

Challenges and lessons learned from data and information collection for a comparative EU Member States project on trafficking in human beings for sexual exploitation and related areas

Project Information

The project “Evaluation of Member States’ legislation and the situation concerning trafficking in human beings for the purpose of sexual exploitation” explored how EU Member States’ legislation and policies on trafficking in human beings for sexual exploitation and other relevant areas (such as prostitution) influence the situation of trafficking in human beings for the purpose of sexual exploitation. It also provided the European Commission and the EU Member States with information on how to improve their future legal and programmatic actions in this area. It was funded by the European Commission and implemented by ICMPD between April 2008 and March 2009. The lead authors were Blanka Hancilova and Camille Massey, both from Apreco Group.

The report covers 17 EU Member States selected to ensure regional balance, representation of new EU Member States, size and location; and representation of various regimes regulating prostitution. The applied methodology was qualitative. The research team collected and reviewed: (1) qualitative and quantitative data on trafficking in human beings with a particular emphasis on trafficking in human beings for sexual exploitation (including 60 expert interviews, 1 – 5 per country); (2) national legal provisions and main policy documents on combating trafficking in human beings for sexual exploitation and to prostitution; (3) relevant academic literature. The study was written in English.

Challenges and lessons learned

Importantly, since in most EU Member States the same legal provisions and policies cover trafficking in human beings for various forms of exploitation, it was not always possible to analyse trafficking in human beings for sexual exploitation independently of trafficking in human beings for other purposes.

Collection of relevant national legislation

Availability of primary national legislation: As expected it has proven difficult to find relevant national legislation online. Where national legal provisions could be located online, often these were only excerpts from articles or from codes (such as criminal code or criminal procedure code), i.e. not comprehensive. Where whole laws were available, they were not always consolidated, i.e. featuring latest amendments. In some cases, the research team did not succeed in locating the latest provisions, neither in translation nor in the original language, despite extensive communication with the national authorities. This suggests that cooperation with the national authorities was not always as smooth and efficient as one would have wished for.

Translations of primary national legislation: English (or other translations) of national legal provisions are scarce. When they exist, they are rarely available online, usually incomplete or

not updated, and of a poor quality. Official translations are extremely rare, in fact, we have not located any.

Availability and translations of secondary sources of national law: The situation is yet worse with secondary legislation. Directives, implementing regulations etc. are as a rule not or not easily available. Where they are available, they are usually not translated. In some instances, the research team was told by the national authorities that certain implementing regulations are not to be shared with public, i.e. for internal use only.

Research on jurisprudence and implementation practices: Primary research on jurisprudence in the area of trafficking in human beings seems to be almost completely absent. Yet it would be indispensable in order to assess (1) how the law is applied where the law is unclear (which is often the case), and therefore whether the judicial practice is compliant with the EU legal framework; (2) whether the law is implemented at all and how. Similarly, studies of implementation practices are absent. Assessment of practices would require massive field research.

Conclusion: Considering the difficulties the research team has experienced in accessing legal provisions on trafficking in human beings criminalization and assistance to trafficked persons, it can be concluded that trafficked persons would have very limited chances to access relevant sources of law and other necessary information in order to claim their rights successfully.

Collection of qualitative data

Reports: Official reports on trafficking in human beings were not always available online, and when they were, they were often only in the original language. In some countries, the existing official reports were rather outdated. Civil society organizations reports were at times more easily accessible and more recent, however rarely comprehensive and of a varying quality.

National experts: Identifying experts from the state authorities was easier in countries where there was a national coordinating mechanism in place and relatively difficult to extremely difficult in others. In some cases contacted experts, who have previously agreed to be interviewed, have not granted the interview without any explanation. However, once interviews were obtained experts were usually eager to share their knowledge and expertise.

Collection of quantitative data

The issue of definition: The definition of what is considered trafficking in human beings is of paramount importance for collection of data on trafficking in human beings. The review of national legal provisions confirmed that there are far reaching differences in the way the 17 EU Member States define trafficking in human beings. Some countries do not define trafficking in human beings in their national legislations, others have definitions which are more restrictive than the EU definition and yet others have defined trafficking in human beings more broadly than the EU definition. From certain point onwards, the differences are so large that comparisons are meaningless.

Importantly, reported data on trafficking in human beings reflects the national definition, but also law enforcement efforts, reporting and data collection capacity and many other factors and NOT necessarily the 'real' trafficking in human beings situation and its changes.

Bearing this in mind, the research team refrained from making cross-national comparisons.

Prepared by: Blanka Hancilova and Camille Massey, Apreco Group