



Tieslietu ministrija

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Training course “Recognition, investigation and prevention of human trafficking as an effective tool for the termination of the phenomena”

26-27 September 2013, Riga

CENTRE FOR
**EQUAL
OPPORTUNITIES**
AND OPPOSITION
TO RACISM





Role of national rapporteur and national coordinator

Conference Riga, Latvia,
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 - 2.1. Belgian model on the fight against THB
 - 2.2. Coordination structure
 - 2.3. National Rapporteur or equivalent mechanism
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1. Role of National Rapporteur (NR): evolution and models





1. Appointment of NR (or equivalent mechanism)

1. A recommendation at international level since 1997

- Independent mechanism, not at the same time executive, operational or policy coordination
- Tasks:
 - identify scope of problem, trends, modi operandi (datacollection)
 - Exchange information at international level
 - Annual reports to governments for developing appropriate policies
 - Encourage research





1. Appointment of NR (or equivalent mechanism)

2. Council of Europe Convention on THB (2005), article 29:

distinction coordination (compulsory) and monitoring mechanism (recommendation)

- **art.29, §2 (coordination): obligation to ensure co-ordination** of the policies and actions of governments' departments and other public agencies where appropriate, through setting up co-ordinating bodies
- **art.29,§4: considering appointing National Rapporteurs or other mechanisms** for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements





1. Appointment of NR (or equivalent mechanism)

3. European Directive 2011/36/EU on THB

- only NR, nothing about coordination mechanism
- art.19: obligation to establish NR or EM
- tasks (not limited):
 - carrying out of assessments of trends in THB
 - measuring of results of anti-trafficking actions (including gathering of statistics and reporting).
 - nothing about independency





2. Models of NR

1. Netherlands (2000)

- Independent agency
- NR+ bureau
- Datacollection and monitoring
- Annual report to government (recommendations)

2. Sweden (1997)

- National criminal police, not independent institution
- annual report to government (datacollection, recommendations,...)
- analysis of investigations, prosecutions,...
- monitoring and evaluation





2. Models of NR

3. Czech Republic (2003)

- Ministry of Interior (Security policy Department)
- datacollection, analysis and monitoring
- coordination of anti-trafficking policy
- reporting (reports and policy papers to government)

4. Finland (2009)

- ombudsman for minorities
 - independent, administratively situated within the Ministry of the Interior
 - monitoring, recommendations, advices
 - providing legal advice and assisting victims
 - reporting to government and parliament
-





2. Belgian experience





2. Belgian experience

- 2.1. Belgian model on the fight against THB
- 2.2. Coordination structure
- 2.3. National Rapporteur or equivalent mechanism





2.1. Belgian model on the fight against THB

Multidisciplinary approach

- Legislative framework
- Specialised actors
- Specialised centres for victims of THB





Legislative framework on THB

1. Penal Code : articles 433 quinquies to 433 novies

- Introduced by Act of Parliament of 10 August 2005
- Definition of THB: only action and purpose of exploitation
- Modi operandi are aggravating circumstances
- Amended by law of 29 April 2013 (came into force on August, 2nd)

2. Aliens'law (art.61/2- 61/5 Law 15 December 1980)+ Ministerial circular

- Specific status for victims of THB





Legislative framework on THB: criminal code

- **Art 433 quinquies criminal code:** Trafficking in human beings shall mean
- (action): *“The recruitment, , transport, transfer, harbouring or receipt of persons, taking or transferring the control exercised on the person concerned ...”*
 - **With the purpose of exploitation**
 - *Exploitation of prostitution or other forms of sexual exploitation*
 - **exploitation of begging**
 - For the purpose of work or services, in circumstances contrary to human dignity (= **labour exploitation**)
 - **removal of organs**
 - **To force that person to commit a crime or an offence against his will**





Legislative framework on THB: Victim's status

Specific status for victims of trafficking

- art.61/2- 61/5 Law 15 December 1980
- 3 essential conditions:
 - To break all contacts with exploiter
 - To accept the guidance by a specialised reception centre (3 approved and funded by federal government)
 - To file a complaint or to make statements against the person(s) or network(s) who or which exploited the victim





Legislative framework on THB: Victim's status

Several stages, parallel to the judicial procedure

Reflection period (45 days):

- Offered to the victim who breaks with offenders and is assisted by a specialised reception centre
- Victim benefits social allowance





Legislative framework on THB: Victim's status

Several stages, parallel to the judicial procedure

Residence permit of 3 months :

- Is delivered to the victim who files a complaint or makes statements
- 2 other conditions need to be respected
- Victim benefits social allowance and has the right to work





Legislative framework on THB: Victim's status

Several stages, parallel to the judicial procedure

Residence permit of limited duration (6 months):

