cooperation, concrete measures, standards, best practices and mechanisms to prevent and combat trafficking in human beings.

The coalition of committed governments, international bodies and NGOs is called upon to take concrete measures and to intensify cooperation in the fields of prevention, victim protection and assistance, and police and judicial cooperation, in particular with a view to achieving a swift and sustainable reduction of trafficking in human beings.

Representatives from the countries, organisations and sectors mentioned above, underlined their intention to develop the work against trafficking in human beings on the basis of the draft recommendations, standards and best practices of the Annex to this Brussels Declaration on preventing and combating trafficking in human beings.

(*) Il testo della dicharazione esiste solo in inglese.

ANNEX

RECOMMENDATIONS, STANDARDS & BEST PRACTICES

MECHANISMS FOR COOPERATION AND COORDINATION

1. International coordination and exchange of information

— All international bodies, governments and other actors internationally active to fight and prevent trafficking in human beings, should intensify their cooperation and exchange of information with a view to achieving a better coordinated response, to avoid overlaps and duplications of work, and to maximise the impact of actions taken at international level. Governments should ensure that all IOs and IGOs that play a significant role in the fight against trafficking have adequate resources to fulfil their mandate. Imperative for improved cooperation is, furthermore, to put into to practice international instruments in place and to further develop action plans that provide pragmatic and concrete solutions for cooperation that should be evaluated and followed-up.

— For the European Union, particular emphasis should be put on further efforts to continue the integration of candidate countries into the structures for cooperation against trafficking in human beings. The relation between the European Union and other countries such as non-EU Member States of the Council of Europe and other relevant countries should be given increased attention.

— In the field of law enforcement and judicial cooperation, direct contacts between competent authorities should be further promoted and take precedence over the use of complex procedures and structures.

2. European Experts Group and national structures

— The validity and performance of standards and best practices of the counter-trafficking policy at the national and international levels should be subjected to review, consolidation and development. At European level, an Experts Group, comprising representatives from governments, IGOs, NGOs, international bodies, researchers, the private sector such as the transport sector, and other stakeholders should be set up by the European Commission.

— At national level, a systematic mechanism, such as the appointment of national rapporteurs and/or regular multi-disciplinary group meetings, would support a regular evaluation, monitoring and further improvement in the implementation of national policies. Links between such mechanisms should be established at European level, in close cooperation with the EU institutions, Europol, the European Judicial Network, Eurojust, and CEPOL.

3. The European Forum on prevention of organised crime

— In addition to the setting up of an European Experts Group on trafficking, the European Commission should intensify its efforts to enhance and deepen inter-institutional dialogue and cooperation under its European Forum on prevention of organised crime, in particular with a view to continuing the identification of appropriate measures against trafficking in human beings and intensifying the dialogue between public and non-governmental actors on the basis of a consultation mechanism to be established. The objective would be to establish a European policy that comprises a continuous and transparent process of policy review, consolidation and further development of approaches and instruments in the fight against trafficking in human beings. For this purpose, a dedicated subgroup of the European Forum on prevention of organised crime should be set up. The European Forum on the fight against trafficking in human beings should be convened without delay to continue its important work and to commence the follow-up to this Declaration.

4. Strengthening European networking on victim assistance

— All organisations involved in the provision of assistance to victims should further develop networking and exchanges with a view to ensure the promulgation and implementation of best practices, including accessibility of information on the availability of both governmental and non-governmental facilities and resources, «safe house» accommodation and specialist support measures. Such networking of especially the NGO sector should also be used to facilitate the dialogue with the relevant European institutions. Intensified networking will also play a critical role in return programmes for victims of trafficking. In addition, the IO- IGO-NGO sector and others involved in the assistance to victims should make efforts to ensure the management and quality of the assistance to and protection of victims that is provided, for instance through the development of a self-assessment framework, to be further elaborated and supported under the European Forum on the fight against trafficking in human beings.

