

Univerzita Karlova v Praze

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Bakalářská práce

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EU Approach to Human Trafficking:
comprehensive or contradicting?

Evropský boj proti obchodování s lidmi:
konzistentní či rozporuplný?

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List of Abbreviations

- **CoE** – Council of Europe
- **CofP** – Committee of the Parties
- **DRC** – Democratic Republic of Congo
- **ESS** – European Security Strategy
- **EU** – European Union
- **EUROPOL** - European Police Office
- **FRONTEX** - European Agency for the Management of Operational Cooperation at the External Borders of the EU Member States
- **GDP** – Gross Domestic Product
- **GII** – Gender Inequality Index
- **GNI PC PPP \$** – Gross National Income Per Capita by Purchasing Power Parity (in USD)
- **GRETA** – Group of Experts against Trafficking in Human Beings
- **CRSR** – United Nations Convention Relating to the Status of Refugee
- **HDI** – Human Development Index
- **HDR** – UNDP Human Development Report
- **HR** – Human Rights
- **HRW** – Human Rights Watch
- **IDPs** – Internally Displaced Persons
- **ILO** – International Labour Organization
- **IMF** – International Monetary Fund
- **JHA** – Justice and Home Affairs
- **NGO(s)** – Nongovernmental Organization(s)
- **NRM** – National Referral Mechanism
- **OCTA** – EU Organized Crime Threat Assessment Annual Report
- **OECD** – Organization for Economic Cooperation and Development
- **ODA** – Official Development Assistance
- **RG** – Reasonable Grounds decision
- **SOCA** – Serious Organized Crime Agency of the UK Home Office
- **THB** – Trafficking in Human Beings
- **TI** – Transparency International
- **TI CPI** – Transparency International Corruption Perception Index

- **TOCTA** – UNODC Transnational Organized Crime Assessment Report
 - **UN** – United Nations
 - **UNDESA** – United Nations Department of Economic and Social Affairs
 - **UNDP** – United Nations Development Programme
 - **UNESCO** – UN Educational Scientific and Cultural Organization
 - **UNGA** – United Nations General Assembly
 - **UNHCR** – United Nations High Commissioner for Refugees
 - **UNICEF** – United Nations International Child Emergency Fund
 - **UNODC** – United Nations Office on Drugs and Crime
 - **UNTOC** – UN Convention against Transnational Organized Crime
 - **UK** – United Kingdom of Great Britain and Northern Ireland
 - **UKHO** – United Kingdom Home Office
 - **US** – United States of America
 - **WB** – World Bank Group
 - **WMD** – Weapons of Mass Destruction
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Abstract

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While trafficking in human beings (THB) is a phenomenon which has existed for millennia, only recently had it been elevated to the top of security agendas in capitals around the globe. This holds true particularly for the European Union, which has seen the number of trafficked persons smuggled into the Schengen Zone steadily increase despite its best efforts to reinforce external borders and introduce tougher criminal response regime to deter traffickers. The failure of EU policy-makers to address the underlying causes of human trafficking is indeed troubling, but hardly surprising. A plethora of academic sources suggests that any affective policy addressing the THB must include three mutually reinforcing approaches: (a) prosecution, (b) protection, and (c) prevention. The EU has been quick to respond with the first approach: reinforcing common borders, introducing stricter penalties for traffickers, and strengthening Member States cooperation in the policy area of Justice, Fundamental Rights, and Citizenship. Such internal, isolationistic approach, however, fails to recognize the fact that the prevalence of THB is directly linked to external conditions in third countries. By framing the issue of human trafficking as a problem of national security and illegal migration, while completely neglecting the human security perspective, the EU continues to build a coercive governance system, which is little effective either in assisting the victims, or in addressing the root causes behind the THB phenomenon. This research paper focuses on

exposing structural deficiencies in EU approach to human trafficking. The first part of the paper presents a research study of countries affected by the THB phenomenon. By comparing available national statistics on measurable contributing factors ranging from corruption, income inequality, and human rights, the study design strives to reveal what are the most prevalent, and therefore, the most significant, factors conducive to THB prevalence. Knowing the root causes of THB in Europe, the second part of the paper applies these findings to identify possible weaknesses in EU approach, leading to concrete policy proposals for European policy-makers.

Anotace

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Obchod s lidmi (THB) je fenomén, který existuje již po tisíce let, nicméně teprve v poslední době byla tato problematika začleněna do bezpečnostní strategie Evropské Unie. Navzdory snahám unijních představitelů posílit vnější hranice Schengenu a zavést přísnější právní normy postihující pašeráky se počet odhalených obětí obchodu s lidmi v rámci EU stále zvyšuje. Selhání evropských lídrů identifikovat a zmírnit hlavní příčiny obchodu s lidmi je znepokojující, nicméně jen stěží překvapující. Akademický výzkum v této oblasti shrnuje, že jakákoliv efektivní strategie v boji s THB musí zahrnovat tři vzájemně propojené pilíře: (a) silový přístup (policie, justice, atd.), (b) prevenci, a (c) ochranu obětí. Evropská unie spoléhá převážně na první pilíř, ať už se jedná o posilování kontrol na společných hranicích Schengenu, kodifikaci přísnějších právních norem postihující pašeráky či o upevňování spolupráce členských států EU v portfoliu Justice, základních práv a občanství. Tento izolacionistický a interně orientovaný přístup nedává unijním lídrům prostor si uvědomit, že rozrůstající se problém obchodu s lidmi je do značné míry přímo ovlivňován podmínkami ve třetích zemích, z jejichž řad se oběti THB nejčastěji rekrutují. Členské státy EU definují THB jako otázku národní bezpečnosti propojenou s ilegální migrací do Schengenu, čímž zcela opomíjejí lidsko-právní dimenzi obchodu s lidmi, ba co víc, touto rétorikou ospravedlňují budování bezpečnostního systému, který je nejen založen na demonstraci síly, ale je i zcela neefektivní v potírání zásadních faktorů ovlivňující nábor obětí THB v tzv. ‚*vysilajících*‘ zemích. Tato výzkumná studie je snahou odhalit strukturální nedostatky evropského přístupu

k potírání obchodu s lidmi. První sekce představuje kvantitativní model spoléhající na regresní analýzu, jejímž účelem je odhalit sílu korelačních vztahů mezi jednotlivými faktory přispívající k náboru obětí obchodu s lidmi ve vysílajících zemích. Volba faktorů do značné míry spoléhá na předchozí výzkumné snahy v dané oblasti, nicméně snaha identifikovat faktory, které nejvíce přispívají k náboru obětí je zcela novým pokusem, na který autor ve svém dosavadním výzkumu literatury související s THB nenarazil. Druhá sekce této studie poskytne kvalitativní analýzu současných praktik EU v potírání obchodu s lidmi. Výsledky kvantitativní části by měly autorovi umožnit zjistit, zdali se EU ve své dosavadní činnosti soustředila na řešení faktorů, které s THB úzce souvisí či nikoliv a případně navrhnout alternativní opatření, která by přispěla k redukci obchodu s lidmi v Schengenském prostoru.

Introduction

Trafficking in human beings (THB) has been around since the dawn of mankind,¹ yet only over the course of last two decades did it slowly found its way into strategic thinking of policy-makers around the world.² The European Union is no exception to this trend. Despite the ever-increasing prominence of Europe as a destination for trafficked persons from all corners of the globe, the EU leaders largely failed to acknowledge the spread of THB practices up until the beginning of the third millennium.³ The 2002 Council Framework Decision on Combating Trafficking in Human Beings, along with the adoption of European Security Strategy in 2003, was suppose to mark a turning point in Europe's fight against human trafficking. It did not.

The last ten years have seen the EU acting vigorously to implement its counter-trafficking strategy, either through introduction of specific measures to reinforce common external borders in a hope to keep THB behind Europe's walls, or through codification of stricter criminal penalties to deter traffickers.⁴ Despite all efforts taken to date, the current strategy is coming increasingly under attack by academia as well as by human rights groups and various NGOs, who point to an ever-increasing number of trafficking victims in Europe to make their point.⁵

The failure of the present THB strategy is deeply troubling, but it can be hardly described as surprising, since a plethora of academic sources dealing with the topic of human trafficking jointly points out that any successful anti-trafficking strategy must include a well-balanced mix of three mutually reinforcing approaches: (i) prosecution, (ii) prevention, and (iii) protection.⁶ While the prosecution pillar of THB strategy depends exclusively on the use of hard state power, be it utilization of judiciary or police capabilities, prevention and protection pillars are realized through soft state powers and include measures such as official

¹ Weissbrodt, D. Contemporary Forms of Slavery: Updated review of the implementation of and follow-up to the conventions on slavery. United Nations Economic and Social Council. E/CN.4/Sub.2/2000/3.

² Gallagher, A. (2006). Recent Legal Developments in the Field of Human Trafficking: A Critical Review of the 2005 European Convention and Related Instruments. *European Journal of Migration and Law*, 2006, page 163.

³ Idem, page 163.

⁴ Berman, J., & Friesendorf, C. (2007). Coercive Governance and Counter-Trafficking: EU Foreign Policy and the Fight to End Human Trafficking in Europe. Conference Papers – *International Studies Association*, 48th Annual Convention, pages 8 – 9.

⁵ Friesendorf, C. (2007). Pathologies of Security Governance: Efforts against Human Trafficking in Europe. *Security Dialogue*, Vol. 38, pages 381 – 382.

⁶Berman & Friesendorf, Gallagher, Kelly, Ionescu, et al.

development assistance (ODA) to third states, governmental or nongovernmental organizations' (NGOs) assistance to trafficked persons, information exchanges, or awareness campaigns targeted at the most vulnerable groups of potential THB victims.⁷

Indeed, the Union has an extensive record of pursuing policies falling under the prosecution pillar. For example, the EU budgetary expenditures directed toward reinforcement of common borders multiplied astoundingly in the last decade,⁸ while the establishment of FRONTEX in 2004 – the EU agency charged with guarding Schengen external borders – ushered a new era in Member States cooperation in policing common borders.⁹ At the same time, EU Commissioner Viviane Reding successfully pushed through new directives compelling Member States to redefine human trafficking as a capital offense under domestic legislation and introduce stiffer criminal penalties for convicted traffickers.¹⁰ However, little has been done to formulate and implement meaningful policies falling under prevention and protection pillars.

As a result, the EU has developed one-sided anti-trafficking strategy focusing almost exclusively on simply prosecuting, rather than preventing THB-related offences, while issues such as assistance and protection of trafficked persons have become all but marginal considerations in EU policy-making circles.¹¹ This unbalanced emphasis on prosecution can be traced back to the Union's definition of THB, which suggests that the EU understands human trafficking predominantly as an issue of transnational organized crime and illegal migration.¹² While it is true that profit-driven traffickers often organize themselves into larger transnational criminal networks and some THB victims are smuggled across international borders illegally, human trafficking in itself is much more than a simple criminal offence.¹³ To fully understand the root causes behind human trafficking, one must not only understand how trafficking criminal networks operate, but also examine how THB victims in third countries are recruited. Above everything else, a thorough analysis of human trafficking must look more closely at root driving causes behind the THB phenomenon, which are, more often

⁷ FRIESENDORF, (Footnote no. 5), page 395.

⁸ *Idem*, page 392.

⁹ EU Council Regulation (2007/2004/EC), Official Journal of the European Union, Brussels 2004.

¹⁰ GALLAGHER, (Footnote no. 2), page 167.

¹¹ Skrivankova, K. (2006). Combating Trafficking in Human Beings, *International Review of Law*, Vol. 20, No. 2, page 230.

¹² JHA Council, Comprehensive Plan to Combat Illegal Immigration and Trafficking in Human Beings, Brussels 2002.

¹³ SKRIVANKOVA, (Footnote no. 11), page 230.

than not, directly linked to trafficked persons individual motivations, expectations, and preferences.

The one-sided approach of the EU toward human trafficking is largely ineffective precisely because it fails to make an effort to understand victims' motivation to subject him or herself to trafficking and incorporate this understanding into the overall anti-THB strategy. Consequently, the EU, while it continues to pour vast amount of resources into combating trafficking through isolationism and hard state power, fails to recognize the underlying reality that the increasing prevalence of THB is directly linked to dire societal conditions in sending countries and existing vulnerability of particular groups of persons.¹⁴ By framing human trafficking as a national security issue and illegal immigration problem, the EU leaders seek to justify the buildup of coercive governance system of impenetrable borders and empowered law enforcement agencies, which, insofar, has had little effect in either reducing the number of trafficked persons into the Schengen zone, or in addressing the root causes behind the THB phenomenon.

The primary purpose of this bachelor thesis is to expose existing structural deficiencies in the current anti-trafficking strategy of the European Union. To this end, the thesis is divided into four comprehensive sections. The first section titled 'Defining human trafficking in Europe' introduces the reader to the scope of human trafficking in Europe, provides a comprehensive overview of existing international and European legal frameworks governing the THB-related offences and states' obligations in the area of victim protection, elaborates on the difficulty of collecting reliable data regarding human trafficking in Europe, and finally, explains diverging theoretical approaches dealing with the THB.

The second section titled 'Case study – Explaining trafficking in the United Kingdom' looks more closely at significant human trafficking trends in an EU country that figures prominently as a final destination for trafficked persons from all over the world. The primary goal of this section is to uncover the root causes of THB in Europe through utilization of research based on the principles of regression analysis. This section first explains theoretical grounding of the study, its design and ultimate purposes, then proceeds with an analysis concerning data collection and corresponding challenges, and concludes by interpreting the data and presenting the final case study findings.

The third section titled 'EU anti-trafficking strategy: comprehensive or contradicting?' tests EU official commitments and strategies to fight human trafficking against what the

¹⁴ SKRIVANKOVA, (Footnote no. 11), page 229.

Union actually does in practice. The section first takes a closer look at how the EU defines human trafficking within the framework of European Security Strategy (ESS) adopted in 2003 and in other official EU documents and strategy papers. Particular attention is paid to how the EU selectively presents THB data that suits its policy needs, followed by an explanation of how the same statistics could be interpreted through different theoretical approaches. Finally, this section examines the conformity of THB-related practice on EU level with overriding international human rights instruments governing binding obligations of states with respect to the rights of refugees and trafficked persons.

And finally, the last section titled ‘Policy recommendations – Toward trafficking-free Europe’ presents a plethora of policy proposals that would go a long way in reducing the number of trafficked persons to Europe. As emphasized above, present anti-trafficking strategy of the EU fails to incorporate victim’s perspective into its framework, which represents the most probable explanation as to why the THB in Europe remains largely unabated. This section, structured into three subsections: (i) prosecution, (ii) prevention, and (iii) protection, provides a detail overview of what could be done, added, or improved under each policy pillar to move the European Union closer to achieving the ultimate goal of making Europe free of human trafficking once and for all.

1. Defining human trafficking in Europe

“Although there is a wide range of estimates regarding the extent of the problem, it is difficult to state with a high degree of certainty how many trafficking victims there are worldwide.”¹⁵

Office of the United Nations High Commissioner for Refugees

The real extent of human trafficking in the European Union is extremely difficult to gauge, given the fact that THB is an illegal and clandestine criminal activity, whose perpetrators make a great strive to keep it that way. Reliable statistics on the final number of trafficking victims in Europe are difficult to come by for a number of other less obvious reasons as well. In this context, it is worth mentioning that only some EU Member States have made it legally binding for national law enforcement agencies to publish overall numbers of apprehended THB victims per year (such as the UK or the Netherlands). Even where national statistics are fully available to public at large, not all reported cases can be reliably considered as THB-related until appropriate judicial proceedings have determined them as such. Even then, some Member States continue to define the number of uncovered trafficking victims through reasonable grounds criteria, while others choose to report only those trafficking cases that satisfy the conclusive grounds criteria of crime determination. Others yet publish data on reported, suspected, or probable THB victims, which makes arriving at the final headcount for the EU as a whole all the more challenging.

Regardless of the difficulties involved, a number of respected intergovernmental, non-governmental, and governmental organizations continue to publish their own estimates concerning the total number of projected trafficking victims in Europe. For example, United States (US) Department of State estimates that approximately 140,000 people are trafficked to Europe for the purposes of labor or sexual exploitation annually.¹⁶ The pan-European law enforcement agency, the Europol, presents even higher estimates, claiming that “*several hundred thousand people*” are smuggled to, or within the EU each year.¹⁷ It is interesting to note, however, that governmental sources tend to offer dimmer picture of THB scope than intergovernmental agencies, such as the United Nations Office on Drugs and Crime (UNODC), which puts the annual inflow of victims to the West and Central Europe to around

¹⁵ Review of UNHCR’s efforts to prevent and respond to human trafficking, 09/2008, page 5.

¹⁶ U.S. State Department 2009 Report on Trafficking in Persons (2009), Washington D.C., pages 2-3.

¹⁷ Europol. (2011). General Report on Europol Activities, The Hague, pages 33-34.

85,000. Each organization, however, can only work with approximated numbers. For example, UNODC suggests a multiplier of 20 for every victim detected,¹⁸ whereas the Europol is much less conservative and far less specific in projecting its final estimates concerning the number of trafficking victims per annum.¹⁹

While total numbers of trafficked persons remain disputable, all major organizations doing the counting agree that the number of THB victims smuggled to Europe is increasing each year.²⁰ Again, US Department of State and Europol claim to have recorded large victim increases on a year-by-year basis, while the UNODC reports only milder increases in overall numbers.²¹ This fact brings into question the overall effectiveness of EU anti-trafficking strategy; a problem which will be elaborated upon later on in this thesis.