- Depends on the evolution of the investigation
- Is delivered if the Criminal Prosecutor or Labour Prosecutor is considering the person as a victim of trafficking and if the investigation is still underway (5 questions)
- Can be renewed for as long as the investigation is going on
- Other conditions need to be respected
- Victim benefits social allowance and has the right to work





Legislative framework on THB: Victim's status

Several stages, parallel to the judicial procedure

Unlimited stay

- If perpetrators are convicted of trafficking by the court
- Even without a conviction for trafficking, if Criminal Prosecutor or Labour Prosecutor has retained in his requisition the element of trafficking





Specialised actors

- Specialised prosecution officers/Labour auditors (prosecutors)
- Specialised police officers
- specialised labour inspectors
- **humanitarian side: specialised shelters for victims**
(assistance and protection of victims linked to cooperation with justice)

➤ **MULTIDISCIPLINARY APPROACH**





Specialised centres for VOT's

- 3 specialised centres, approved and funded by public authorities
- Shelter if necessary
- Victim assistance: 3 types:
 - Administrative (residence documents to Immigration office)
 - Psychosocial and medical (life project in Belgium, help for language course, job search,...)
 - Juridical (information and follow up of case, proposal to be assisted by lawyer, ...)





2.2. Coordination structure

- Royal Decree 16 May 2004
- Reactivating Interdepartmental coordination platform (exists since 1995)
- Gathers all relevant departments and services dealing with THB
- Chair: Ministry of Justice
- Secretariat: Centre for equal opportunities and opposition to racism (CEOOR)
- Meets twice a year
- Bureau:
 - meets each month (composition)
 - chair: Service of criminal policy, Ministry of Justice
 - proposals to the platform, executes decisions





2.2. Coordination structure

- Members coordination platform: Representatives of:
 - competent Ministers (Prime Minister, Justice, Interior, Foreign Office, Employment, Social Affairs, Social Integration, Development cooperation, Asylum and Migration)
 - College of General Prosecutors
 - Federal Prosecutor office
 - Federal Police, anti-trafficking unit
 - Criminal policy Department (Ministry of Justice)
 - Other relevant ministeries (Legislation service from Ministry of Justice, Immigration Office, Labour inspection services, Foreign Office, Security of State,...)
 - CEOOR
 - Child Focus (NGO)





2.2. Coordination structure

- Future: changes coordination platform:
 - Specialised shelters (one representative)
 - College of general prosecutors as observer in the bureau
- Tasks:
 - Ensure for effective coordination between different departments (exchange of information,...)
 - Proposals relating to fight against THB
 - Evaluate results of the fight against THB
 - Guide, at strategical level, management committee of CIATTEH (data collection)





2.2. Coordination structure

- Possibility:
 - Create working groups
 - Ex: main contractors, evaluation of national referral mechanism, ...
 - Invite specialists and other persons to the meetings
 - Ex: specialised shelters
- Realisations:
 - Action plan of the federal government relating to THB
 - Multilingual brochure for VOT's
 - Prevention:
 - Newsletter for hospitals
 - Informative folder embassies (visa)





2.3. National Rapporteur or equivalent mechanism

- Belgium: no official NR appointed yet
- At the moment:
 - CEOOR: National Rapporteur “de facto”:
 - independence
 - annual evaluation report
 - Service of criminal policy (Ministry of Justice):
 - 2 years report of the government





2.3. National Rapporteur or equivalent mechanism

- Status of the CEOOR

A public service, independent in the accomplishment of its missions:

- established by an Act of Parliament in 1993
 - 2 Directors, board
- to promote equal opportunities and combat racism and discrimination (since 1993)
- to stimulate the fight against human trafficking (since 1995)
- to ensure respect for the fundamental rights of foreigners (since 2004)





2.3. National Rapporteur or equivalent mechanism

- Government's decision (December 2011): reform of the Centre
- 2 different entities
 - Discrimination: interfederal Centre
 - Migration and THB: remains Federal
- Not before 1st January 2014





2.3. National Rapporteur or equivalent mechanism

- Role of the CEOOR in the field of THB

Stimulating and follow-up of the policy in the field of human trafficking :

- Annual evaluation report: on the evolution and the results of the fight against trafficking in human beings (website: www.diversite.be)
- Civil legal proceedings
- Secretariat of the Interdepartmental Co-ordination platform for the fight against smuggling and trafficking in human beings
- Coordination and supervision of the good collaboration between the 3 reception centres (database)





2.3. National Rapporteur or equivalent mechanism

- How does the CEOOR collaborate with coordination platform?
 - Secretariat (participating observator)
 - Impact of annual report
 - Recommendations in Action plan
 - Working groups created
 - Realisation of multilingual brochure for VOT's



3. Conclusion





Conclusion

- Complementary role

- Coordination is not monitoring/evaluation: best separated
- National rapporteur: importance of independence





THANK YOU!

www.diversite.be

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