5. European database of missing persons

— A feasibility study should be conducted on the establishment of a European database for missing persons, in conjunction with Interpol and Europol, which would include specifically recorded details of missing persons that are believed to be the victims of traffickers. Such a database would be of critical importance in the context of unaccompanied minors that become child trafficking victims.

6. Mobilising EU-instruments

— Instruments used in cooperation with government authorities or in supporting local NGOs and civil society should be further developed with all countries of origin, transit and destination. The Tacis and Phare programmes have retained attention to the problem of trafficking in human beings. The CARDS programme for the Balkans includes the fight against trafficking as a strategic objective.

All these programmes are also important in view of their broader aims that will contribute to the long-term efforts to address the root causes of trafficking in human beings.

— Jointly financed and implemented actions against trafficking in human beings, such as the joint EU/US information campaigns, should be further considered and implemented.

— Specifically in the field of justice and home affairs, the Framework Programme on police and judicial cooperation in criminal matters (AGIS) should be fully utilised to augment the achievements under the STOP and STOP II Programmes and the implementation of a comprehensive European policy against trafficking in human beings.

— Trafficking in human beings should be included on the social agenda in Europe.

PREVENTION OF TRAFFICKING IN HUMAN BEINGS

7. Root causes

— An essential aspect of a human rights based approach to trafficking in human beings is to put emphasis on gender perspectives. A European counter trafficking strategy should include the combating of gender-based violence and patriarchal structures that foster a favourable environment for trafficking.

— Legislation and policies on equal opportunities must protect and strengthen the legal and social position of women and children and specifically address all forms of gender discrimination.

— Support programmes should be established aiming at the full participation and empowerment of women in their societies, in particular, in educational facilities and economic life, including support to female entrepreneurship.

— Support programmes should aim at the strengthening of efforts to tackle poverty and further marginalisation, particularly amongst the most vulnerable groups of the populations, including women and the girl child, in all countries of origin, transit and destination through measures designed to improve governance, material support, social protection and employment opportunities and sustainable economic developments.

— Without confusing the fight against trafficking in human beings with the fight against illegal immigration, programmes to prevent and combat trafficking should be inserted in a global concept of migration management, therefore, taking into account all different aspects that could intervene in the migration process. It is necessary to examine ways of increasing opportunities of legal, gainful and non-exploitative labour migration in order to reduce the usage of irregular means.

— It should be an essential and common goal for the fight against trafficking to address the reduction of the demand for sexual services and cheap labour. This includes education to equal and respectful relationships between sexes, and awareness campaigns especially targeting clients.

8. Research

— In order to develop efficient and targeted prevention measures on trafficking in human beings, there is a need for improved data, research, and analysis, including on the character and scale of trafficking and the trafficking and exploitation mechanisms deployed by the organised criminal groups. A methodology should be developed that takes into account the evolving character of this form of crime into consideration. Research on this phenomenon should be a priority at European level under the sixth Research Framework Programme.

— To facilitate research and analysis, strategic, depersonalised, qualitative and quantitative data and information on all the component and structures of trafficking should be made available and exchanged on a bilateral and multilateral basis.

— A crucial component in the comprehensive counter-trafficking response will be further research and analysis of the «demand» side of the trafficking process and an examination of methods by which the demand of clients can be effectively reduced.

— Research should be developed that focuses specifically on the needs and vulnerability of children.

9. Training

— Specialised, joint training should be set up which targets police investigators, prosecutors, IO, IGO and NGO personnel, intended in particular at improving the conduct of counter-trafficking operations, the identification and rescue of trafficked victims and of their subsequent treatment by the police and criminal justice system. Moreover, the use and management of proactive, intelligence led investigative tactics should be developed. Specific specialised training modules need to focus on child trafficking, addressing the complex and special vulnerabilities of child victims.