Additionally, trafficking in Europe has its own specific peculiarities, which deserve to be examined in closer detail. According to Europol, full 80 percent of THB victims in Europe are either women or children.²² The UNODC partially explains these gender and age imbalances by stating that approximately 84 percent of all trafficked persons in Europe are used for the purposes of sexual exploitation.²³ This fact puts European problem with human trafficking into a unique perspective, since in all other regions of the world the final headcount of trafficked persons for the purposes of labor exploitation most likely outnumbers trafficked victims for the purposes of sexual exploitation.²⁴ It goes without saying that anti-trafficking remedies in the case of the European Union will have to take into account this specific nature of THB in Europe, as well as the existing demand for sexual services in the EU Single Market.

It is important to emphasize though, that available estimates must be regarded as tentative, rather than definite. Even in terms of placing victims in labor or sexual exploitation categories, one must use extreme caution not to take existing data at face value. The UNODC warns that its own figures “*should not be mistaken for a description of the total victim pool.*”²⁵ The reasons for this are numerous, starting with the fact that not every EU country

¹⁸ UNODC. (2010). Trafficking in Persons to Europe for Sexual Exploitation, Vienna, page 7.

¹⁹ Europol, (Footnote no. 17), page 33.

²⁰ Europol, ILO, UNHCR, UNODC, U.S. State Department. (Author’s note)

²¹ UNODC (Footnote no. 18), page 1.

²² Europol, (2011). Trafficking in Human Beings in the EU, Knowledge Product, The Hague, page 4.

²³ UNODC. (2010). The Globalization of Crime - A Transnational Organized Crime Threat Assessment Report, Vienna, page 40.

²⁴ ILO. (2010). , Action against Trafficking in Human Beings, Geneva, page 1.

²⁵ TOCTA Report 2011, (Footnote no. 23), page 39.

legislated against all forms of human trafficking,²⁶ and ending with the assumption that law enforcement agencies of some nations may give high priority to uncovering trafficking in sex industry while leaving labor-related trafficking offences largely outside of its scope of enforcement activities.²⁷

There is, however, much greater data convergence in terms of the direction of major human trafficking flows, both when it comes down to most prominent countries of origin (sending countries), as well as countries of destination (receiving countries). The Europol tracks quite extensively human trafficking activities of transnational criminal networks as well as the nationality of THB victims trafficked to Europe. EU Organized Crime Assessment Report (OCTA) published by Europol in 2011 indicates that the most frequent countries of origin are Balkan Countries (Moldova), Eastern European countries (Romania, Bulgaria), and countries of the former Soviet Union (Ukraine, Russia). Some other countries outside of Europe also figure prominently as sending countries of THB victims, including Nigeria, China, and Brazil. These conclusions are largely supported by UNODC assessments, which also indicate that THB victims in Europe mostly originate in the Balkans and former Soviet Union. Prime destination regions and countries seem also all but certain, with Western Europe figuring as number one destination for trafficked victims in multiple reports on the subject. These reports include TOCTA 2010 Globalization of Crime Assessment Report, OCTA 2010 Europol Annual Report, and US State Department 2009 Report on Trafficking in Persons. Additionally, multiple reports indicate that the most frequent receiving countries are Germany, France, the Netherlands, Spain, and the UK.²⁸

In terms of criminal networks, the Europol Report highlights the importance of Nigerian, Chinese, and Roma trafficking groups. Contrary to OCTA's conclusions, the UNODC reporting indicates that the highest number of convicted traffickers in a given country was represented by neither Nigerians, nor Chinese, but nationals of the country where the crime was reported, investigated, and prosecuted.²⁹ This was true in Greece, where Greek nationals constituted, by far, the largest prosecuted group, followed by Bulgarians, Romanians, Russians, and Ukrainians.³⁰ The Netherlands recorded a similar trend, with the

²⁶ UNODC, (Footnote no. 18), page 6.

²⁷ This would, for example, be the case in the Czech Republic, where there is little pressure on law enforcement to address extensive illegal recruitment of Ukrainian workers in construction industry. (Author's note)

²⁸ UNHCR 2005 Annual Report, page 63, OCTA 2010 Report, pages 23-25, UNODC Report on Trafficking in Persons to Europe for Sexual Exploitation, pages 1-3.

²⁹ UNODC, (Footnote no. 18), page 6.

³⁰ These data indicate findings from 2007 as reported by UNODC. (Author's note)

most numerous group of convicted traffickers consisting of Dutch nationals, followed by Moroccans, Turks, and Romanians. As for Nigerian and Chinese traffickers, these took the fourth and fifth place, respectively, in total number of prosecuted traffickers in Italy, preceded by Romanians, Italians, and Albanians. At this point, one might raise the question why would the Europol prioritize Nigerian and Chinese trafficking groups since empirical evidence suggests that other nationals play more prominent role in facilitating trafficking in Europe (See Annex 1). This is, indeed, a legitimate question, one that will be answered in section three devoted to EU anti-trafficking strategy.

Overall, the scope of the problem in Europe is difficult to define with precision due to the lack of reliable data. Estimates of intergovernmental organizations, such as the United Nations (UN) agencies, and states or intergovernmental agencies, such as the Europol, differ quite substantially in their final projections, with the former presenting conservative estimates, and the later providing less specific, but more menacing numbers. Nevertheless, the evidence suggests that the scope of the problem in Europe is of a unique nature due to the fact that trafficking of victims for the purposes of sexual exploitation is much more prominent than trafficking for the purposes of labor exploitation. Additionally, current projections place Europe as the number one destination for human trafficking and continue to indicate that the scope of trafficking in Europe is increasing despite the EU's best efforts to crack down on transnational criminal networks and reinforce common borders to keep trafficking outside of the Schengen zone.³¹ These developments and trends will be examined in more detail in section three dealing with the EU approach to human trafficking. For now, this analysis turns to current legal framework regulating the THB-related offences.

³¹ UNODC, (Footnote no. 18), pages 1-3.

1.1 Legal regime governing trafficking with human beings

„Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,“³²

Signatories' declaration of intent in the Preamble of Palermo Protocol

Given the amount of moral outrage palpable in the air whenever today's media report human trafficking cases, one would assume that THB was firmly recognized as an unacceptable affront to human dignity and fundamental human rights ever since the concept of human rights emerged in the aftermath of the World War II. Contrary to such assumptions, human trafficking, or rather, trafficking in persons (as international human rights instruments now officially call it)³³ received little attention from governments up to the late 1990s, with states moving to outlaw THB practices on international level only at the beginning of the third millennium.

The watershed moment for all traffickers and their victims came in 2000, when heads of state and government agreed to adopt the United Nations Convention against Transnational Organized Crime (UNTOC), thus signaling that legal vacuum surrounding the issue of human trafficking would no longer be tolerated, at least in the theoretical realm of international law. The UNTOC Convention, which entered into force in 2003 after 40 states submitted their ratification instruments, does not specifically touch upon the issue of human trafficking, but established comprehensive legal framework for member states cooperation in preventing and combating organized criminal networks that carry out “*serious crimes*”³⁴ across international borders.³⁵ The High Contracting Parties to the UNTOC left the final text of the Convention purposely ambiguous to avoid defining specific crimes falling under its scope out of desire not to limit the applicability of the Convention only to current transnational crimes. The states' rationale behind leaving the Convention deliberately vague at the time was that the

³² Preamble of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, United Nations General Assembly, Palermo 2000.

³³ Idem.

³⁴ The UNTOC Convention provides in Article 2, Section (b) that „*“Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.*” (Author's note)

³⁵ <http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>, retrieved: 23.6.2012.

nature of international criminal environment was too fluid to allow for any comprehensive codification of final list of all possible transnational criminal offences, including the future ones.

Nevertheless, the states also felt that human trafficking constitutes an outrageous challenge to human dignity as well as to functioning lawful society. This reasoning led world leaders to outlaw THB within the UNTOC framework by including an additional protocol dealing specifically with the issue of human trafficking. The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (hereby referred to as the Protocol), was adopted by the UN General Assembly (UNGA) resolution 55/25 in 2000 and entered into force on 25th of December 2003, after the number of contracting parties to the Protocol reached 40. The Protocol, dubbed as the Palermo Protocol after the city where it was drafted, proved to be a grave disappointment for all trafficking victims who hoped that international codification of human trafficking as a crime would finally grant them greater measure of international protection. There are at least three reasons why the Protocol falls short of being an effective legal platform to fight the THB.

The first weakness of the Protocol is that it follows the overall rationale of the UNTOC Convention, whose primary emphasis is on the prosecution of criminals, rather than the protection of their victims. Whereas the Protocol places legally binding obligations upon the signatory parties to cooperate more extensively in investigating crimes, exchanging information, and extraditing criminals for the purposes of judicial prosecution, its focus on protecting the rights of trafficking victim is relatively weak. For example, Article 5 of the Protocol states that “*Each State Party shall adopt such legislative and other measures as may be necessary to establish (human trafficking) as a criminal offense,*” (See Annex II for the full text of the Protocol) which effectively places an obligation upon contracting parties to transpose criminalization of THB into domestic penal codes. Furthermore, the Protocol establishes obligatory requirements for states in the area of information exchange, particularly in Article 5, which states that “*Law enforcement, immigration or other relevant authorities of States Parties shall cooperate with one another by exchanging information...*” In contrast, existing provisions of the Protocol dealing with victim protection are included only in form of legally nonbinding recommendations to the signatory parties. This becomes painfully evident in the phrasing of Article 6, section 3, which provides that “*Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including in appropriate cases, in cooperation with non-*

governmental organizations, other relevant organizations and other elements of civil society[...].” It takes no lawyer to understand that the phrase “*shall consider implementing*” is nothing more than a nonbinding recommendation that contracting parties can ignore altogether, if they chose to do so. All things considered, prosecution of human trafficking is legally binding, whereas protecting and assisting victims is a recommended, but non-obligatory nuisance.

The second shortcoming of the Protocol is its lack of emphasis on preventing human trafficking from occurring in the first place. Article 9 of the Protocol, which deals exclusively with prevention of THB throws around some ambiguous ideas as to what the signatory parties could do to reduce the prevalence of trafficking, but yet again, the Protocol fails to give these recommendations any legally binding force. Section 2 of the aforementioned article states the following: “*State Parties shall endeavor to undertake measures such as research information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.*” In effect, the phrase “*shall endeavor to undertake*” has no legally binding force and in the international law jargon it could be loosely rephrased as “*do whatever you want, even if it means doing nothing at all*”. As evident from this analysis, under the Palermo Protocol, implementing meaningful prevention policies is just as voluntary as protecting the victims.

The third limitation of the Protocol is its one-sided understanding of the human trafficking problem. In terms of substance, the Protocol’s emphasis is squarely placed on criminal justice aspects of THB. This becomes perfectly evident from the nature of mandatory obligations that the Protocol places on the contracting parties, be it criminalization of trafficking, cross-border law enforcement cooperation, joint investigation and prosecution, joint border controls, or sanctions on commercial carriers harboring trafficked persons. This emphasis on prosecution clearly illustrates that the Protocol’s understanding of the human trafficking problematique is not that far from how the European Union defines the issue. The Protocol’s drafters clearly saw the THB as a transnational criminal issue closely connected to illegal migration. As such, trafficking prevalence could be addressed through cracking down on criminal networks and closer cooperation among the members of the international community. Such analysis is, however, incomplete and inherently flawed because it fails to acknowledge the complexity of deeply-rooted linkages and relationships that exist between

the traffickers and their victims.³⁶ For example, the academic community has been pointing out for quite some time now that – upon being involuntarily returned to the country of origin - a significant portion of repatriated victims is re-trafficked to another destination.³⁷ This practice not only demonstrates the complexity of existing links between traffickers and victims, but also explains why protecting the victims should have a more prominent place in the overall effort to reduce THB prevalence in the long run. Unfortunately, the architects of Palermo Protocol seemed to have known better.

Despite its many shortcomings, the Palermo Protocol was indeed revolutionary at the time of its drafting, at least in a sense that it established a much needed internationally recognized definition of what constitutes trafficking in human beings. If the drafters overlooked the importance of prevention and protection of victims, they somewhat made up for it by adopting a broad, and all encompassing definition of trafficking in persons. This definition is enshrined in Article 3, subsection (a) of the Protocol, which stipulates the following: *“Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, or deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”*³⁸

Subsection (b) of the aforementioned article provides an enumerative summary of what constitutes the exploitation mentioned in subsection (a). The exploitation shall include, at a minimum *“the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs”*. This broad definition of human trafficking is, indeed, a welcomed and much needed tool for all states that wish to effectively address the issue of human trafficking. As evident from previous analysis of the Protocol, the emphasis on protecting the rights of the victims is quite weak throughout the document. This is, however, not the case in Article 2, which arguably includes the only legally binding entitlement of victim not to be criminalized in the same way as the trafficker. This entitlement can be found in subsection (c) of Article 2, which states that *“the consent of a victim of trafficking in persons to the intended exploitation set forth shall be irrelevant where any of the means set forth [in subsection (a)] have been*

³⁶ GALLAGHER, (Footnote no. 2), page 165.

³⁷ FRIESENDORF, (Footnote no. 5), page 388.

³⁸ UNGA, (Footnote no. 32), Article 3.

used.” The importance of subsection (c) cannot be underestimated, since it clearly defines that a victim cannot be persecuted for being subjected to trafficking, even if he or she gave a prior consent upon receiving incomplete or fraudulent information from the trafficker.

Since it places the burden of illegal conduct solely on the shoulders of the traffickers, subsection (c) is the only provision that hints at some humanitarian tendencies in the Protocol. Consequently, contracting parties to the Protocol should be, at least in theory, obligated to extend every possible measure of protection to the victim and refrain from criminalizing victim’s participation in THB activities. In other words, the fact that the victim crossed international borders illegally should be in no way reflected in how the law enforcement agencies in the country of destination treat such victim. However, one might not need to point out that legal theory and law enforcement practice do not always follow along the same trajectory. The issue of compliance with subsection (c) of the Protocol will be reopened later on in section devoted to the EU anti-trafficking strategy.

The inadequacies of the UN Convention and its supplementary protocols were partially addressed – at least far as Europe is concerned – in 2005 through the adoption of Council of Europe (CoE) Convention on Action against Trafficking (hereby referred to only as the CoE Convention). On a comparative basis, the CoE Convention is a vast improvement from its UN counterpart, not only because it uses human rights-based approach as its principal point of departure, but also because it introduces few specific provisions aimed at protecting trafficking victims, such as the duty identify the victim, obligation to provide at least rudimentary assistance and minimum reflection and recovery period to facilitate victim’s recovery after what usually is a prolonged period of exploitation at the hands of traffickers.³⁹ At the same time, however, the few provisions mentioned above are the only legally binding obligations in the area of protection, since all other protection clauses are not incorporated in the form of basic obligations, therefore, not strictly legally binding upon the signatories.⁴⁰

Regardless, the humanitarian spirit of the CoE Convention is evident throughout the document, but nowhere more obvious than in the states’ declaration of intent in the Preamble, which stipulates that signatory parties consider “*trafficking in human beings [to be] a violation of human rights and an offence to the dignity and the integrity of the human being,*” (See Annex III for the full text of the Convention). On the face of it, this is indeed an improvement over the Palermo Protocol, which conceptualizes the criminalization of THB as

³⁹ Council of Europe, CoE Convention on Action against Trafficking in Human Beings, Warsaw 2005.

⁴⁰ GALLAGHER, (Footnote no. 2), page 173.

the central pillar of its legal stipulations. The most important innovation of the CoE Convention is enshrined in Article 12, section 6, which places an obligation on each signatory party to “*adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness*”. In effect, the CoE Convention grants all victims the same measure of rights’ entitlement, regardless of their degree of cooperation with law enforcement agencies.

Another significant improvement is enshrined in Article 13, which establishes a minimum mandatory period of thirty days for reflection and recovery of the victim. In these thirty days, the contracting parties to the CoE Convention are required to provide the victim with adequate housing and all other assistance that “*may be deemed necessary*”. But most important of all, during this thirty-day period the contracting states are strictly prohibited “*to enforce any expulsion order against [the victim],*” which implies that states must refrain from repatriating the victim against his or her will. Unfortunately, the signatories may derogate from this general principles if, according to Section 3 of the same article, “*grounds of public order prevent it or if it is found that victim status is being claimed improperly*”. Arguably, this wording creates an incentive for signatory parties to refuse granting status of THB victim to some trafficked persons, even in cases where there are reasonable grounds that indicate to the contrary. This particular problem will be elaborated upon in greater detail in section dealing with EU practices in the field of human trafficking.