— General, multi-disciplinary and human rights based counter-trafficking training for judicial, law enforcement, medical, education, diplomatic, immigration, IO, IGO and NGO personnel and other concerned professional groups should be developed. This training should also focus on the immediate needs and treatment of victims and of how they should be treated by the criminal justice system. It should also promote a multi-disciplinary approach by for instance specialised NGOs providing lectures at police academies.

— Specific training programmes aimed at front-line police and frontier personnel and the new recruits of both agencies should be developed that are designed to enable them to recognise the indicators of trafficking related crimes, the collection and dissemination of counter-trafficking intelligence, and to fully realise their potential to identify and rescue victims. As an integral part of increasing the ability of front line and recruit personnel to assist victims, this training should incorporate the principles of democratic policing, human rights and gender equality and should consist of elements like gender sensibility, intercultural qualification, anti-racist strategies and an overall human rights education.

— General training of international military and police peacekeepers and related civilian contractors on the subject of human trafficking and its impact on victims should be included in preparation of missions. This should include codes of conduct, identification and reporting on trafficking activity and non-involvement in any activity that adds to the exploitation of trafficked victims.

— Closer links should be developed with educators and Ministries of Education with a view to elaborating and including relevant and realistic teaching modules in school and college curricula and to informing pupils and students of human rights and gender issues. These subjects should be specifically linked to teaching young people about the modus operandi and dangers presented by trafficking crime, the opportunities for legal migration and foreign employment and of the grave risks involved in irregular migration.

10. Awareness-raising

— Awareness-raising and information campaigns should be an on-going process and not be limited to «one-off» activities in various locations.

— Awareness-raising campaigns should be aimed at relevant target groups, including potential victims, policy makers, law enforcement officers, diplomatic and consular personnel and other relevant public officials, such as medical, social services, and employment officials. They should include an overall aim towards the target groups to increase their readiness to address trafficking in human beings adequately, strengthen their institutional capacity to counter trafficking and promote the sustainability of the activities of the campaigns.

— The campaigns must be realistic and factual concerning the possibilities of legal migration and foreign employment opportunities and of the potential risks posed by the use of irregular migration methods. They should be of a multimedia format to include videos, printed material etc. To support this process, each potential State of destination should prepare briefing materials such as leaflets, brochures or videos, prepared in the language of the country concerned, addressing migration and employment opportunities within their territory. This material should be prominently displayed in the consular and visa sections of the State diplomatic missions and copies should also be enclosed in any postal visa applications.

— The perception of the problem of trafficking in human beings brought forward by media needs to include a clear explanation of the phenomenon and this explanation needs to be better developed. To maximise public knowledge and awareness of trafficking, targeted awareness raising campaigns with media professionals should be conducted, including the preparation of updated briefing or background material on trafficking crime.

— Awareness raising campaigns aiming at the «demand» side of the trafficking process should be developed as part of a comprehensive process of reducing trafficking effectively.

— Well-publicised telephone «hotlines» should be established in the countries of origin, transit and destination. These «hotlines» should serve two purposes: (i) they can act as an independent source of advice and guidance to potential victims who may be considering the merits of offers made by the traffickers, (ii) the «hotline» can be used as a «first point of contact» for trafficked victims who can then be referred to the full available range of support measures. The data protection must be guaranteed for the victims' safety.

11. Administrative controls

— Regimes and practices should be implemented to regulate and monitor agencies that frequently appear within the modus operandi of the trafficking crime. Agencies such as bridal, employment, tourist, escort, au-pair or adoption entities should be monitored by State authorities so that those that act outside of the legal requirements and practices can be identified, and, where appropriate, be subjected to adequate sanctions. This activity should include coordination with the ministerial entities responsible for international police cooperation with a view to provide early identification of those agencies that may be engaged in malpractice or actively complicit in trafficking crime.

— The security and quality of identity and travel documents must be enhanced at every stage of the trafficking process. Personnel training and equipment to detect forged or altered documents must be strengthened. A closer cooperation and exchange of information should be developed among consulates and embassies in countries of origin, transit and destination.

— Within the countries of destination, it is essential to implement measures to reduce the «invisibility of exploitation». A multi-agency programme of monitoring, administrative controls and intelligence gathering within the sex and labour markets will greatly contribute to this objective. Police, health, employment, other concerned public officials, and IO, IGO and NGO personnel should work together to impose high visibility monitoring of the sex and labour markets and to develop intelligence sources within them to provide early warning of trafficking indicators. Close liaison should be conducted with employers and workers organisations' in order to develop early warning systems of the use of illegal labour.

— Given the increasing use of the Internet within the overall modus operandi of trafficking crime, monitoring of the medium must be seen as an integral part of the reduction of the «invisibility of exploitation». Public-private partnerships with the Internet sevice providers must be further developed.

— In order to prevent trafficking for the purpose of labour exploitation, more effective measures aiming at curbing the illegal labour market and the promotion of better life and working conditions in countries of origin and destination are needed.

12. Specific recommendations to prevent the trafficking of children

— The special vulnerability and needs of child-trafficked victims is recognised and enshrined in international and national law. This must also be clearly reflected in practice. To reduce the incidence of child trafficking, specific action should be implemented such as in the field of passport and visa regulations, including the possibility to require that all children over the age of five must be in possession of their own passport and the extension of submission times for visa applications in respect of children to allow for background enquiry in the origin and destination countries. The inclusion of biometrics in issued travel documents will contribute to better identification of trafficked and missing children. Another important measure is to require carrier agents to retain the identity and travel documents of unaccompanied minors and those of children that are accompanied, but not by an immediate family member that can then be handed into the possession of the immigration authorities at the point of arrival. In addition, research and development of systems for registration of children could contribute to the prevention of trafficking in children once set up.

VICTIM PROTECTION AND ASSISTANCE

13. Immediate victim assistance

— Research and analysis must be developed to identify profiles of traffickers and trafficked victims, including the design of a matrix of key trafficking indicators for use by front-line police and border personnel to enable them to make the distinction between trafficked victims and irregular migrants.

— Victims of trafficking must be granted access to a full range of support measures that should include access to sheltered accommodation, physical, sexual and psychological health care and support and independent health, legal and social counselling. The provision of such treatment must be on a consensual and fully informed basis.

— Victims should be counselled as to the benefits of sexual health checks, but should not be subjected to mandatory testing for HIV-AIDS or other forms of sexually transmitted diseases.

— In providing such support measures, the specific and special needs of trafficked child must be addressed. As a minimum standard child victims must have access to the school system and vocational training taking into account these special needs.

— Access to and provision of shelter, protection and assistance to victims should be timely and adequately funded. In the context of trafficking, this very often means the proper funding of IO, IGO and NGO shelter functions. This would also contribute to ensure the independent status of these organisations, in particular NGOs.

— The exchanges between NGOs, social workers and others concerned with victim assistance from countries of origin, transit and destination should be developed. This would improve the understanding of the victim that would contribute to the recovery of the victim and eventually also to his or her reintegration. Those concerned with assistance to victims should also seek to involve collaborators from countries of origin in the work of their organisation.

— Trafficked victims must be recognised as victims of serious crime. Therefore they should not be re-victimised, further stigmatised, criminalised, prosecuted or held in detention centres for offences that may have been committed by the victim as part of the trafficking process.

— Where a trafficked victim is also entitled to seek asylum under the current provisions, the fact that the person is also a trafficked victim should not interfere in any way with the right to seek asylum or other available forms of residence. Victims should also be treated in accordance with the terms laid down in Article 14 of the UN Protocol on trafficking in persons.