Some other aspects of the CoE Convention are also deeply problematic. For example, the Convention neither introduces an obligation to consider granting residence permits to victims, nor does it establish the right of victims to appeal in the case of a negative decision. One provision concerning the criminalization of the use of services of the victim might seem a distinct positive improvement, yet closer examination of the respective article largely crushes the high hopes. Article 19 stipulates that “*Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation, [if the beneficiary of such services had] the knowledge that the person [used] is a victim of trafficking in human beings.*” At this point, the reader might recall certain creative phrases from the Palermo Protocol, such as “*shall consider implementing.*” At any rate, it should go without saying that “*shall consider adopting*” phrase has no legally binding force and one can only speculate whether the drafters of the CoE Convention drew their inspiration from the Palermo Protocol. Additionally, the Convention places no obligations upon contracting parties to accept legal or

moral authority for the safety and security of returned victims.⁴¹ Despite the Preamble's vague pronouncements about human rights-based approach, the rights bestowed upon the victims of THB within the Convention's framework seemed to be geared toward ensuring that criminal justice authorities are given the best possible chance to secure prosecuting and convictions of traffickers through the cooperation of victims, rather than towards ensuring a comprehensive, and truly holistic approach to victim protection.⁴² In this context, legal scholar Anne Gallagher rightly notes that the majority of obligations concerning the victim protection are so general and "*so broad as to be almost meaningless in terms of measuring compliance.*"⁴³

That being said, the primary focus of the convention seems more directed at strengthening international cooperation in the field of human trafficking. This is supported by the fact that the main *raison d'être* of the CoE Convention is compelling states to cooperate in areas such as investigation, prosecution, and information exchange. The general obligation for greater cooperation is also supplementary to specific ones, for example requirements placed on law enforcement agencies to coordinate border controls or specific obligations governing extradition of suspected traffickers. In contrast, the CoE convention places no binding obligations on signatories to cooperate with civil society in general and with NGOs in particular.

The last aspect of the CoE Convention which should be highlighted is the presence of relatively independent monitoring mechanism within the framework of the CoE. The Convention's Article 36 establishes Group of Experts against Trafficking in Human Beings (GRETA); an independent technical body charged with monitoring the compliance of High Contracting Parties with the legally binding provisions of the Convention. The second monitoring body established by Article 36 is a more politically oriented Committee of the Parties (CofP), which is made out of political appointees from the ranks of signatory states. Whereas GRETA is charged with formulating recommendations to individual states that are deemed to be less than fully compliant with the provisions of the Convention, it is the CofP that can request State Parties to implement GRETA's recommendations. In effect, powerful signatories can easily shield themselves from having to implement GRETA's recommendations by mustering enough votes to reject GRETA's conclusions.

⁴¹ GALLAGHER, (Footnote no. 2), page 180.

⁴² GALLAGHER, (Footnote no. 2), page 184.

⁴³ *Idem*, page 184.

Overall, the CoE Convention is far better than any other existing legal instrument dealing with human trafficking, but at the end of the day, it leaves much to be desired when it comes down to placing legally binding obligations upon signatory parties, especially in areas such as victim protection or prevention. When compared to the Palermo Protocol, it can be regarded as a positive step-up, not only because it introduces reflection and recovery period for the victims, but also because it explicitly acknowledges human trafficking as a human rights offence. One must also keep in mind that development of new norms in the area of international law is usually a slow and painful process. That being said, one can view positively that for now, international instruments are beginning to acknowledge that trafficking is a violation of human rights; that governments should strive to assist victims; that they should not push them back over the border, and that they should actually do something to stop trafficking from happening in the first place.⁴⁴

The European Union is slowly beginning to realize its responsibilities in this area, which is reflected by the fact that it adopted its own legal instruments dealing with the problem of THB. The first enacted legislation dealing specifically with the issue of human trafficking was the Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA). The 2002 Council Decision introduced general framework of measures to be adopted at European level, including criminalization of THB, minimal requirements dealing with severity of punishments for traffickers, as well as transposition of legally binding provisions from the CoE Convention dealing with victims' protection and assistance. The original framework decision was replaced by a more sophisticated instrument in 2011 with the adoption of Directive of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (2011/36/EU). Cecilia Malmström, EU Commissioner for Home Affairs, claimed that the new directive adopted in 2011 was "*a very important step towards a comprehensive and more effective European anti-trafficking policy*", arguing further that the "*new ambitious rules [...] will keep the EU at the forefront of the international fight against human trafficking by protecting the victims and punishing the criminals behind this modern slavery.*"⁴⁵ In fact, the text of the 2011 Directive is similar to the original 2002 Framework Decision and does not significantly expand on the

⁴⁴ GALLAGHER, (Footnote no. 2), page 187.

⁴⁵ <http://ec.europa.eu/anti-trafficking/section.action?sectionId=7251dba0-e392-4bd9-92e8-d99869acf8ec§ionType=WEIGHTED>, retrieved: 24.6.2012.

provisions enshrined in the CoE Convention. Arguably, the only difference is that the EU Member States are now legally required to transpose rules specified in the 2011 Directive into domestic law, which was not the case with the Council framework decisions under the Nice Treaty version of the Treaty on European Union (TEU) (See Annex IV).⁴⁶

The EU adopted other legal instruments relevant for the issue of human trafficking.⁴⁷ These include Directive of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (2009/52/EC), Council Directive on the residence permit issued to third country-nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (2004/81/EC), and Council Directive of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence (2002/90/EC).⁴⁸ More detailed examination of the EU legal instruments would be impractical at this point, but the issue of how EU directives influence the overall EU anti-trafficking strategy will be explored in depth in section 3 devoted specifically to the EU approach to THB.

1.2 Theoretical approaches to human trafficking

*“In the 21st century, what happens anywhere can matter everywhere.”*⁴⁹

Madeleine Albright, former US Secretary of State

It is indeed no coincidence that human trafficking came to be elevated to the top of security agendas in capitals around the Western hemisphere only over the course of last two decades. The disintegration of the USSR in the early 1990s removed the preeminent threat of the Cold War era – the possibility of mutual nuclear annihilation and a large-scale conventional conflict - and consequently led to a dramatic shift of strategic security thinking. European security experts eventually came to realize that the end of the 20th century has also marked the end of a prolonged era of symmetrical confrontations among states. The coming century, dominated by new types of asymmetric threats, would represent a world of

⁴⁶ Article 34 of the TEU as amended by the Treaty of Nice, before being repealed by the Lisbon Treaty.

⁴⁷ SKRIVANKOVA, (Footnote no. 11), page 230.

⁴⁸ <http://ec.europa.eu/anti-trafficking/section.action?sectionId=802e0b62-ae77-4aae-b0ab-62506d21572f§ionType=WEIGHTED>, retrieved: 22.6.2012.

⁴⁹ Albright, M. (2006), Memo to the President Elect, New York, page 66.

uncertainty where a small group of individuals with access to the right knowledge and material, could inflict incalculable damage upon the very foundations of international order. The changing reality of security was depicted by Robert Jervis, who introduced the concept of ‘system complexity effects;’⁵⁰ international environment “*where small action in one place can have indirect but major consequences elsewhere, or even on the system as a whole*”.⁵¹ For security community, the devastating terrorist attacks of 9/11, which stroke at the very heart of the US soil, represented the materialization of the worst nightmares and served as a proof that the concept of security has changed once and for all. With technology-driven empowerment of non-state actors (such as terrorist groups, or criminal networks) many previously insignificant and peripheral issues such as international migratory flows and criminal activities of large transnational criminal networks moved to the center of states’ attention.

The trafficking in human beings was no exception to this overall trend of securitization of issues that were previously viewed as having little to do with national security. The elevation of human trafficking into security realm was, therefore, principally driven by states’ newly defined national interests, rather than by a sudden humanitarian enlightenment of political elites. This revelation largely explains why international legal instruments related to trafficking concern themselves more with effective prosecution of criminal networks rather than protection of victims’ human rights. The question still remains, however, whether the privileging of state security over all other forms of security within the context of human trafficking is the best approach to reduce the prevalence of THB. The answer largely depends on theoretical approach through which the issue of human trafficking is conceptualized. This is a problem to which this paper now turns.

The present academic community is sharply divided over how human trafficking should be conceptualized and understood. On the one hand, proponents of traditional state security continue to argue that THB is largely produced by organized criminal activities, and can be, therefore, tackled through strengthened, concerted, and more vigilant law enforcement action.⁵² On the other hand, defenders of newly established approach called human security warn that THB is closely connected to human rights violations, and thus, can be reduced effectively only if protection of victims gains a more prominent place in the overall anti-

⁵⁰ Jervis, R. (1998), *System Effects: Complexity in Political and Social Life*, Princeton, page 16.

⁵¹ Cottey, A. (2007), *Security in the New Europe*, New York, pages 6 – 7.

⁵² Smartt U. (2003). Human Trafficking: Simply a European Problem? *European Journal of Crime, Criminal Law & Criminal Justice*, Vol. 11, No. 2, 164-177.

trafficking strategy. The principal difference between both groups is that the first uses the state as its primary ‘referent object’,⁵³ whereas the later sees the individual as the primary point of departure. In the reality, neither camp possesses the ultimate answer to how to best solve the problem, yet both sides hide themselves behind a seemingly omnipotent wall of righteousness and infallibility. The following pages examine in more detail arguments, advantages, and weaknesses of both approaches. This subsection first examines the theoretical background of traditional security, then proceeds to explain the newly emerged concept of human security, and finally concludes with comparatively evaluating both.

Proponents of traditional approach define security in a narrow way “*as the extent to which a nation is not in danger of having to sacrifice its core values,*”⁵⁴ such as sovereignty, political regime, and freedom of action.⁵⁵ According to this line of thinking, ensuring the national security of a state is a paramount aim which overrides all other considerations, be it human rights, civil liberties or societal welfare. While it is true that traditional security approach has its place in areas such as conventional military confrontation, peacekeeping or conflict mediation, one must keep in mind that traditional security approach relies overwhelmingly on the use of hard state power and is, thus, inherently coercive. This fact renders traditional security largely ineffective in addressing a plethora of newly emerging ‘soft’ security threats such as environmental degradation, mass migration, transnational organized crime and pandemic diseases, since solving this new type of threats requires a much broader policy toolkit (such as ODA, international cooperation, technology transfers, information exchanges, etc).⁵⁶ Needless to say, human trafficking falls largely into the category of ‘soft’ threats.

The principal criticism of traditional security approach is threefold. First, traditional security approach’s extensive focus on national security may undermine individual security, since reinforcing national safety usually involves direct tradeoffs between security and liberty (e.g. state intrusion into individual privacy), or between security and societal welfare (e.g. redirection of resources from education to military research).⁵⁷ Second, state-centric thinking revolves around threats such as invasion, war and violent coercion, which might not necessarily be the only potential threats to states or not even the most serious or pressing

⁵³ Referent object refers to the entity facing threat and requiring protection. (Author’s note)

⁵⁴ COTTEY, (Footnote no. 51), page 6.

⁵⁵ Wolfers, A. (1962), *Discort and Collaboration: Essays on Internationals Politics*, Baltimore, page 150.

⁵⁶ FRIESENDORF, (Footnote no. 5), page 383.

⁵⁷ COTTEY, (Footnote no. 51), page 7.

security problems. And finally, since state-centered approach is inherently coercive, it may ultimately produce force-based or fortress-type responses in situations where such action not only fails to address the principal cause of the problem, but may even lead to the exacerbation of the very problem the policy-makers are trying to solve.⁵⁸

The present anti-trafficking strategy of the European Union indicates that the EU policy-making circles are largely composed of proponents of traditional security approach to THB. It may be useful to recall at this point that Union's understanding of human trafficking largely revolves around considerations such as illegal migration, organized crime, money laundering, document forgery, financing terrorist activities and anti-immigrant approaches. This indicates a clearly distinguishable state-centric approach to the issue.⁵⁹ Furthermore, the EU anti-trafficking strategy depends on policy solutions such as strengthening common borders, enhancing internal law enforcement, emphasizing the need to prosecute traffickers, and building capacity of third states to deter migration at its source. In short, the European counter-trafficking practices can be clearly traced to concerns aligned with traditional security. As a result, security concerns are enhanced before everything else, "*even before the needs of the trafficked persons themselves*".⁶⁰ The practical result of accentuating traditional security approach produces an overreliance on coercive governance practices and sidelines prevention and protection pillars of the anti-trafficking triangle.

Existing weaknesses of traditional security approach has compelled some critics to call for a general broadening of the concept of security to include soft security challenges into the strategic thinking equation.⁶¹ These calls were partially answered⁶¹ by the formulation of alternative approach to security called human security at the beginning of the 1990s. The milestone in the development of human security was the UNDP⁶² Human Development Report (HDR), published in 1994, which introduced an argument that ensuring "*freedom from want*"⁶³ and "*freedom from fear*"⁶⁴ for all persons is the most reliable way toward global security and international stability. The Report challenges the traditional notion of security by considering the individual, rather than a state, the referent object of security thinking, thus

⁵⁸ Idem, page 197.

⁵⁹ FRISENDORF, (Footnote no. 5), page 382.

⁶⁰ BERMAN & FRIESENDORF (Footnote no. 4), page 7.

⁶¹ COTTEY, (Footnote no. 51), page 6.

⁶² United Nations Development Programme. (Author's note)

⁶³ UNDP, Human Development Report 1994, Summary: An agenda for the global summit, page 3.

⁶⁴ Idem, page 3.

implying that traditional security thinking is a relic of the Cold War era, unsuitable for tackling the new challenges of the 21st century world.

Adoption of human security as a point of departure in analytical thinking can indeed go a long way in better explaining some of the most pressing problems that humanity faces at the dawn of this new millennium. Where traditional security experts only see borders and sovereign states, human security practitioners go beyond to uncover diversified communities and practices within states, and are, therefore, much better poised to explain cross-border activities, such as migration and transnational crime. Indeed, one of the main limitations of traditional approach is that it neatly divides the map of the world into distinct political units, as if all nations existed irrespective of one another, and could be studied as such. In contrast, human security is better equipped to explain why individuals act the way they do, what are their primary motivations, and which incentives play primary role in guiding their actions. In a world where non-state actors constitute larger and larger portion of the overall threat analysis, such insights can be absolutely crucial.

However, human security, just as any other theoretical approach, has also its inherent weaknesses that are often subjected to lively criticism. First weakness of human security is its inclination to define pretty much every affront to human dignity as a security threat. This practice can, at the end of the day, lead to a scenario where the term security encompasses virtually all international problems and in so doing arguably becomes so broad as to be utterly meaningless for any practical formulation of state policy.⁶⁵ Second, human security can end up meaning many different things in various cultural, regional, and historical settings because the concept gives too much credence to how individuals perceive security, rather than defining what it really means to be secure. This inherent ambiguity may present some serious challenges not only for policy-makers, but also for academic research, since any comprehensive study of security issues must draw, at the very least, on a generally agreed definitions and theoretical frameworks. And finally, human security can hardly ever rely on abundance of reliable statistic data to support its research endeavors. The reasons are twofold. First, many indicators that human security focuses on, such as human rights violations, discrimination, ethnic cleavages, or presence of conflict, are hardly measurable, let alone quantifiable. And second, human security-based research must usually start from the scratch due to the lack of comprehensive data on impoverished communities, especially in the countries of Global South.

⁶⁵ COTTEY, (Footnote no. 51), pages 6 – 7.

Human security approach is far from perfect, yet it seems to be well suited to explain the missing pieces in the story of human trafficking, including answering the question why does trafficking with human beings continue unabated despite intensified EU efforts to crack down on criminal networks. More specifically, human security is better poised to answer why women allow themselves to be exploited at the hands of traffickers, and even more importantly, why do some of these women consent to be re-trafficked after having been exploited before. The answers to these questions are complex, but can be found in people's desperation for work and their desire to break away from impoverished homelands (i.e. in person's motivations).⁶⁶ The point is that these question would have never been asked by traditional experts, who see trafficked persons as simple victims (or unwitting accomplices) of transnational organized crime. This is precisely why human security emphasizes the importance of protecting apprehended victims, as well as the need to pursue holistic prevention policies in the overall context of anti-trafficking efforts. The issue of how human security dimension could improve the EU THB strategy will be addressed more fully in the final section, which includes specific policy recommendation.

To conclude, today's academic debate on the subject of THB in Europe is highly polarized between human security proponents from the ranks of NGOs and human rights advocates and traditional, state oriented security experts dominating the inner circles of EU decision-making processes. For the most part, the traditionalists have carried the day in bitter battles over policy formulation, yet traditional approach based on coercive governance has bred little to no results. Clearly, any comprehensive approach to human trafficking must also be a holistic one, combining elements of both hard and soft power, thus creating the new type of "*smart power*"⁶⁷ that the European Union so far only aspires to.⁶⁸

⁶⁶ SMARTT, (Footnote no. 52), page 168.

⁶⁷ Smart power is defined as the as the strategic and simultaneous use of both hard and soft power. (Author's note)

⁶⁸ http://uscpublicdiplomacy.org/index.php/newswire/cpdblog_detail/the_european_external_action_service_and_smart_power/, retriever: 24.6.2012.

2. Case study – Explaining trafficking in the United Kingdom

“Behind the blaring headlines of the world’s many conflicts and emergencies, there lies a silent crisis – a crisis of underdevelopment, of global poverty, of ever-mounting population pressures, of thoughtless degradation of human spirit.”⁶⁹

James Gustave Speth, former Administrator of the UNDP

The wake of the World War II has seen the European continent undergone a dramatic transformation from being a significant source of migration to being its largest net recipient. Economic boom in Western Europe, along with growing demand for low-skilled labor, has made countries such as Germany, Italy, Spain, France, and the United Kingdom immigration countries in a relatively short span of time.⁷⁰ While the UK was accustomed to experience significant inflows of migrants throughout its modern history due to its colonial past, never before had the UK policy makers struggle so much to contain the flood of poor migrants from developing countries.⁷¹

The ever-increasing migratory pressures have brought the issues of illegal migration, transnational organized crime, and human trafficking to the fore of public debate in the UK. The UNODC Transnational Organized Crime Assessment (TOCTA) warns that the UK is increasingly becoming a prime destination for trafficked persons from many developing countries, most notably in East Africa and East and South East Asia.⁷² Furthermore, the 2010 Report notes that while inflows of trafficked victims from North Africa (Morocco, Tunisia) were relatively limited in the past, they may very well be increasing.⁷³ These discouraging findings represent a painful blow for EU and UK policy-makers, who hoped that the EU anti-trafficking strategy – now in place for almost ten years – would produce more tangible results.