— Protocols of minimum standards should be drawn up between law enforcement services and IOs and NGOs on the immediate treatment of trafficked victims. Without endangering the confidence a victim should have for an NGO, these standards would include at least:

  — that law enforcement officers must recognise victims of trafficking as victims of serious crime that must not be re-victimised and must treat them in accordance with their human rights and in accordance with the UN Protocol on trafficking in persons;

  — that the safety of the victims and their families is the paramount consideration;

  — that the investigator has a clear duty to conduct a continuous process of risk assessment in respect of the safety and welfare of the victims and their families at every stage of the investigative and judicial process and beyond.

14. <u>The victim as a witness</u>

— Removal of victims of trafficking should be avoided in cases where it is necessary for their protection or where they can contribute to the investigation against the traffickers.

— There is a need to identify and develop protocols to regulate the conditions under which law enforcement services have access to victims in shelters or who are otherwise being supported by the IO-IGO-NGO sector. Such protocols should include best practices that clearly define the roles and responsibilities of each side and address police visits to the shelters, the presence of an independent counsellor to represent the victim at all times, the provision of a verbal and written briefing as to the exact responsibilities and conditions under which a victim would be required to provide his/her deposition and testimony. Such protocols should also govern the exchange of intelligence between law enforcement and the IO- IGO- NGO sector and include as a minimum standard the prohibition of exchange of personalised data without the written permission of the victim. A common standard for the evaluation and dissemination of the intelligence material to be exchanged should also be agreed.

— Best practice should also be developed that allows for the presence of an independent counsellor at every stage of the investigative and criminal proceedings, facilities to provide the deposition in a video or audio format, legal protection of the confidentiality of his or her true identity and address, facilities to give his/her testimony via a video link or by other means that do not require the victim to be in the physical presence of his/her exploiter, and the full range of court support measures during the period of his/her testimony.

— On the basis of threat assessments of the risks involved for the victim witness, witness protection measures should include the provision of shelter or «safe house» accommodation, including the victim's family, change of identity with supporting documentation, relocation, access to funding, provision of security advice and brief training, and the provision of personal security equipment.

— Access to short-term residence permits for those victims that agree to cooperate with the criminal justice system of the State concerned must be made available. The proposal for a Directive (COM(2002) 71) on this topic, which will be part of the acquis once adopted, will form one of key components of a comprehensive European approach. The detailed explanation to a victim of exactly what would be required by the criminal justice system is a central part of a long enough reflection period before such a short-term residence permit is issued and should include the fact that account will taken of the victim's cooperation when that person applies for a residence permit on other grounds, once the special short-term permit has expired. The implementation of such a residence permit must be carefully monitored and evaluated to prevent the incidence of «procedure shopping» whereby the capacity to accommodate and support genuine trafficked victims is eroded by the claims of fraudulent victims. A victim should be allowed the opportunity to appeal against administrative or judicial decisions taken in the context of short-term permits of stay. Furthermore, schemes on providing short-term residence permits for social protection or humanitarian reasons should be evaluated and the feasibility of such a scheme forming part of a European policy be examined.

— Victims as witnesses and/or intelligence sources are of immense potential to the counter-trafficking response, but there are real risks involved in their deposition, testimony and/or the exchange of intelligence. Therefore, a process of continuous risk assessment should be developed with the IO, IGO or NGO providing the shelter or other form of assistance, at the point at which the victim decides to become a witness or an intelligence source.

— It will be necessary to revise current entry criteria to law enforcement witness protection measures as the majority of trafficked victims would not qualify for access as they are unable to provide essential and indispensable evidence against major «actors» in cases involving serious crime, many trafficked victims can only testify against mid-level operatives. Alternative and improved forms of witness protection should also be identified and researched.

— The development of regional witness protection programmes in which a number of States could cooperate together in the provision of safe accommodation and protection for trafficked victim-witnesses should be researched and developed. This could provide for the voluntary relocation of a victim-witness to a neutral country before and after the criminal proceedings.

— In view of the increased level of risk that will exist after the provision of evidence by a victim, there should be no forced return unless the victim has expressed a desire to return or a thorough risk assessment has been conducted that concludes that it is safe to do so.

15. Victim reintegration

— The range of victim reintegration measures should be made available to trafficked persons irrespective of whether they are being returned to their home countries or being provided with longer term residency status in the country of destination.

— Where necessary, identified victims should be provided with proper identity documents.

— In order to support the reintegration process and reduce the risk of retrafficking, reintegration programmes should be aimed at empowering the victims by developing their capacity to attain economic independence through the provision of entrepreneurial support or vocational training or job opportunities.

— Networking between IOs, IGOs, NGOs, and others involved in the provision of assistance to victims in countries of origin, transit and destination should be intensified and further developed with a view to facilitate the reintegration of victims. The reintegration of victims would also benefit from an increased level of attention from the consulates and embassies in the countries of origin and destination.

POLICE AND JUDICIAL COOPERATION

16. Legislative recommendations

— Trafficking in human beings is inadmissible and must not be facilitated by any legislative shortcomings or flaws. The law must ensure the protection of victims and witnesses, the prohibition of illicit work, the prohibition of the exploitation of the prostitution of others and monitoring and regulation of residence on national territory so that such trafficking can be combated effectively. From the viewpoint of both definition and the sentences to be handed down, it is necessary to strengthen and facilitate the fight against trafficking in human beings at the European level and beyond. Almost two years after the first signatures, the ratification and implementation, including the monitoring of implementation, of the United Nations Convention against transnational organized crime and its supplementing Protocol to prevent, suppress and punish trafficking in persons, especially women and children, must be an immediate priority for the achievement of a converged legislative platform and a basis for intensified cooperation. It must also be ensured that other relevant international instruments and conventions, such as the Optional Protocol to the Convention on the rights of the child, on the sale of children, child prostitution and child pornography, and the Convention on the elimination of all forms of discrimination against women, are ratified and properly implemented.

— A regime of adequate penalties should be introduced into national legislation for specific trafficking crimes and related offences, including offences in relation to living of the earnings of prostitution. When the offences involves children, the offence should be considered as an aggravated offence constituting a basis for more severe penalties.

— In order to identify, sequestrate and confiscate the criminal assets and proceeds of traffickers, legislative provisions should be further developed with a view to facilitate the confidential proactive and parallel investigation of the financial affairs of suspected traffickers. These provisions should include a legal duty on financial institutions to disclose suspect money laundering transactions to law enforcement agencies and should impose a strict legal duty on financial institutions not to disclose the existence of police enquiries into a suspect's financial affairs.

— With the aim to speed up exchange of information in criminal investigations and mutual legal assistance, direct contacts between competent law enforcement services and judicial authorities should form an integral part of the development of legal instruments and agreements on law enforcement and judicial cooperation. The cooperation and exchange of information on procedures and channels for law enforcement and judicial cooperation between Central Authorities and other competent authorities should be intensified. Within the EU, the Convention on Mutual Legal Assistance and its 2001 Protocol should be ratified and implemented, a process that should be supplemented with the elaboration of practical arrangements to ensure the fullest possible use of the instruments.

— Specific criminal offences of engaging in any form of witness intimidation or other forms of perverting or interfering with the course of justice in respect of trafficking cases should be developed where they do not already exist. National legislation should also provide the possibility for the victim-witness to give evidence in a place other than that in which the person being prosecuted is situated through the use of audio-visual methods or other facilities within a court. Specific attention should be given to the particularly vulnerable position of children in judicial proceedings.

— National legislation must ensure the victims right to seek and secure compensation for the injuries and harm they have suffered.

— The implementation of the provisions of the EU Framework Decision on combating trafficking in human beings and the standing of victims in criminal proceedings, both of which are part of the acquis, should be thoroughly evaluated. Identified gaps and lacunae in the implementation should be followed up by legislative initiatives with clearer legal obligations for implementation.