The case study that follows on the pages below is an attempt to uncover the root causes of human trafficking. These results could be quite useful for analyzing whether the present EU anti-trafficking strategy accounts for the THB root causes within its framework. Furthermore, the absence of these factors in the THB strategy of the EU could partially

⁶⁹ UNDP Human Development Report, 1994, page iii.

⁷⁰ COTTEY, (Footnote no. 51), page 207.

⁷¹ Castles, S. & Miller, M. (2009). *The Age of Migration*, (fourth, revised and updated edition), Hampshire, page 204.

⁷² Maritime Analysis Operation Centre, Statistical Analysis Report, Lisbon 2009, quoted in TOCTA, page 44.

⁷³ UNODC, (Footnote no. 18), page 44.

explain why the Union's approach has, insofar, failed to deliver any significant reduction of recorded human trafficking cases. The selective focus on the UK is by no means ideal; it is more of a necessity. The original study design was far more ambitious, in a sense that it hoped to include data from all the EU Member States. However, this particular research method proved to be impractical for several reasons. First, none of the pan-European agencies charged with collecting criminal statistics, such as the Eurostat, Europol or FRONTEXT, publishes comprehensive data on the final number of uncovered victims of human trafficking. Second, there are no standardized guidelines on how the Member States should collect and categorize data regarding the THB. The lack of uniform data collection and evaluation mechanisms is, indeed, a major shortcoming, which prevents any EU-level quantitative research to be conducted effectively. As far as the problem of data collection is concerned, the Europol notes that "*in the absence of any standardized guidelines for data collection at the EU level, it is no surprise that the current ad hoc and fragmented approach taken by EU Member States allows for significant intelligence gaps*".⁷⁴ In practice, this limits possible quantitative research to rely on national databases, which in turn dictates that any case study centered on Europe must be a country-based. And finally, due to the fact that trafficking in human beings often takes place in the context of other criminal activities (e.g. money laundering, illegal border-crossing), the THB is often "*not being investigated or recorded as trafficking cases*".⁷⁵

Still, the choice of the UK as a case study template may seem debatable, since the UK is neither a signatory of the Schengen Agreement, nor does it recognize FRONTEXT's jurisdiction in policing the EU common borders. The reasoning behind selecting the UK is threefold. First, the study design, which will be explained in more detail later on, depends on having access to data covering all documented cases of uncovered THB victims with a breakdown of victims' nationalities. The UK, along with Germany, and the Netherlands, is the only country that both publishes such data, and figures prominently as receiving countries of trafficking.⁷⁶ However, German and Dutch statistics are not satisfactory for the purposes of the study, because their statistics covering the number of victims per annum by nationality include, respectively, only the top 10, and top 7 trafficked nationalities (See Annex V). In contrast, the Serious Organized Crime Agency (SOCA), which falls under the purview of the

⁷⁴ Europol, (Footnote no. 22), page 4.

⁷⁵ *Idem*, page 4.

⁷⁶ UK Home Office, SOCA, National Referrals Mechanism Database, NRM statistics April 2009 to March 2011 web: <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics>, retrieved: 16.8.2012

UK Home Office, publishes fully comprehensive statistics regarding the total number of uncovered victims with complete nationality breakdown.

Second, the UK is – to the author’s extent of knowledge – the only EU Member State that distinguishes between probable, likely, and certain victims of trafficking with human beings. Whereas Germany accounts for only certain victims of THB, the Netherlands publishes statistics based on the principle of mere probability. In contrast, the SOCA records a total number of reported cases (referrals), likely cases (determined according to the legal principle of reasonable grounds), and certain victims (determined on the basis of conclusive grounds evidence). In short, the comprehensive nature of the UK Home Office (UKHO) statistical overview regarding the recorded THB cases made selecting the UK as a template for the following study a logical choice.

And finally, the UK, as oppose to Germany, and the Netherlands, records a much higher number of victims coming directly from impoverished developing countries outside of the European Union.⁷⁷ Since the case study’s intention was to apply human security theoretical approach to the study of the THB phenomenon, focusing deliberately on a country that records higher influxes of victims coming from underdeveloped regions of the globe was a logical decision. Additionally, this thesis strives to use the case study findings to formulate specific policy recommendation for EU policies with regard to how the EU should assist third states to achieve overall reductions in THB prevalence. Bearing this in mind, any study focusing on EU Member State that struggles primarily with intra-EU trafficking would have a little explaining value in terms of formulating recommendations regarding the EU external policies. Having now examined the reasons behind selecting the UK as the focus of the following research, this analysis now turns to explaining design of the study and its ultimate purposes.

⁷⁷ Idem.

2.1 Theoretical framework

„Whilst there is some merit in identifying countries or regions particularly affected by the recruitment activities of traffickers [...] understanding the root causes of trafficking and being aware of what the trafficking picture looks like in specific environments is far more relevant.“⁷⁸

Europol Report on Trafficking in Human Beings in the European Union

Human security research centered on the issue of trafficking in persons has already made significant inroads in terms of expanding general knowledge about the root causes of the THB. The academic community seems largely in agreement on what are the most significant factors contributing to the prevalence of human trafficking. At this point, it would be useful to recall that theoretical framework dealing with the THB distinguishes between countries of origin (sending countries), countries of transit, and countries of destination (receiving countries). Furthermore, academic findings indicate that a high occurrence of human trafficking is a direct result of existing conditions that can be found in both sending, and receiving societies. These conditions are divided into two broad categories, so-called ‘push factors,’ and ‘pull factors.’⁷⁹ Whereas push factors refer to conditions conducive to human trafficking in the sending countries, pull factors describe factors that make a receiving country attractive destination for human trafficking business.

Further research might reveal the final count of push factors to be much higher, but insofar, the academic community has identified around ten main factors that make recruitment of THB victims in sending countries all the more easier and likely. The list of these factors goes as follows: (a) high unemployment (especially youth unemployment), (b) openness of labor market to women and level of gender discrimination, (c) lack of opportunity to improve quality of life, (d) sexual or ethnic discrimination, (e) poverty, (f) escaping persecution, violence or abuse, (g) escaping human rights violations, (h) collapse of social infrastructure, (i) displacement, and finally (j) other environmental conditions including conflict and war.⁸⁰

This approach of looking at conditions in sending countries is quite new and constitutes a significant departure from previous, national security-based approach, centered on investigating how transnational criminal networks operate. The above mentioned push

⁷⁸ UNODC. (2009). *Global Report on Trafficking in Persons*, Vienna, page 11.

⁷⁹ Europol, (Footnote no. 22), page 4.

⁸⁰ Idem, page 4.

factors have been largely assembled by previous academic research that focused on examination of interviews with apprehended trafficking victims. These interviews not only reveal that a sizable portion of THB victims knew beforehand that trafficking was going to take place, but also partially answer why the same victims consented to trafficking despite being aware of what was to come.⁸¹ These important revelations yet again illustrate that human security can be quite useful in examining the root causes of trafficking in human beings.

Any explanation of root causes behind the THB would be inherently incomplete without analyzing why some countries figure more prominently on the list of receiving countries, while others remain largely unaffected by the spreading problem of human trafficking. Previous research in the field has partially addressed these challenges by identifying the most relevant push factors that affect the extent of trafficking prevalence. These factors include: (a) improved standards and quality of life, (b) better access to higher education, (c) less discrimination or abuse, (d) enforcement of minimum standards and individual rights, (e) better employment opportunities (especially for women), (f) demand for cheap labor/commercial sexual services, (g) higher salaries and better working conditions, (h) demand for workers within the sex industry and higher earning, and finally (i) presence of established migrant communities/diasporas in the receiving societies.⁸²

Despite the fact that both sets of factors are equally relevant, the study introduced on the following pages focuses primarily on examination of push, rather than pull factors. There are at least two relevant reasons why directing attention this way is appropriate. First, including pull factors in the case study would only make sense if more than one receiving country figured in the final analysis. The fact that the case study examines only one receiving country dictates that pull factors would remain constant throughout the analysis and would, therefore, have little chance to alter the final results. Another option would be to examine how pull factors in the UK changed over time, and whether this change somewhat affected the number of uncovered victims. Unfortunately, this is impossible at the present, since the UK published its first data including the number and nationality of uncovered THB victims only in 2011.⁸³

⁸¹ Ionescu, M. (2007). *A Human Security Approach to Anti-Trafficking Policies in the EU: Tackling the Structural Sources of Vulnerability*. University of Tokyo Publication, pages 217 – 218.

⁸² Europol (Footnote no. 22), pages 4 – 5.

⁸³ SOCA, (Footnote no. 76).

The second reason for focusing on push factors relates to the study aspirations to produce concrete policy proposals for modifying the current anti-trafficking strategy of the European Union. It is important to realize that reducing the prevalence of THB in Europe through manipulation of push factors would inevitably mean, given the nature of these factors, reducing the high standards of living that the Union's citizens enjoy at the present. Surely, everybody would agree that reducing human trafficking through restricting access to higher education, or through lowering salaries and undermining already high standard of working conditions would not only be politically unsustainable, but also utterly illogical. The one pull factor that could be addressed through government intervention, that is the existing demand for cheap labor/commercial sexual services, falls entirely outside the scope of the EU exclusive regulatory competence (at least for the foreseeable future).⁸⁴ That is not to say that legal regimes concerning prostitution within the Member States are irrelevant. On the contrary, country's approach to prostitution can play an important role in explaining the overall THB trends. However, one should keep in mind that the EU is a composition of twenty-seven legal regimes concerning prostitution and sex and their analysis here would be impractical, since such approach can tell the reader little about what needs to be done in the context of overall EU anti-trafficking strategy. Even though the pull factors are excluded from this case study, the issue of government's regulation in the area of sex industry is elaborated upon in the third section dealing with EU anti-trafficking policies.

⁸⁴ <http://www.europeanlawmonitor.org/eu-policy-areas/in-what-areas-can-the-eu-legislate.html>, retrieved: 22.6.2012

2.2 Purpose and design of the UK case study

“Regression analysis is a statistical tool for the investigation of relationships between variables. Usually, the investigator seeks to ascertain the casual effect of one variable upon another.”⁸⁵

Alan Sykes, Professor of Law, University of Chicago

There are some inherent limitations in human trafficking research. Some of these have been already touched upon elsewhere in this thesis; others yet, have been so far left unexplained. At this point, one should mention that even though qualitative research into the intricacies of trafficking has progressed significantly over the years, pure research studies and detailed research evaluations continue to be extremely rare. To author’s knowledge,⁸⁶ most academic studies concerning the THB problematique are either composed of broad generalizations and speculations, or primarily centered around case studies of individual victims of trafficking. While there are many scientists involved in describing the general contours of human trafficking, only few have explored the possibility of quantitative analysis.⁸⁷ This largely confirms the already mentioned methodological weakness of human security approach, which tends to be quite heavy on the talking, but rather obscure when it comes down to presenting hard science-based knowledge.

This case study represents a modest effort to break through the vicious circle of largely qualitative investigations surrounding the problem of human trafficking. The primary purpose of this section is to investigate which of the THB push factors identified by previous research are less/more strongly correlated with the occurrence of human trafficking in the United Kingdom. The primary aspiration of this thesis is not to provide once again a proof that all of the above mentioned push factors are contributing to human trafficking – this has been already proved by previous research and is widely acknowledged as a fact⁸⁸ – but to investigate whether some factors are more relevant than others. By doing so, the results of the study could indicate which push factors should the European Union focus on when addressing the issue of THB within the framework of its anti-trafficking strategy. Furthermore, these

⁸⁵ Inaugural Course Lecture, Sykes, An Introduction to Regression Analysis, web: http://www.law.uchicago.edu/files/files/20.Sykes_Regression.pdf, retrieved: 22.6.2012.

⁸⁶ Kelly, L. (2005). You Can Find Anything You Want. A Critical Reflection on Research on Trafficking in Persons within and into Europe. *International Migration*, Vol. 43, No. 1, page 236.

⁸⁷ Idem, page 236.

⁸⁸ Europol, (Footnote no. 22), page 4.

insights can be particularly valuable for formulating more effective EU policies aimed at helping third states to curb THB at its source (i.e. in sending countries).

To achieve these ends, the study draws on the principles of econometric regression analysis based on the method of ordinary least squares. Such analysis seems particularly fitting since it can, at least with some measure of statistical certainty, (a) isolate the influence of individual push factors from one another and (b) determine the precise relationship between each push factor and the number of uncovered trafficking victims in the UK. For the purposes of this study, the total number of uncovered victims from each country represents the dependent variable, whereas the individual push factors (captured by various economic and social indicators reflecting conditions in the victims' countries of origin) will perform the function of independent variables. The precise scope of the used indicators, as well as corresponding challenges related to the statistical considerations are more thoroughly addressed in the following section devoted specifically to data collection.

Using the regression analysis, while useful for achieving the desired goal, also has some important limitations that should be acknowledged beforehand. Traditionally, regression analysis relies on a large number of observations to produce a high degree of statistical certainty. One might even say that as the number of observations grows, so too, grows the degree of statistical certainty. The regression analysis research studies to date, at least the ones that the author of this study had a chance to review, have typically included a number of observation reaching up to thousands, but never below fifty. This particular case study includes only 28 observations; its statistical reliability is, thus, limited in scope (See Annex VI for the number of observations). The lack of reliable data, as was already pointed out, is a major limitation of any human security-based research, but in this case, the author felt that following through with the research despite the existing obstacles was a preferable alternative to not attempting any quantitative analysis whatsoever.

Another important limitation was the case study's reliance on numbers depicting only uncovered numbers of THB victims.⁸⁹ Indeed, the final number of victims will differ from the numbers provided by SOCA (See Annex VII) and since this is true, one can also presume that some sending countries might in fact figure more/less prominently on the lists provided in Annexes VI & VII, whereas others countries possibly did not even make it to the list. In the

⁸⁹ Since the number of uncovered THB victims is relatively low, each number was multiplied by 20, which made interpretation of the final results much easier. The use of multiplier of 20 follows the practice suggested by the UNODC. (Author's note)

absence of more reliable data, the author of this study must presume that victim of every nationality has roughly the same chance to be discovered by law enforcement authorities. Therefore, the list of countries in Annexes VI & VII could represent, more or less, an accurate depiction of the UK trafficking trends.⁹⁰

To at least partially offset these existing limitations that might seriously undermine statistical reliability of the results, the case study uses four different calculations and presents four different sets of results. This allowed the author of the study to comparatively evaluate results of all calculations against one another to determine which independent variables continue to exhibit similar correlative relations to the dependent variable. For the first calculation, dependent variable is the number of probable THB victims in the UK, described in SOCA report as the number of referrals (See Annex VIII). The second calculation draws on the number of persons determined as trafficking victims on the basis of reasonable ground decisions (RG)⁹¹ determined by the UKHO. The dependent variables also take into account the sending country's overall population in the final analysis. This measure reflects author's assumption that a large country, such as Nigeria,⁹² might be 'sending' more trafficking victims to the UK not only because of dire societal conditions there, but simply because its population significantly outnumbers populations of smaller countries, such as Albania. To account for these discrepancies, all four calculations rely on the number of victims from a given country divided by the most recent population estimate of the same country. These numbers are, therefore, proportionally representative of both factors: (a) number of THB victims, and (b) overall population of the country of origin.

It is interesting to note at this point that SOCA data hints at certain existing biases. Specifically, the data indicates that EU nationals enjoy preferential treatment within the overall framework of the UK National Referral Mechanism (NRM) for THB victims. Whereas the difference between probable and likely victims of UK nationality is statistically marginal (52/49), the difference between, let us say, Nigerian probable and likely victims is

⁹⁰ Theoretically, the number of uncovered victims could be influenced by law enforcement biases such as racial profiling. This would be especially true in predominantly homogeneous societies such as the Czech Republic, but less of an issue in multiethnic countries such as the UK. (Author's note)

⁹¹ Reasonable grounds decision means that the victim does not have to prove that exploitation actually took place if there is substantial circumstantial evidence confirming the victims' claim. The burden of proof is on the law enforcement authority to present conclusive evidence to the contrary. (Author's note)

far more statistically significant (262/122).⁹³ The same pattern emerges again with other nationals and, generally speaking, the data indicates that EU nationals have a much higher chance to be determined as victims of human trafficking according to reasonable grounds decision-making principles (Annex VII). In the light of these discrepancies, and in the absence of clear explanation of why this is so, the author deems that it was indeed prudent to include calculations that would take into account both the number of probable, as well as the number of likely victims of THB.

The remaining two calculations use the same categories of THB victims (i.e. probable/likely or referrals/RG), but the final list of dependent variables has been slightly reduced. More specifically, two of the independent variables that correlated most strongly among themselves, according to the results indicated in the correlation matrix (see the table on the page bellow), were removed from the second two calculations.