17. Specialisation and exchange measures

— It is imperative for the development of a European response to trafficking, and indeed the threat from organised crime, to pay increased attention to the potential of the practitioners. European and international structures and instruments should be used to their full potential and full support should be ensured to the practical day-to-day cooperation among investigating magistrates, prosecutors and law enforcement officers in their efforts to dismantle the international criminal networks involved.

— Specialised, joint investigative teams of investigators and prosecutors should be set up within each State to improve the professionalism of trafficking investigations and service to victims and to improve the rate of conviction of traffickers (see also point 9 on training). These teams should develop expertise in the conduct and management of both reactive, victim led and proactive, intelligence led investigations and prosecutions together with expertise in the management of parallel financial investigations, assets seizure and money laundering.

— The existing police and magistrates liaison networks should be strengthened and include trafficking crime as an integral part of their work. As an interim measure, where there are deficits in the liaison network, particularly in the countries of origin, a programme of «liaison officer sharing» could be agreed between participating States.

— A European Centre of Excellence of investigative and prosecutorial experts who would be made available to be sent to any requesting country act seeking expert operational assistance as short-term, «on-site» advisers in complex trafficking cases should be developed.

— Bilateral and multilateral exchange of operational trafficking investigators on a longer-term basis should be encouraged as a response to ongoing trafficking problems between one or more States, or regionally, where the modus operandii of the crime would justify such exchanges.

18. Investigative methods

— Proactive, intelligence led investigative techniques that are designed to identify, investigate and successfully prosecute traffickers without reliance on the testimony of the victims should be developed and refined. These include, for instance, targeted multi-agency intelligence gathering and analysis, coordinated and parallel proactive financial investigation that seeks to identify and follow the money trail in order to disclose compelling evidence of criminal activity, and the use of a range of human and technical intrusive and non-intrusive surveillance techniques.

— With a view to reinforcing international cooperation, the model of joint investigative teams should be further explored and developed. In addition, the feasibility of a European budget line at the disposal of the Member States' competent authorities should be looked into with a view to overcome identified obstacles in operational law enforcement and judicial cooperation.

— Investigators and prosecutors must be made aware and trained in the potential and use of DNA evidence and the opportunities that it provides in the investigation of trafficking cases and the sexual and physical abuse that accompanies it.

— Law enforcement services should acquire appropriate technologies and continue the development of their investigative and prosecutorial expertise and abilities, in order to pursue criminals who use computer technology within the modus operandi to perpetrate trafficking in human beings and related offences. Research and further examination of effective law enforcement techniques should be promoted in this field.

19. Corruption

— Effective legislative and regulatory measures to combat corruption, the establishment of standards of good governance, the promotion of legitimate commercial and financial conduct, and the development of mechanisms to curb corrupt practices, must be developed. Ratification and implementation of international conventions and standards as developed by OECD and the Council of Europe should be promoted.

— States should cooperate towards the successful conclusion of the United Nations Convention against Corruption.

Parliamentary Assembly

Assemblée parlementaire

Recommendation 1611 (2003)1

Trafficking in organs in Europe

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1. Rapid progress in medical science and technology has transformed organ transplantation, and kidney transplantation in particular, into a routine medical procedure practised in hospitals across the world. Five-year survival rates for most organ transplantation programmes are reaching the level of 70%, thereby rapidly increasing the demand for organ donation.

2. Medical research demonstrates that renal transplantation increases the life expectancy of patients. The supply of organs from cadaveric, but particularly from living, donors is very limited and strictly controlled in Europe. There are currently 120 000 patients on chronic dialysis treatment and nearly 40 000 patients waiting for a kidney transplant in western Europe alone. Some 15% to 30% of patients die on waiting lists, as a result of chronic shortage of organs. The waiting time for transplantation, currently about three years, will reach almost ten years by the year 2010.

3. International criminal organisations have identified this lucrative opportunity caused by the "gap" between organ supply and demand, putting more pressure on people in extreme poverty to resort to selling their organs.