Given the lack of reliable data, none of the four calculations alone can capture correlative relationships between variables with a satisfactory degree of mathematical certainty. However, a thorough cross-examination of all four sets of results has a higher potential of revealing which of the variables representing individual push factors exhibit roughly the same correlative force across all four calculations. An alternative to this approach would be to examine data on year-by-year basis. This is unfortunately impossible, at least at this point because all data concerning apprehended THB victims are quite recent and do not depict trafficking trends within longer periods of time.⁹⁴

Now that the role of dependent variable has been explained, it is time to explain how the individual push factors are represented in the context of the case study design. The model uses ten independent variables representing various push factors mentioned in the previous section. These variables represent various measurable societal conditions in each sending country that figures on the list in Annex VII and include the following indicators: (a) Gross National Income per Capita by Purchase Power Parity in USD (GNI PC PPP \$), (b) gross secondary school enrollment (SS Enroll.), (c) Transparency International Corruption Perception Index (TI CPI), (d) Gender Inequality Index (GII), (e) Human Development Index (HDI), (f) proportion of seats held by women in national parliaments (P. ratio), (g) literacy

⁹³ SOCA, (Footnote no. 76).

⁹⁴ Even the revolutionary SOCA database that this research largely relies on publishes its data only since mid-2009. (Author's note)

rate among young females (Lit.), (h) displacement (Displ.), (i) human rights violations (HR) and finally (j) presence of conflict (Confl.).

TABLE 1

*Correlation coefficient, using observations 1-28
5% critical value (bothsided) = 0,3739 pro n = 28*

	<i>GNI</i>	<i>SS Enroll</i>	<i>CPI</i>	<i>GII</i>	<i>HDI</i>	
	1,0000	0,7625	0,6785	-0,6559	0,8489	GNI
		1,0000	0,6029	-0,5599	0,7370	SS Enroll
			1,0000	-0,5593	0,7161	CPI
				1,0000	-0,7050	GII
					1,0000	HDI
P. ratio	Lit.	Displ.	HR	Confl		
-0,1516	0,5862	-0,2833	-0,3977	-0,4544		GNI
-0,1177	0,5146	-0,2310	-0,4896	-0,5093		SS Enroll
-0,0412	0,5875	-0,4446	-0,5840	-0,5292		CPI
-0,1248	-0,5720	0,3103	0,1693	0,3269		GII
-0,1904	0,7760	-0,3384	-0,4373	-0,4396		HDI
1,0000	0,1074	-0,2950	0,1774	-0,0376		P.ratio
	1,0000	-0,3710	-0,3381	-0,4946		Lit.
		1,0000	0,4758	0,5923		Displ.
			1,0000	0,7155		HR
				1,0000		Confl

The correlation matrix implies that there are strong correlations among variables, which potentially significantly impairs the reliability of the final results. Given these facts, the author of this study included two additional calculations which omitted the two variables that displayed the strongest correlative force among other variables and exceed the critical value of permissible value of correlation. These omitted variables are the SS Enroll and HDI.

The first variable represented by the GNI PC PPP \$ is suppose to measure the extent of poverty in affected countries. As far as human trafficking is concerned, the measure of poverty is “*thought to be one of the most important push factors in origin countries*”.⁹⁵ A word of caution is in order, however. GNI is by no means a perfect indicator of poverty, but it is one of the few economic indicators, which is available for all the examined countries. Unfortunately, when it comes down to the most underdeveloped countries, the World Bank (WB) is unable to provide any reliable statistics concerning the amount of people living under

⁹⁵ IONESCU, (Footnote no. 81), page 218.

poverty due to the lack of verifiable information.⁹⁶ At any rate, there is an emerging consensus among economists that GNI per capita, adjusted by purchasing power parity, is much better indicator of national wealth than Gross Domestic Product (GDP), or its per capita derivate. These considerations made selection of GNI PC PPP \$ as the poverty indicator the most logical choice, even though the author acknowledges the danger that in some developing countries, high national income does not necessarily result in lifting the most impoverished people from poverty. The THB research to date indicates that significant reductions of poverty in a given country should translate into decreased number of trafficked victims from the same country. For the purposes of the study, this implies that increasing the GNI PC PPP \$ should decreased the number of THB victims.

The second variable, secondary school enrollment (SS Enroll.), is connected to the lack of opportunity to improve quality of life.⁹⁷ Unfortunately, the World Bank statistical database does not include school enrollment statistics for women; the use of female secondary school enrollment would have been much more appropriate since some 84 percent of all THB victims in Europe are young females.⁹⁸ Even despite the fact that most countries do publish statistics concerning the secondary school enrolment, data on some countries are still unavailable, whereas with other countries, the data seem rigged and unreliable. These problems arose with respect to Zambia,⁹⁹ whose statistics on secondary enrollment are unavailable, and with Zimbabwe, whose official statistics claim the secondary school enrollment to be at 99 percent (a result more reminiscent of OECD countries), even though the regional average is significantly lower than that. Nevertheless, the fact remains that WB statistics are among the few standardized reliable statistics that can be used if one hopes to determine access to education in individual countries. As for the case study hypothesis, higher number of people enrolled in secondary education should, at least in theory, result in decreased number of THB victims.

Third variable is depicted by Transparency International (TI) Corruption Perception Index (CPI), which relates to the THB push factor of collapsing state structures.¹⁰⁰ The main advantage of the CPI is that it exists for all member states of the UN. Furthermore,

⁹⁶ World Bank Online Statistical Database, web: <http://data.worldbank.org/indicator/SI.POV.NAGP>, retrieved: 17.6.2012.

⁹⁷ Europol, (Footnote no. 22), page. 4.

⁹⁸ UNODC, (Footnote no. 78), page 11.

⁹⁹ In the case of Zambia, the author of this study calculated an average value of secondary enrollment of countries neighboring with Zambia. (Author's note)

¹⁰⁰ Europol, (Footnote no. 22), page 4.

Transparency International is a widely recognized as an impartial institution; therefore, its statistical indicators can be considered to be highly reliable. TI CPI is a composite indicator, where 0 indicates a completely corrupt society and 1 stands for a society completely free of corruption practices. The reasoning behind including the CPI in the final analysis is that functioning state structures must serve the populace on egalitarian basis. The logic dictates that a significant presence of corruption severely impairs the ability of state to perform its prescribed functions vis-à-vis the citizens. As far as the role of CPI in the model goes, raising CPI should correspond with declining numbers of THB victims.

The fourth variable deals with THB push factor related to women lacking access to labor market and gender discrimination.¹⁰¹ This factor is measured by the Gender Inequality Index (GII); this composite index is published by the United Nations Development Programme and depicts inequality in achievements between women and men in three dimensions: (a) reproductive health, (b) empowerment and (c) the labor market.¹⁰² GII determination is based on data collected by various impartial international agencies such as UNICEF,¹⁰³ UNDESA,¹⁰⁴ UNESCO¹⁰⁵ and ILO,¹⁰⁶ and should be, therefore, extremely objective. The GII is a reversed composite indicator, where 0 indicates the most desired status where there is virtually no discrimination against women and 1 speaks of absolute customary, as well as institutionalized discrimination against women. This case study assumes that as the GII in a given country grows so too will increase the prominence of that same country in producing more THB victims.

The fifth variable is the Human Development Index (HDI).¹⁰⁷ This composite indicator developed by the UNDP uses a multidimensional approach and touches upon multiple THB push factors, such as poverty, quality of education, violence, and adequacy of social infrastructure. Considering the fact that this index is composed of data from the World Bank, the International Monetary Fund (IMF), UNDESA, and UNESCO, its reliability should be beyond any reasonable measure of doubt.¹⁰⁸ The HDI is depicted on a range of 1 to 0,

¹⁰¹ Idem, page 4.

¹⁰² United Nations Development Programme, Human Development Report Office, web: <http://hdrstats.undp.org/en/indicators/68606.html>, retrieved: 19.6.2012.

¹⁰³ United Nations International Child Emergency Fund. (Author's note)

¹⁰⁴ United Nations Department of Economic and Social Affairs. (Author's note)

¹⁰⁵ United Nations Educational Scientific and Cultural Organization. (Author's note)

¹⁰⁶ International Labour Organization. (Author's note)

¹⁰⁷ Europol, (Footnote no. 22), page 4.

¹⁰⁸ United Nations Development Programme, Human Development Report Office, web: <http://hdrstats.undp.org/en/indicators/103106.html>, retrieved: 19.6.2012.

where the former represents the highest possible degree of human development and the later captures the most underdeveloped scenario. Concerning the prevalence of THB, higher human development should be reflected by decreased numbers of human trafficking victims and vice versa.

The sixth variable analyzed in this case study concerns the proportion of seats held by women in national parliaments (P.ratio) of the sending countries.¹⁰⁹ This indicator, in and of itself, has little telling value as far as human trafficking is concerned, but the author felt that since the GII was introduced only in 2011, its reliability should be tested by introducing an additional indicator which could reveal the level of discrimination against women in sending societies. Proportion of elected women in legislative bodies performs precisely this function, even if only indirectly. This indicator, which is depicted on a scale 0 to 1, where 1 represents equal gender representation in a given legislative body, is available for all examined countries and has been compiled by the World Bank.¹¹⁰ The case study assumption is that more egalitarian gender representation in the national parliament will translate into less discrimination against women in the given country, which will, in turn, result in less trafficking victims of that particular nationality.

The seventh variable is represented by youth female literacy (Lit.) and relates to the females' ability to improve quality of life and to possible discrimination against women in accessing education.¹¹¹ The exclusive focus on women is again dictated by the peculiar nature of human trafficking in Europe, where vast majority of victims are females trafficked for the purposes of sexual exploitation.¹¹² Youth female literacy rates for examined countries are accessible through the WB statistical database, and can be deemed adequately reliable. The issue of national data-fixing is, however, a distinct possibility in some cases, since Zimbabwe again claims to have 99 percent literacy among young women; an impressive feat in a region where average number of literate young females does not exceed 80 percent.¹¹³ Again, the author of the case study assumes that as higher literacy rates among young women in a given country should lead to decreased occurrence of the THB phenomenon within that particular country.

¹⁰⁹ Europol, (Footnote no. 22), page 4.

¹¹⁰ World Bank, WB Statistical Database, web: <http://data.worldbank.org/indicator/SG.GEN.PARL.ZS>, retrieved: 20.6.2012.

¹¹¹ Youth female literacy rate include all females between 15 and 24 years of age. (Author's note)

¹¹² UNODC, (Footnote no. 23), pages 39-40.

¹¹³ World Bank, WB Statistical Database, web: <http://data.worldbank.org/indicator/SE.ADT.1524.LT.FE.ZS>, retrieved: 20.6.2012.

The eighth variable depicts the overall level of displacement (Displ.) in a given country, which includes refugees, internally displaced persons (IDPs), and stateless population present on the territory.¹¹⁴ The inclusion of this variable relates to measuring several human trafficking push factors: (a) collapse of state infrastructure, (b) persecution and human rights violations, (c) and other environmental conditions including conflict or war.¹¹⁵ The author deems the presence of significant displaced population in a given territory to be a valuable indicator of existing conflict either in the country itself, or in its immediate neighborhood. Furthermore, displaced populations are known to be more vulnerable to a plethora of human rights violations and other abuses.¹¹⁶ This makes displacement a fitting indicator of existing THB push factors. The level of displacement in various countries is recorded by the UN High Commissioner for Refugees (UNHCR); an impartial UN agency, which enjoys a deep measure of respect from most sovereign states. The case study uses the scale of 0 to 5 to determine the level of displacement, where 0 describes no to very little displacement and 5 indicates a massive presence of displaced population in a given country.¹¹⁷ The assumption of the case study is that the number of trafficked persons from a given country will increase with growing levels of displacement.

The ninth variable reflects the level of human rights violations and corresponding abuses (HR) in the sending countries.¹¹⁸ Human right violations were, along with displacement, one of the trickier indicators included in the study. As emphasized previously, human security approach often struggles with the difficulty of transforming essentially qualitative data into quantitatively-based form. Regarding the human rights violations, the author of this study used the Human Rights Watch (HRW) country-specific report from 2010 as the principal point of departure. The report evaluates human rights conditions in all countries of concern, and goes into detail concerning the nature and the extent of such violations.¹¹⁹ The study uses a scale of 0 to 3 to determine the severity of human rights abuses, with 0 representing little to almost no abuses and 3 depicting the worst and largest-scale atrocities. The logic behind this scale is that sporadic abuses classify as 0, violations of

¹¹⁴ Inclusion of displacement was not suggested by any existing literature on THB and was, therefore, entirely an author's idea. (Author's note)

¹¹⁵ Europol, (Footnote no. 22), page 4.

¹¹⁶ UNHCR, Statistical Snapshots of Selected Countries, web: <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e484f76&submit=GO>, retrieved: 18.6.2012.

¹¹⁷ Displacement categories: 0 – 0 – 5,000; 1 – 10,000 – 20,000, 3 – 20,000 – 50,000; 4 – 50,000 – 200,000; 5 – 200,000 or more. (Author's note)

¹¹⁸ Europol, (Footnote no. 22), page 4.

¹¹⁹ Human Rights Watch, 2010 Annual Report, New York.

civil and political rights that are somewhat frequent, yet not common, violations classify as 1, systematic and institutionalized violations of these same rights classify as 2, widespread violations of these same rights along with sporadic occurrence of war crimes, and crimes against humanity classify as 3, fully institutionalized violations of civil and political rights, along with frequent war crimes, and/or crimes against humanity classify as 4, and finally, systematic abuse of all human rights, along with institutionalized perpetration of war crimes, crimes against humanity and/or crimes of genocide and ethnic cleansing classifies as 5. With regard to HR violations, the study design assumes that intensified human rights abuses will translate into higher portion of trafficked victims.

And finally, the last variable used in this case study captures the presence or absence of conflict (Confl.) in examined sending countries (this conflict can be either internal or international).¹²⁰ The full list of all armed conflicts currently in progress is available through the United Nations Department of Peacekeeping Operations (UNDPKO), which shoulders the primary responsibility for monitoring conflicts and administrating the UN Peacekeeping machinery. The UNDPKO focuses, however, primarily on high-intensity armed conflicts and its analysis is, therefore, inherently incomplete. In the process of determining the level of conflict in each sending country from Annex VI, the author used HRW reports and UNHCR displacement statistics as supplementary data where primary data from the UNDPKO proved to be incomplete or was absent altogether. The case study determines the intensity of armed conflict on a scale of 0 – 3, where 0 stands for no conflict, 1 stands for significant organized crime activity accompanied by frequent armed clashes with the law enforcement, 2 stands for either guerrilla warfare or low-intensity armed conflict (insurgent activities), and finally 3, which indicates a presence of major medium or high-intensity symmetrical conflicts. In theory, an increasing intensity of armed conflict in a given territory should contribute to increased number of trafficking victims.

All the gathered data described above are cross-sectional and depict societal conditions in receiving countries in one year, namely 2010 (with the exception of the GII, which reflects situation in 2011). In the individual cases where data for year 2010 were unavailable, the author opted for using alternative data from either 2009 or 2011 wherever possible. This practice should not significantly impair the reliability of the final results, since all included variables are more or less constant from year to year, and change only slowly and over longer spans of time. Additionally, using 2011 or 2009 data in individual cases should

¹²⁰ Europol, (Footnote no. 22), page 4.

not represent a major obstacle because the SOCA statistics concerning uncovered THB victims in the UK reflect trafficking developments from 1st April 2009 to 31st March 2011 (See Annex VII). Now to the nature of the variables: GNI is a cardinal variable, secondary school enrolment, and youth female literacy are qualitative variables, CPI, GII, HDI and female parliamentary ratio are interval variables, and finally, displacement, human rights violations, and conflict represent categorical variables.

Finally, what remains is to describe how the dependent variable interacts with independent variables in the overall context of the econometric regression analysis. The written description of the function implies what could be depicted as the following four functions:

- $Refferals/population = f(GNI\ PC\ PPP\$, SS\ Enroll, TI\ CPI, GII, HDI, P.ratio, Litr, Displ, HR, Confl)$
- $RGs/population = f(GNI\ PC\ PPP\$, SS\ Enroll, TI\ CPI, GII, HDI, P.ratio, Litr, Displ, HR, Confl)$
- $Refferals/population = f(GNI\ PC\ PPP\$, TI\ CPI, GII, P.ratio, Litr, Displ, HR, Confl)$
- $RGs/population = f(GNI\ PC\ PPP\$, TI\ CPI, GII, P.ratio, Litr, Displ, HR, Confl)$

Furthermore, the mathematical equations used in this model could be depicted as follows:

$$(referrals_i) = \beta_0 + \beta_1 GNI\ PC\ PPP\$_i + \beta_2 SS\ Enroll_i + \beta_3 CPI_i + \beta_4 GII_i + \beta_5 HDI_i + \beta_6 P.ratio_i + \beta_7 Litr_i + \beta_8 Displ_i + \beta_9 HR_i + \beta_{10} Confl_i + \varepsilon_i$$

$$(RGs_i) = \beta_0 + \beta_1 GNI\ PC\ PPP\$_i + \beta_2 SS\ Enroll_i + \beta_3 CPI_i + \beta_4 GII_i + \beta_5 HDI_i + \beta_6 P.ratio_i + \beta_7 Litr_i + \beta_8 Displ_i + \beta_9 HR_i + \beta_{10} Confl_i + \varepsilon_i$$

$$(referrals_i) = \beta_0 + \beta_1 GNI\ PC\ PPP\$_i + \beta_2 CPI_i + \beta_3 GII_i + \beta_4 P.ratio_i + \beta_5 Litr_i + \beta_6 Displ_i + \beta_7 HR_i + \beta_8 Confl_i + \varepsilon_i$$

$$(RGs_i) = \beta_0 + \beta_1 GNI\ PC\ PPP\$_i + \beta_2 CPI_i + \beta_3 GII_i + \beta_4 P.ratio_i + \beta_5 Litr_i + \beta_6 Displ_i + \beta_7 HR_i + \beta_8 Confl_i + \varepsilon_i$$

Here, it would be prudent to mention that the above outlined model is somewhat incomplete as far as the inclusion of all relevant factors is concerned. The limitations of this model are fourfold. First, the dependent variable does not consider distances between sending and receiving countries, even though these must definitely play some part in explaining the overall trafficking trends. The only physical barrier that the study includes in its analysis is the EU common border. This factor was taken into account by excluding all EU countries from the final list of sending countries. The reasoning went that EU nationals can more easily

travel among Member States and are, therefore, disproportionately represented in the final victim pool. Removing these nationalities from the study's consideration was the only way to ensure that the border barrier consideration would not alter the case study's results. The only exception to this was Romania, which forms part of the analysis because even though Romania is a Member State of the EU, its citizens have, insofar, not been absolved of the obligation to undergo inspections when entering the Schengen Zone. One other way how to account for the distance between sending and receiving country would be to include the distance between those as a part of the dependent variable. This would, however, also be an incomplete analysis since the reason why some countries send THB victims to the UK might have more to do with former colonial links between the given countries or common use of English in both countries rather than simple distances. Given the multitude of possible interpretations, the author deemed it more practical to simply leave this question out of the final analysis.

Second, the selection of push factors is based on previously conducted research, but one must always acknowledge the possibility that human trafficking scholars might have missed other significant push factors exacerbating the THB phenomenon. Additional limitation deals with the measurability of THB push factors. Some societal conditions, such as domestic violence against women, might be an important contributing factor to trafficking, and yet, the challenges of uncovering cases of domestic violence, let alone transforming these cases into measurable data, are too great and prevent the author from including these into the case study design.

The third limitation deals with the lack of comprehensive data from previous periods. Having the opportunity to compare data from multiple years would increase the number of observations, which would contribute to the overall statistical reliability and robustness of the model. Data from previous years are, insofar, unavailable to public at large. The author submitted requests to the UKHO, UNODC, and Europol for more data on trafficking victims in previous years, but all three replies indicated that such data are either unavailable, or not meant for public consumption.

And finally, other data, such those concerning poverty ratio or youth female unemployment, are available for some countries, but underdeveloped countries most affected by human trafficking are usually also the ones where such data are either unreliable or unavailable. Now that the research model has been adequately explained, the next section of this thesis turns to presenting and interpreting the results of the United Kingdom case study.

2.3. Case study – interpretation of results

„The lack of methodological transparency [of human security approach] provides little foundation for assessing the depth and quality of research and denies the entire field opportunities for learning and knowledge transfer.“¹²¹

Liz Kelly, Professor of Women Studies, University of North London

The final findings indicate what was assumed in the previous section. The interpretational potential of the entire model, as well as its statistical reliability, is somewhat inadequate due to the lack of data that would represent developments in receiving societies over longer periods of time. Regardless, the final results listed on table 2. below indicate that P value of all variables is higher than 0,1, which implies that the none of the variables is statistically significant and all the variables are below 10 percent of statistical relevancy.

This result yet again illustrates the primary weakness of human security approach. Let us recall that even though human security is heavily critical of using aggregate national statistics in the research of root causes of the THB, it has little choice but to rely on the very same statistics, since data from local level are either incomplete or unavailable.

All things considered, the final case study results are a disappointment as they fail to adequately capture the relationship between the number of trafficked persons and individual push factors fueling the THB phenomenon. But the table comparing the UK societal conditions with similar conditions in sending countries available in Annex VI clearly shows that all sending countries of THB victims to the UK perform poorly on all of the indicators, at least on a comparative basis with the receiving country. This fact, in and of itself, should at least indicate that the push factors identified by academic literature on the THB topic, are indeed relevant, and should be addressed through vigorous government intervention. The main limitation at the present is that the lack of data concerning the sending countries significantly impairs the ability to determine, which ones of the trafficking push factors are more important, and should be given a higher priority in the formulation and implementation of an effective anti-trafficking strategy. This analysis now turn to a comprehensive overview of what the European Union has done, and is doing, to address the spreading prevalence of human trafficking in Europe.

¹²¹ KELLY, (Footnote no. 86), page 237.

Independent variables	Model 1	Model 2	Model3	Model 4
GNI	1,27E-07 0,000000354	1,939E-07 0,000000175	0,000000162 0,000000255	0,000000185 0,000000126
SS Enroll	2,21E-05 0,0000396	0,0000069 0,0000196	- -	- -
CPI	-0,00102459 0,001248	-0,00085 0,000618	-0,001 0,0011	-0,00087 0,00058
GII	-0,00358786 0,00668604	-0,00233 0,003313	-0,00359 0,0059	-0,0021 0,0029
HDI	-0,00303494 0,0127	-0,00209 0,00631	- -	- -
P. ratio	-2,10E-06 0,00001275	-2,7289E-06 0,000007	-0,00000016 0,0000119	-0,0000015 0,0000059
Lit.	-3,91E-05 0,00005238	-0,0000149 0,0000259	-0,0000474 0,000035	-0,00002 0,0000176
Displ.	-0,00073949 0,000448134	-0,000352 0,00022	0,00066 0,0004	-0,000321 0,00019
HR	-0,000672976 0,00194189	-0,000726 0,00096	-0,000818 0,0017	-0,000734 0,00088
Confl	0,000387713 0,00125956	0,0000309 0,00062	-0,000582 0,00111	-0,000066 0,00054

Where:

- the top row indicates the correlation coefficient of the given variable
- the bottom row indicates standard error
- none of the variables contains stars that would indicate some measure of statistical reliability

3. EU anti-trafficking strategy: comprehensive or contradicting?

„Security is a precondition of development. Conflict not only destroys infrastructure, including social infrastructure; it also encourages criminality, deters investment and makes normal economic activity impossible. A number of countries and regions are caught in a cycle of conflict, insecurity and poverty.“¹²²

European Security Strategy adopted in 2003

The international security environment has undergone dramatic changes at the dawn of the third millennium. The prospect of an all-out war ravaging once again the entire landscape of the European continent, which preoccupied policy-makers around Europe for better part of the 20th century, was suddenly and violently replaced by new kinds of more subtle, but equally menacing threats represented by organized crime, failed states, and international terrorism. The EU, while not entirely oblivious to the dangers challenging its security, remained fragmented for more than a decade before finally realizing that if it is to address these new challenges, it must enter the security arena as an indivisible entity with a strategy of its own. The culmination of Union's efforts to unite its Member States into a single security actor came with the adoption of the European Security Strategy (ESS) in 2003.

The ESS document trumpets EU achievements in the area of human development and proclaims that the continent has moved beyond the old cleavage politics into a lasting era of cooperation, economic prosperity and peace. The threats challenging the continuance of the EU liberal paradise would no longer come from within, but from without. Behind the common borders, therein lies a crisis of societal upheavals on a large scale that could, if not addressed effectively, tear down the walls of Europe and plunge the continent back into chaos. In this context, the ESS specifies that the European Union is particularly vulnerable to the five key threats: (a) terrorism, (b) proliferation of weapons of mass destruction (WMD), (c) regional conflicts, (d) state failure, and (e) organized crime.¹²³

In the EU strategic thinking, THB falls largely under the organized crime pillar and represents a major key security challenge that originates outside of the Union's territory. As far as the organized crime is concerned, the ESS specifically stipulates that *“Europe is a prime target for organized crime”*,¹²⁴ clarifying further that *“this internal threat to our*

¹²² Solana, J. (2003). A Secure Europe in a Better World – European Security Strategy. *European Institute for Security Studies*, Paris, page 2.

¹²³ SOLANA, (Footnote no. 123), pages 3 – 4.

¹²⁴ Idem, page 4.

security has an important external dimension: cross-border trafficking in drugs, women, illegal migrants, and weapons accounts for a large part of the activities of criminal gangs".¹²⁵

The extent to which organized crime threatens the foundations of lawful society – at least in EU's view – does not end there, since the Union further claims that organized crime "*can have links with terrorism*".¹²⁶

While the ESS mentions the prominence of human trafficking among the EU's list of security threats, it is rather ambiguous as to how these threats should be addressed. The Union leaders claim that "*distant threats may be as much a concern as those that are near at hand*".¹²⁷ This largely confirms the realities of the 21st century globalized world. Following these considerations, the EU concludes that preventing dangerous scenarios before they materialize is of the utmost importance. The ESS mentions this need to formulate comprehensive prevention policies in the following fashion: "*The first line of defense will often be abroad. The new threats are dynamic [...]. Conflict prevention and threat prevention cannot start too early.*"¹²⁸

Assessing the EU policy just from the stipulations of the ESS seems to imply that the EU fully understands the need to prioritize prevention policies over all other considerations. However, the ESS is less of a concrete security strategy and more of an eye-soothing document aimed at public consumption. Insofar, the European Union leaders have failed to translate the promises of the ESS into concrete political action. Behind the polished lines of the ESS lies an important revelation, however. The EU sees human trafficking as an external threat which should be dealt with in the framework of its anti-organized crime strategy. To what extent this is really true is debatable, and will be fully answered later on in this section.

The ESS is only an overall security framework. The problem of human trafficking is elaborated upon in more detail in EU strategic instrument called Comprehensive Plan to Combat Illegal Immigration and Trafficking in Human Beings. This strategic paper, adopted by the Justice and Home Affairs (JHA) Council in 2002, stipulates that solving the issue of trafficking requires first and foremost to crack down on illegal migration, exchange more data with third states, create a stronger role for the Europol, establish additional readmission and return agreements with third states, and direct more resources toward better protection of

¹²⁵ Ibidem, page 4.

¹²⁶ Ibidem, page 4.

¹²⁷ Ibidem, page 6.

¹²⁸ Ibidem, page 6.

common borders.¹²⁹ Overall, this strategic paper does not include any specific prevention or protection policies and focuses heavily on the prosecution pillar of anti-trafficking. In this sense, it departs significantly from the spirit of the ESS, which promises the EU security policies to be precautionary, rather than reactionary.¹³⁰

The primary failings of the EU anti-trafficking approach are twofold. First the strategy assumes that the problem of human trafficking has an external source. This couldn't be farther from the reality, since most human trafficking in Europe is predominantly domestic or intra-EU.¹³¹ Take the case of Germany, for example, where most frequently uncovered trafficking victims in 2010 were Germans (122 cases), followed by Romanians (119), Bulgarians (115), Hungarians (53) and Poles (31).¹³² The same trend was recorded in the Netherlands (315, with Dutch nationals being by far the largest trafficked group, followed by Nigerians (130), Hungarians (56), Romanians (49), Bulgarians (46) and Slovaks (39).¹³³ There are exceptions to this trend, such as the UK, where UK nationals were the seventh largest exploited group and the Czech Republic, where Czech nationals are the second largest exploited group followed by Ukrainians.¹³⁴ These exceptions, however, do not alter the overall trend that the data indicate: the majority of all THB victims in Europe are EU citizens. The same pattern emerges with regard to traffickers (See Annex I). Dutch traffickers are the most numerous offenders in the Netherlands, Greeks in Greece, and Italians are the second most numerous followed by another EU national, the Romanians.¹³⁵ The conclusions stemming from the data are clear and incontrovertible: trafficking in human beings in Europe is predominantly an intra-EU problem.

The second conceptual failing of the comprehensive anti-trafficking plan is that it insists on linking THB with illegal migration. If the reality of the trafficking situation is that the majority of both trafficked persons and traffickers are EU nationals, why would the EU insist on linking the issue with illegal migration and external threats? This simple answer is

¹²⁹ Summaries of EU Legislation, web: http://europa.eu/legislation_summaries/other/l33191b_en.htm, retrieved: 25.6.2012.

¹³⁰ BERMAN & FRISENDORF, (Footnote no. 4), page 9.

¹³¹ Bundeslagebildt. (2010). Menschenhandel, Bundeskriminalamt, Wiesbaden, page 10. CoMensha, Annual Report 2010 Anti-Trafficking Center, Amsterdam, page 7.

¹³² Bundeslagebildt. (2010). Menschenhandel, Bundeskriminalamt, Wiesbaden, page 10.

¹³³ CoMensha, Annual Report 2010 Anti-Trafficking Center, Amsterdam, page 7.

¹³⁴ UNODC, (Footnote no. 18), page 4.

¹³⁵ Idem, page 6.

because it can. A more complex answer is primarily linked to the nature of migration and may be quite controversial and equally disturbing.

The EU policy-makers have been struggling for decades to address the increasing inflows of migrants to the Union.¹³⁶ Over the course of last years, issue of migration has moved from political peripheries to the center stage of public debate in most EU Members States, most notably in Belgium, Germany, France, Italy, the Netherlands and Spain.¹³⁷ The volatility and explosiveness of the migration debate has lead leaders of Europe to increasingly describe illegal migration as a fundamental challenge to national security, preservation of national culture and social cohesion. As a result, the EU policy-makers have undertaken a task of building ‘Fortress Europe,’ which is a term referring to a defensive security response of closing EU borders in reaction to the perceived threat pose by migration.¹³⁸ Migration, however, cannot be effectively addressed as long as the underlying causes of migration continue to exist. The proceeding globalization has lifted millions of people from the depths of poverty and increased mobility of people who seek better life elsewhere.¹³⁹

EU leaders are painfully aware of these issues and also understand that restricting access of third-country nationals to the Schengen is problematic, because it runs contrary to the spirit of free trade. But at the same time, they are eager to exploit every chance to deny access and strengthen the walls of the European fortress. For EU policy-makers, rising prominence of human trafficking presents an opportunity they have been eagerly waiting for. After all, THB is an outrageous affront to human dignity, represents a contemporary form of slavery and constitutes a gross violation of human rights. What sane voter would not want to address it through an effective government action? At least so the reasoning went.

Thus it came to pass that trafficking in human beings became defined as a fundamental external threat to the EU security, even though it is largely internal; it became an issue of illegal migration, even though most traffickers and trafficked persons are EU nationals; and it became a problem for law enforcement and border agencies to solve, even though it is a human rights violation that can be effectively addressed only through a holistic approach, which would include cooperation among police, governmental agencies, private sector, civil society and NGOs. Instead of formulating a comprehensive anti-trafficking approach, the EU

¹³⁶ CASTLES & MILLER, (Footnote no. 71), pages 1 – 3.

¹³⁷ *Idem*, pages 208 – 209.

¹³⁸ COTTEY, (Footnote no. 51), page 213.

¹³⁹ CASTLES & MILLER, (Footnote no. 71), page 2.

policymakers inaugurated an anti-immigration strategy in everything but name. Now that the Union's THB framework has been introduced, this paper turns to examining how the EU anti-trafficking efforts look in practice.

3.1 Combating trafficking – what is the EU practice on the ground?

“The action plan for preventing and combating illegal immigration and trafficking of human beings in the European Union aims to define a common and integrated approach. It provides for measures and actions to be adopted and implemented in seven areas: visa policy, information exchange, readmission and return policy, border management, pre-frontier measures, Europol and penalties.”¹⁴⁰

Let us recall at this point that any effective anti-trafficking policy should include three mutually interlinked pillars: (a) prosecution, (b) prevention, and (c) protection. These pillars, which are also sometimes referred to as the ‘three Ps’ of anti-trafficking,¹⁴¹ have come up time and again in the academic literature dealing with human trafficking. The question that this section strives to answer is whether the current EU governance meets the three criteria above. More specifically, does the EU prosecute traffickers effectively? Does it place satisfactory emphasis on protecting and assisting the victims of THB? And finally, has it implemented adequate prevention policies to curb trafficking at its source?

In the prosecution arena, the EU has been quite active indeed. The bulk of EU anti-trafficking funds have gone to law enforcement and criminal justice, with prosecution of traffickers now being the most advanced governance approach.¹⁴² Over the years, the EU has substantially reinforced its common borders and made them much less penetrable by employing more sophisticated surveillance and police technology. Arguably, the fortification of EU common borders played directly into the hands of traffickers. There are at least two reasons why this might be the case. First, as the legitimate opportunities for accessing the Schengen Zone decrease, so too increases the need of third-states laborers to rely on traffickers to cross the EU borders. In other words, as the EU borders closes for non-EU citizens, the traffickers become the only vehicle through which penetration of EU borders is possible. And second, let us recall that with the enlargement of the Union to the East, the eastern border of the Schengen now includes countries such as Poland, Baltic States, Slovakia

¹⁴⁰ JHA Council, (Footnote no. 12).

¹⁴¹ IONESCU, (Footnote no. 81), page 218.

¹⁴² FRIESENDORF, (Footnote no. 5), page 392.

and Hungary. There is mounting evidence that border law enforcement agencies of these countries are easily bribable and corruptible. Furthermore, there have been documented cases of organized criminal gangs bribing border officials by putting leaflets (i.e. banknotes) into passports.¹⁴³ The point is that making the EU external border less penetrable arguably increases the demand for using traffickers' services, which, at the end of the day, increases the occurrence of both organized crime and human trafficking.