4. Worldwide, the issue of organ trafficking is not new. In the 1980s experts began to notice what was to become known as "transplant tourism" when prosperous Asians began travelling to India and other parts of Southeast Asia to receive organs from poor donors. Since then other routes have opened up, such as to Brazil and the Philippines. Allegations have been made against China of commercial use of organs from executed prisoners. Organ sale continues in India despite new laws, which make the practice illegal in most regions.

5. While current estimations show that organ trafficking remains on a relatively modest scale in Europe, the issue is nevertheless of serious concern, since it is very likely that further progress in medical science will continue to increase the gap between the supply of, and demand for, organs.

6. As a result of poverty, young people in some parts of eastern Europe have sold one of their kidneys for sums of US$2 500 to US$3 000, while recipients are said to pay between US$100 000 and US$200 000 per transplant. It is a matter of grave concern that following illegal transplants the donor's state of health generally worsens in the medium term, due to the absence of any kind of medical follow-up, hard physical work and an unhealthy lifestyle connected to inadequate nutrition and a high consumption of alcohol. Most illegal donors will thus be forced in time to live on dialysis treatment or await, in turn, a kidney transplant.

7. This situation raises a number of ethical questions: Should the poor provide for the health of the rich? Should the price of alleviating poverty be human health? Should poverty compromise human dignity and health? And in terms of medical ethics, should help to recipients be counterbalanced by neglect of, and harm to, donors?

8. The Parliamentary Assembly therefore disapproves of recent trends in some western European countries towards less restrictive laws, which would allow greater scope for unrelated living donation.

9. Trafficking in organs – like trafficking in human beings or drugs – is demand driven. Combating this type of crime should not remain the sole responsibility of countries in eastern Europe. Examples of measures to be taken by all member states in order to minimise the risk of organ trafficking in Europe include reducing demand, promoting organ donation more effectively, maintaining strict legislation in regard to living unrelated donors, guaranteeing the transparency of national registers and waiting lists, establishing the legal responsibility of the medical profession for tracking irregularities and sharing information.

10. The Assembly therefore recalls Committee of Ministers' Recommendation No. R (97) 16 on liver transplantation from living related donors, and Recommendation Rec(2001)5 on the management of organ transplant waiting lists and waiting times, and welcomes Recommendation Rec(2003)12 on organ donor registers.

11. The principle according to which the human body and its parts shall not, as such, give rise to financial gain is part of the legal acquis of the Council of Europe. This principle, already present in Resolution (78) 29 of the Committee of Ministers and confirmed, in particular, by the final declaration of the 3rd Conference of European Health Ministers, which was held in Paris in 1987, was enacted by Article 21 of the Convention on Human Rights and Biomedicine (ETS No. 164). The principle was reiterated in its Additional Protocol on Transplantation of Organs and Tissues of Human Origin (ETS No. 186), opened for signature in January 2002.

12. While the prohibition of organ trafficking is legally established in the Council of Europe member states, most countries still have legislative loopholes in this domain. Criminal responsibility in organ trafficking is rarely clearly specified in national criminal codes. Criminal responsibility should include brokers, intermediaries, hospital/nursing staff and medical laboratory technicians involved in the illegal transplant procedure. Medical staff who encourage and provide information on "transplant tourism" should also be liable to prosecution. The medical staff involved in follow-up care of patients who have purchased organs should be accountable if they fail to alert the health authorities of the situation.

13. Organ trafficking, like most criminal activities, is difficult to prove. But it should not be left to the media alone to investigate. Member states have a common responsibility to deal openly with this problem nationally, but also – through multilateral co-operation at European level – bringing together ministries of health, the interior and justice.

14. In the light of the above, the Assembly recommends that the Committee of Ministers:

i. invite all member states:

a. to sign and ratify the Convention on Human Rights and Biomedicine, and its Additional Protocol on Transplantation of Organs and Tissues of Human Origin;