Apart from strengthening common borders, the EU is claiming to have increased its efforts in prosecuting traffickers by introducing stricter criminal penalties. The adoption of the Directive of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (2011/36/EU) has, indeed, compelled Member States not only to criminalize trafficking within domestic penal codes but also to introduce stiffer criminal penalties against traffickers.¹⁴⁴ This seems, on the face of it, as a positive improvement. A more balanced review of the facts reveals, however, that the EU has been quite unsuccessful in prosecuting apprehended traffickers. The primary reason is that to build a criminal case against the trafficker, victim's cooperation with judicial authorities is of the utmost importance. As of this moment, trafficking victims are being deported for violating immigration laws, which makes their testifying against traffickers impossible.¹⁴⁵ Let us recall at this point that such practice is illegal, since the Palermo Protocol states that victim of human trafficking, even if he or she consented to trafficking, should not be criminalized. Despite this provision in the Protocol, EU Member States continue to refuse granting trafficked persons the status of THB victim and opt instead for deporting them back to their home countries for violating domestic labor or immigration laws. At this point, one might indeed wonder how the EU hopes to prosecute traffickers if it repatriates key witnesses. In practice, repatriation is the most often form of dealing with both the victim and the trafficker (if they are non-EU nationals). This is indeed a pity, since evidence suggests that repatriated victims are often re-trafficked to another destination.¹⁴⁶

Furthermore, the CoE Convention provides that trafficking victims will be given thirty-day reflection and recovery period in which time the victim can either choose return to a country of origin or apply for residence permit in the EU. Granting THB victims this

¹⁴³ FRIESENDORF, (Footnote no. 5), page 395.

¹⁴⁴ GALLAGHER, (Footnote no. 2), page 167.

¹⁴⁵ FRIESENDORF, (Footnote no. 5), page 391.

¹⁴⁶ KELLY, (Footnote no. 86), page 248.

reflection period is a mandatory obligation of all signatories to the CoE Convention, but despite this, the practice suggests that majority of EU Member States make providing the thirty-day reflection and recovery period conditional on the victims' willingness to cooperate in criminal proceedings.¹⁴⁷ All this despite the fact that CoE Convention makes it quite clear that the "*assistance to a victim is not made conditional on his or her willingness to act as a witness*".¹⁴⁸ How is it then possible that countries do derogate from this principle and deport victims without providing them with the mandatory reflection period? The explanation is quite simple. When it comes down to third-country nationals, the EU Member States prefer to describe THB victims as illegal migrants, which absolves them from having to fulfill any obligations stemming from either the Palermo Protocol or the CoE Convention.¹⁴⁹ This also partially explains why out of 262 referred cases of victims of Nigerian origin, only 122 were classified as THB victims, whereas in the case of UK nationals, 49 out of 52 referred victims were granted the status of human trafficking victim.¹⁵⁰

Another factor that makes effective prosecution of traffickers even harder is the requirements that some Member States placed on the cooperation of THB victims with prosecutors. These requirements are quite excessive and only a handful of victims can meet them.¹⁵¹ In the case of Germany, witness programs are said to offer insufficient incentives and protection to THB victims.¹⁵² The problem is that even if the victim decides to cooperate, there is no assurance that he or she will not be repatriated after the closure of criminal proceedings. Since this is the case, many victims refuse to cooperate, fearing retribution of organized criminal gangs that operate in the victim's country of origin.¹⁵³

All things considered, even the prosecution pillar of the EU anti-trafficking strategy, which is said to be the most developed, at least comparatively to protection and prevention pillars, has some fundamental flaws that impair its effectiveness. Reinforcing common borders arguably increases demand for traffickers' services, while prosecuting the offenders is impossible in the absence of repatriated key witnesses. It would seem that the EU prosecution policy is less keen on real prosecution and more set on quickly repatriating traffickers and victims alike.

¹⁴⁷ FRIESENDORF, (Footnote no. 5), page 393.

¹⁴⁸ Council of Europe, (Footnote no. 39), Article 12, Section 6.

¹⁴⁹ KELLY, (Footnote no. 86), page 263.

¹⁵⁰ SOCA. (Footnote no. 76).

¹⁵¹ FRIESENDORF, (Footnote no. 5), page 393.

¹⁵² *Idem*, page 393.

¹⁵³ *Ibidem*, page 393.

Some of the aspects dealing with victims' protection have already been addressed in the pages above. In the absence of real government protection of the victims, most work on the ground is done by various NGOs, which provide victims with legal counseling and some rudimentary assistance in recovering from the previous period of exploitation.¹⁵⁴ However, NGOs in the EU do not have the right to refuse to disclose incriminating evidence against assisted victims in court, which makes them an unreliable partner for the victims. The result is that many victims refuse the assistance offered by NGOs out of fear that anything they say might be later used against them in criminal proceedings. This is, indeed, a significant departure from customary practice, because NGOs traditionally treat information provided by assisted victims as confidential.¹⁵⁵

Additionally, the EU practices of swiftly repatriating victims without extending protection might be in a direct violation of the 1951 Convention Relating to the Status of Refugee (hereby referred to as the CRSR Convention). The CRSR clearly stipulates that a person outside of his or her country of nationality who has a well-founded fear of persecution because of his or her race, religion, nationality, political opinion or a membership of a particular social group, cannot be repatriated under any circumstances.¹⁵⁶ Since THB victims are often recruited from the most vulnerable groups of persons, such as displaced persons, the chance that some THB victims might also classify as refugees is quite high. Despite this fact, the EU conducts no screening of THB victims for potential refugees, nor does it allow trafficked persons to claim refugee status. The issue of compliance with the CRSR Convention is also closely connected to the fortification of Europe's borders. The CRSR clearly establishes that refugees fleeing prosecution should be allowed to cross international boundaries freely.¹⁵⁷ The EU, however, chooses to restrict access to all third-country nationals irrespective of the fact that there might be genuine refugees among them.

Overall, protection practices in the EU are quite weak. There is a general lack of reintegration programs, even though helping victims with reintegration into their home communities reduces the likelihood of re-trafficking.¹⁵⁸ Furthermore, NGOs working in the human trafficking field lack funding, which produces a severe competition for financial

¹⁵⁴ FRIESENDORF, (Footnote no. 5), page 389.

¹⁵⁵ *Idem*, page 394.

¹⁵⁶ United Nations General Assembly. (1951). United Nations Convention Relating to the Status of Refugee, 1951, New York, Articles 1 & 33.

¹⁵⁷ *Idem*, Article 31.

¹⁵⁸ FRIESENDORF, (Footnote no. 5), page 393.

resources, which is higher in anti-trafficking than in any other policy field.¹⁵⁹ The result of this competitiveness is unwillingness of NGOs to conduct knowledge transfers among themselves, which deprives the entire field of the opportunity to learn something new and valuable about the human trafficking phenomenon.

And finally, let us turn to how the EU performs in the area of preventive anti-trafficking policies. The prevention pillar of the THB strategy can be divided into two categories, one dealing with prevention policies at home, and the other addressing prevention programs and practices in third countries. As far as the first category is concerned, the EU has left it largely on the Member States themselves to formulate and implement prevention policies as they see fit, and, therefore, the EU Members are not legally obligated to adopt any concrete policies dealing with prevention.¹⁶⁰ Some member states, such as Finland, have chosen to go in a way of completely prohibiting prostitution in general in order to address the trafficking issue. Such harsh approach can potentially exacerbate the occurrence of trafficking in the given country, since driving prostitution underground and outside the scope of government regulation can make occurrence of criminal activities and human trafficking more likely. Other countries, such as the Netherlands, have gone exactly the opposite way – legalizing prostitution and submitting it to heavy government oversight. Nevertheless, national data indicate that the prevalence of trafficking in the Netherlands is still quite high and may even be increasing.¹⁶¹ The debate on whether prohibition leads to more or less trafficking of the given commodity is decades old and remains unresolved. At any case, answering such question would be a theme for a thesis in its own right. To date, the EU Member States have done little to implement awareness raising campaigns targeted at potential customers of trafficked persons. Similarly, NGOs have largely refrained from these campaigns due the lack of proper funding.¹⁶²

And finally, this section addresses what the EU has done so far to prevent trafficking in the countries of origin. Unfortunately, there is not much to be addressed here since the EU prevention policies in third countries have, so far, not moved beyond awareness-raising campaigns informing people about the perils of trafficking. These campaigns are still funded

¹⁵⁹ *Idem*, page 393.

¹⁶⁰ *Ibidem*, page 393.

¹⁶¹ *Trafficking in Human Beings: Ten years of independent monitoring*, National Rapporteur on Trafficking in Human Beings, Rotterdam 2010, page 158.

¹⁶² BERMAN & FRISENDORF, (Footnote no. 4), pages 4 – 7.

by the EU Commission despite the fact that there have been increasing doubts as to the effectiveness and counterproductivity of these measures. One NGO-conducted survey in a country of origin revealed, for example, that EU so-called anti-trafficking awareness campaigns are perceived more as an EU propaganda discouraging people to migrate to the EU.¹⁶³ If this is true, then it again serves as a testament to how the EU instrumentalizes trafficking in order to reduce overall migratory flows to the Schengen.

Additionally, the EU anti-trafficking preventive policies in sending countries are marked by an absolute lack of development oriented anti-trafficking programs that could address the root causes, including youth female unemployment, poverty, gender-based discriminatory practices, lack of access to education and medical services, and domestic violence against women. This is, however, not only an EU's failing, since human trafficking in general suffers from a lack of donor interest even among private donors.¹⁶⁴

Overall, the EU practice in the field of human trafficking has been contradictory, rather than comprehensive. Fear of EU Member States that too much recognition and assistance to victims will strain governmental resources has led governments to deport, rather than assist the victims, which has had negative implications for EU efforts to prosecute the traffickers.¹⁶⁵ EU's emphasis on fortification of common borders has arguably increased demand for trafficking, while the absence of reintegration programs means a missed opportunity to prevent re-trafficking of previously exploited victims. Prevention in countries of destination is limited to questionable awareness-raising campaigns, which raise questions about whether the EU's genuine interest is to prevent human trafficking or migration. In short, the present EU anti-trafficking policies are fragmented, contradictory, and leave much to be desired. The question of what could be improved in the current anti-trafficking strategy of the European Union is addressed in the following section focused on policy recommendations.

¹⁶³ FRIESENDORF, (Footnote no. 5), page 394.

¹⁶⁴ *Idem*, page 394.

¹⁶⁵ GALLAGHER, (Footnote no. 2), page 169-170.

4. Policy recommendations – toward trafficking-free Europe

“The battle of peace has to be fought on the fronts. The first is the security front where victory spells freedom from fear. The second is the economic and social front where victory means freedom from fear. Only victory on both fronts can assure the world of an enduring peace. No provisions [can] make the world secure from war if men and women have no security in their homes and their jobs.”¹⁶⁶

James F. Byrnes, former US Secretary of State

4.1 Prosecution

The necessary legal framework that would allow an effective prosecution of traffickers is largely in place, with the majority of EU Member States having already criminalized trafficking. There are, however, some exceptions to this. Baltic States, as well as Poland, have insofar criminalized only trafficking for the purposes of sexual exploitation while leaving trafficking for the purposes of labor exploitation largely unregulated.¹⁶⁷ If human trafficking is to be prosecuted more effectively, these states need to act quickly to outlaw trafficking in all forms.

The main challenge in the area of prosecuting traffickers comes from convincing the victims of trafficking to cooperate more fully in criminal investigations and to act as key witnesses in judicial proceedings. The present judicial framework fails to offer victims adequate incentives for cooperation. This lack of incentives could be addressed by multiple measures. First, victims could be included in a witness protection program, which would adequately assure their safety and shield them from a possible retribution of the traffickers. Second, offering the victim a resident and working permit limited for the duration of the judicial proceedings in exchange for acting as a witness could also go a long way in securing cooperation of many third-state nationals. Third, the victim should receive an adequate legal counseling on his or her full rights in order to make an informed decision whether to cooperate or not. Fourth, the Member States should refrain from criminalizing victims for petty offences related to labor and migration laws violations, which would significantly reduce victims’ fear to cooperate with judicial authorities. And finally, the present thirty-day

¹⁶⁶ UNDP, (Footnote no. 63), page 3.

¹⁶⁷ UNODC, (Footnote no. 78), page 34.

reflection and recovery period should be extended to all probable victims of human trafficking, rather than only to those that are determined as likely THB victims.

4.2 Protection

As of this moment, victims of human trafficking enjoy almost no legally binding rights vis-à-vis the EU Member States. The Palermo Protocol only guarantees the right not to be persecuted for giving consent to trafficking, while the CoE Convention gives victims some rudimentary rights, such as the right for thirty day reflection period and a right for adequate housing. The main challenge, however, comes from making sure that exploited trafficked persons are truly recognized as such by state authorities. In the absence of unified guidelines, which would make it abundantly clear under what conditions should the trafficked person be entitled to receive a status of THB victim, EU Member States can derogate on their internationally binding principles whenever they want. Identification of person as a trafficking victim should follow the same procedures and standards all over Europe. Furthermore, the determination procedure should give each and every single claimant the benefit of the doubt, rather than prima facie expulsion, which seem to be the general practice as of now.¹⁶⁸

Additionally, states should codify new legal instruments, which would include victims' rights in the form of general and legally binding obligations, rather than simple recommendation as is today's practice. These rights should include, at minimum, the right to receive adequate legal counseling, the right to apply for temporary residence permit, the right to appeal negative decision, and the right to file suit against the trafficker for compensation with regard to loss of revenues.

4.3 Prevention

And finally, the prevention pillar of the EU anti-trafficking, which is all but absent in EU approach at the present, must be effectively formulated and implemented. The European Union knows little about the nature of human trafficking, especially when it comes down to factors influencing the recruitment of trafficking victims in third countries. It is indeed

¹⁶⁸ GALLAGHER, (Footnote no. 2), page 165.

alarming that the EU is favoring a law enforcement approach to a multifaceted human rights approach. This one-sidedness of EU anti-trafficking largely prevents NGOs and civil society from effectively participating in the overall THB framework. The new strategy should reflect the need for a well-balanced governance approach, which would not only mean that states cooperate with one another, but would also draw international organizations and non-governmental organizations into the overall cooperative anti-trafficking arrangement. Since the problem of trafficking is likely caused not only by criminal activity, but also by structural vulnerability of particular groups of people and poverty in the receiving countries, the new approach must go beyond the use of hard policy instruments. It must strike a careful balance to ensure that soft and hard policy instrument work in concert.

This problem largely connects to the issue of effective networking among actors that should pursue the same approach. Not only have various actors pursued diverging approaches so far, but even in a presence of unified common approach, these actors must work among themselves to ensure an optimal overall efficiency. Insofar, NGOs have been reluctant to cooperate with EU Member States, fearing that databases they gather on likely trafficking victims in third states would be later used by EU law enforcement agencies against the very persons the NGOs are trying to protect. The EU should, therefore, de-privilege the present emphasis on pursuing a coercive governance response to trafficking and implement a prevention strategy that would strive to address the underlying causes of trafficking in source countries through increased official development assistance and specific-group targeted programs, which would reduce the structural vulnerability of particular groups of persons (e.g. women, children, displaced persons, repatriated trafficking victims).

In this sense, prevention should imply a cooperative effort to improve the social and economic conditions that lead people to take risky migration decision. Development-oriented efforts against trafficking must improve educational, medical, and social infrastructures, and create viable employment opportunities, particularly for women and minorities.¹⁶⁹ One policy particularly worth exploring would be to offer legitimate employment opportunities as an alternative to trafficking. This could take place in a form of a guest working program and temporary residence permit for third country nationals that have been identified by NGOs on the ground as being in eminent danger of falling prey to trafficking. The argument goes that the most determined people will get to the EU anyway, because no border is fully

¹⁶⁹ FRIESENDORF (Footnote no. 5), page 389

impenetrable, especially not the Eastern Shengen border where nepotism, informal clientelism and corruption are rampant. It is much better if the potential THB victims cross the border with assistance of the EU, rather than with the assistance of traffickers.

And finally, the most important point, which cannot be emphasized enough, is the need for establishing a pan-European mechanism for uniform data collection with regard to trafficking offences. As of this moment, no such system exists. There are no general guidelines on how data should be collected; there is no overriding definition on the EU level as to how human trafficking cases should be evaluated or recorded; and there is no legally binding obligation upon the Member States to publish comprehensive uniform data on the issue of trafficking. Even Europol notes that due to the absence of standardized data collection “*assessments of trafficking throughout the EU are based on incomplete data and are, at best, partially informed estimates.*”¹⁷⁰ The case study introduced in section 2 is a painful illustration of the difficulties related to the current lack of data. In the absence of Europe-wide database covering the main trafficking trends, any hope to conduct a comprehensive research that would reveal more about the underlying causes of trafficking in Europe will remain a distant dream, rather than a distinct possibility. Without knowing the root causes of trafficking, one can hardly formulate any judgments as to whether the primary cause of human trafficking is criminal organized activity, structural vulnerability of particular groups of persons, or existing demand for sexual services in the EU Member States.

¹⁷⁰ Europol, (Footnote no. 22), page. 4.

Conclusions

The purpose of this thesis was to provide a comprehensive overview of EU anti-trafficking policies with regard to existing international human rights instruments and theoretical findings on the topic of trafficking. Additionally, the thesis used a human security research approach in a hope to determine the underlying causes of human trafficking in affected countries to help the EU develop a more holistic approach to combat trafficking in Europe.

The results of the case study dealing with trafficking trends in the UK proved to be inconclusive due to the low number of observation and an overall lack of data on the subject of trafficking. The results indicate, however, that human security approach has some inherent limitations, which could only be addressed through a more rigorous and uniform data collection practices throughout the EU. The absence of a standardized collection mechanism in the field of anti-trafficking has proved to be a major obstacle in determining the root causes of human trafficking in Europe. As long as no such system exists, so long will the best research efforts to quantitatively measure the extent and structural causes behind trafficking be conducted in vain.

As for the European Union policy in the field of trafficking, the thesis concludes that EU anti-trafficking strategy has been more contradicting than comprehensive. The Union, while focusing heavily on prosecuting THB-related offences, completely marginalized the two other pillars of anti-trafficking (i.e. prevention and protection). The little data that is available indicates that EU countries are reluctant to honor their obligations under international law and continue to criminalize trafficking victims despite existing legal obligations compelling the Member States to refrain from doing so. Additionally, the current practices reveal that the EU Member States apply selective approach to THB victim status determination by giving EU nationals a preferable treatment over third-country nationals. To combat trafficking more effectively, the EU needs to de-privilege its coercive governance approach to THB and introduce a greater balance between prosecution, protection and prevention pillars of anti-trafficking.

Even in the area of persecution, which is said to be the most developed, the EU is performing less than ideally. Prosecution of traffickers has been severely hampered by EU Member States practice to repatriate victims rather than to secure their cooperation in judicial

proceedings against the traffickers. In the absence of key witness, prosecution is all but condemned to failure.

This thesis also revealed that many structural deficiencies of the EU approach stem from the inability of Europe leaders to recognize trafficking for what it really is. Rather than defining trafficking as a complex human rights abuse, which is connected to structural vulnerability of particular groups of persons (e.g. women and children), the EU opted for casting human trafficking as an organized criminal activity with external dimension that has links to illegal immigration and terrorism. Such framing of the THB issue invites securitization of the entire field of anti-trafficking efforts and results in a lack of programs oriented toward prevention of trafficking in countries of origin and destination. Additionally, describing the issue of human trafficking as a distinctly external problem is rather bizarre if one considers that majority of both uncovered victims and traffickers to date were EU nationals. This thesis claims that the present definition of human trafficking is a self-serving political decision, which provides the EU policy-makers with a pretext to raise higher walls around the European fortress to keep migrants out.

Finally, this thesis presented some concrete policy recommendations to address the growing prevalence of human trafficking in Europe. These policy recommendations include the need to create a pan-European mandatory and uniform system of collecting data about trafficking to render any future research on THB more reliable as well as the necessity to facilitate comprehensive networking among various actors operating in the field of trafficking (i.e. national ministries, law enforcement agencies, international organizations, non-governmental organizations, civil society and private sector). Furthermore, this thesis recommends that the most structurally vulnerable groups of persons should be offered alternative legal opportunities to for temporary work in the EU to prevent trafficking at the very source. In short, a more effective anti-trafficking strategy of the European Union should strive to strike the right balance between prosecution, protection and prevention. Only then will the EU leaders have effective policy tools at their disposal to wipe this shameful modern-form slavery from the face of Europe once and for all.

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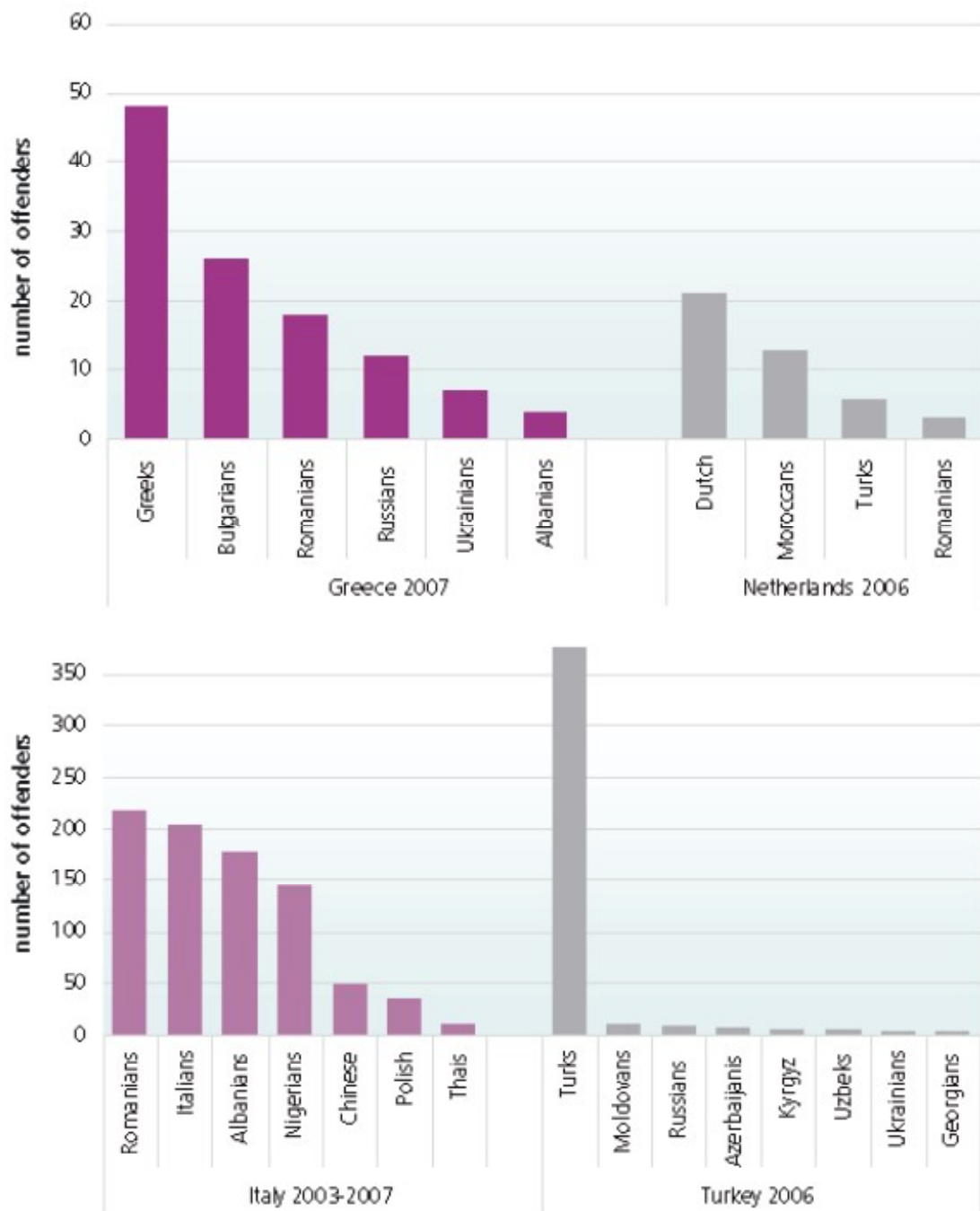
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ANNEX I

MOST FREQUENTLY DETECTED NATIONALITIES OF TRAFFICKERS IN SELECTED COUNTRIES:



Source: United Nations Office for Drugs and Crime (2010), Trafficking in Persons to Europe for Sexual Exploitation, Vienna, page 6.

ANNEX II

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

Relation with the United Nations Convention

against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2
Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3
Use of terms

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in

subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age

Article 4
Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5
Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
 - (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6
Assistance to and protection of victims of
trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:
 - (a) Information on relevant court and administrative proceedings;
 - (b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
 - (a) Appropriate housing;
 - (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
 - (c) Medical, psychological and material assistance; and
 - (d) Employment, educational and training opportunities.
4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.
5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.
6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7
Status of victims of trafficking in persons
in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8
Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of

permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking,

such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10
Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

- (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
- (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
- (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11
Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12
Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

- (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13
Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14
Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15
Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16
Signature, ratification, acceptance,
approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations

Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17 *Entry into force*

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18 *Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon

communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19 Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20 Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
IN WITNESS WHEREOF, the undersigned plenipotentiaries, being

duly authorized thereto by their respective Governments, have signed this Protocol.

Source: United Nations Convention against Transnational Crime and Supplementary Protocols thereto, United Nations General Assembly 2000, UNGA/RES/55/25/2000, Palermo 2000. Web: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp#TopOfPage
Retrieved: 17.6.2012

ANNEX III

COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

Preamble

The member States of the Council of Europe and the other Signatories hereto,
Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being;

Considering that trafficking in human beings may result in slavery for victims;

Considering that respect for victims' rights, protection of victims and action to combat trafficking in human beings must be the paramount objectives;

Considering that all actions or initiatives against trafficking in human beings must be nondiscriminatory, take gender equality into account as well as a child-rights approach;

Recalling the declarations by the Ministers for Foreign Affairs of the Member States at the 112th (14-15 May 2003) and the 114th (12-13 May 2004) Sessions of the Committee of Ministers calling for reinforced action by the Council of Europe on trafficking in human beings;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols;

Bearing in mind the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence; Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation; Recommendation Rec (2002) 5 on the protection of women against violence;

Bearing in mind the following recommendations of the Parliamentary Assembly of the Council of Europe: Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states; Recommendation 1450 (2000) on violence against women in Europe; Recommendation 1545 (2002) on a campaign against trafficking in women; Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution; Recommendation 1611 (2003) on trafficking in organs in Europe; Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and mail-order brides;

Bearing in mind the European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings, the European Union Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and the European Union Council Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

Taking due account of the United Nations Convention against Transnational Organized Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children with a view to improving the protection which they afford and developing the standards established by them;

Taking due account of the other international legal instruments relevant in the field of action against trafficking in human beings;

Chapter I – Purposes, scope, non-discrimination principle and definitions

Article 1 Purposes of the Convention

- 1 The purposes of this Convention are:
 - a) to prevent and combat trafficking in human beings, while guaranteeing gender equality;
 - b) to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;
 - c) to promote international cooperation on action against trafficking in human beings.
- 2 In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

Article 2 Scope

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime.

Article 3 Non-discrimination principle

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 4
Definitions

For the purposes of this Convention:

- a) "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b) The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) "Child" shall mean any person under eighteen years of age;
- e) "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article.

Chapter II – Prevention, co-operation and other measures

Article 5
Prevention of trafficking in human beings

- 1 Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.
- 2 Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.
- 3 Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2.
- 4 Each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.
- 5 Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them.
- 6 Measures established in accordance with this article shall involve, where appropriate, nongovernmental organisations, other relevant organisations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance.

Article 6
Measures to discourage the demand

To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures including:

- a) research on best practices, methods and strategies;
- b) raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings;
- c) target information campaigns involving, as appropriate, *inter alia*, public authorities and policy makers;
- d) preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.

Article 7
Border measures

1 Without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.

2 Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention.

3 Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4 Each Party shall take the necessary measures, in accordance with its internal law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5 Each Party shall adopt such legislative or other measures as may be necessary to permit, in accordance with its internal law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Convention.

6 Parties shall strengthen co-operation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.

Article 8
Security and control of documents

Each Party shall adopt such measures as may be necessary:

- a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the Party and to prevent their unlawful creation and issuance.

Article 9
Legitimacy and validity of documents

At the request of another Party, a Party shall, in accordance with its internal law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in human beings.

**Chapter III – Measures to protect and promote the rights of victims,
guaranteeing gender equality**

Article 10
Identification of the victims

1 Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.

2 Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2.

3 When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.

4 As soon as an unaccompanied child is identified as a victim, each Party shall:

- a) provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;
- b) take the necessary steps to establish his/her identity and nationality;
- c) make every effort to locate his/her family when this is in the best interests of the child.

Article 11
Protection of private life

1 Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

2 Each Party shall adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the

media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.

3 Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

Article 12
Assistance to victims

1 Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:

- a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
- b) access to emergency medical treatment;
- c) translation and interpretation services, when appropriate;
- d) counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
- e) assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- f) access to education for children.

2 Each Party shall take due account of the victim's safety and protection needs.

3 In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.

4 Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.

5 Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

6 Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.

7 For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.

Article 13
Recovery and reflection period

1 Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion

order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorise the persons concerned to stay in their territory.

2 During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.

3 The Parties are not bound to observe this period if grounds of public order prevent it or if it is found that victim status is being claimed improperly.

Article 14 Residence permit

1 Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:

- a) the competent authority considers that their stay is necessary owing to their personal situation;
- b) the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.

2 The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.

3 The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the Party.

4 If a victim submits an application for another kind of residence permit, the Party concerned shall take into account that he or she holds, or has held, a residence permit in conformity with paragraph 1.

5 Having regard to the obligations of Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

Article 15 – Compensation and legal redress

1 Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings in a language which they can understand.

2 Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.

3 Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.

4 Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23.

Article 16 – Repatriation and return of victims

1 The Party of which a victim is a national or in which that person had the right of permanent

residence at the time of entry into the territory of the receiving Party shall, with due regard for his or her rights, safety and dignity, facilitate and accept, his or her return without undue or unreasonable delay.

2 When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary.

3 At the request of a receiving Party, a requested Party shall verify whether a person is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving Party.

4 In order to facilitate the return of a victim who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.

5 Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non governmental organisations. These programmes aim at avoiding re-victimisation. Each Party should make its best effort to favour the reintegration of victims into the society of the State of return, including reintegration into the education system and the labour market, in particular through the acquisition and improvement of their professional skills. With regard to children, these programmes should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures.

6 Each Party shall adopt such legislative or other measures as may be necessary to make available to victims, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement offices, non-governmental organisations, legal professions able to provide counselling and social welfare agencies.

7 Child victims shall not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child.

Article 17
Gender equality

Each Party shall, in applying measures referred to in this chapter, aim to promote gender equality and use gender mainstreaming in the development, implementation and assessment of the measures.

Chapter IV – Substantive criminal law

Article 18
Criminalisation of trafficking in human beings

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct contained in article 4 of this Convention, when committed intentionally.

Article 19
Criminalisation of the use of services of a victim

Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.

Article 20
Criminalisation of acts relating to travel or identity documents

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following conducts, when committed intentionally and for the purpose of enabling the trafficking in human beings:

- a) forging a travel or identity document;
- b) procuring or providing such a document;
- c) retaining, removing, concealing, damaging or destroying a travel or identity document of another person.

Article 21
Attempt and aiding or abetting

1 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 18 and 20 of the present Convention.

2 Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, an attempt to commit the offences established in accordance with Articles 18 and 20, paragraph a, of this Convention.

Article 22
Corporate liability

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that a legal person can be held liable for a criminal offence established in accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a) a power of representation of the legal person;
- b) an authority to take decisions on behalf of the legal person;
- c) an authority to exercise control within the legal person.

2 Apart from the cases already provided for in paragraph 1, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.

3 Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

4 Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

Article 23
Sanctions and measures

1 Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 18 to 21 are punishable by effective, proportionate and dissuasive sanctions. These sanctions shall include, for criminal offences established in accordance with Article 18 when committed by natural persons, penalties involving deprivation of liberty which can give rise to extradition.

2 Each Party shall ensure that legal persons held liable in accordance with Article 22 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.

3 Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with Articles 18 and 20, paragraph a, of this Convention, or property the value of which corresponds to such proceeds.

4 Each Party shall adopt such legislative or other measures as may be necessary to enable the temporary or permanent closure of any establishment which was used to carry out trafficking in human beings, without prejudice to the rights of *bona fide* third parties or to deny the perpetrator, temporary or permanently, the exercise of the activity in the course of which this offence was committed.

Article 24
Aggravating circumstances

Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention:

- a) the offence deliberately or by gross negligence endangered the life of the victim;
- b) the offence was committed against a child;
- c) the offence was committed by a public official in the performance of her/his duties;
- d) the offence was committed within the framework of a criminal organisation.

Article 25
Previous convictions

Each Party shall adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to offences established in accordance with this Convention when determining the penalty.

Article 26
Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

Chapter V – Investigation, prosecution and procedural law

Article 27
Ex parte and ex officio applications

1 Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence was committed in whole or in part on its territory.

2 Each Party shall ensure that victims of an offence in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence. The competent authority to which the complaint is made, insofar as it does not itself have competence in this respect, shall transmit it without delay to the competent authority of the Party in the territory in which the offence was committed. The complaint shall be dealt with in accordance with the internal law of the Party in which the offence was committed.

3 Each Party shall ensure, by means of legislative or other measures, in accordance with the conditions provided for by its internal law, to any group, foundation, association or nongovernmental organisations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence established in accordance with Article 18 of this Convention.

Article 28

Protection of victims, witnesses and collaborators with the judicial authorities

1 Each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for:

- a) Victims;
- b) As appropriate, those who report the criminal offences established in accordance with Article 18 of this Convention or otherwise co-operate with the investigating or prosecuting authorities;
- c) witnesses who give testimony concerning criminal offences established in accordance with Article 18 of this Convention;
- d) when necessary, members of the family of persons referred to in subparagraphs a and c.

2 Each Party shall adopt such legislative or other measures as may be necessary to ensure and to offer various kinds of protection. This may include physical protection, relocation, identity change and assistance in obtaining jobs.

3 A child victim shall be afforded special protection measures taking into account the best interests of the child.

4 Each Party shall adopt such legislative or other measures as may be necessary to provide, when necessary, appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for members of groups, foundations, associations or non-governmental organisations which carry out the activities set out in Article 27, paragraph 3.

5 Each Party shall consider entering into agreements or arrangements with other States for the implementation of this article.

Article 29

Specialised authorities and co-ordinating bodls

1 Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against trafficking and the protection of victims. Such persons or entities shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. Such persons or the staffs of such entities shall have adequate training and financial resources for their tasks.

2 Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments' departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.

3 Each Party shall provide or strengthen training for relevant officials in the prevention of and fight against trafficking in human beings, including Human Rights training. The training may be agency-specific and shall, as appropriate, focus on: methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers.

4 Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.

Article 30
Court proceedings

In accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6, each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings:

- a) the protection of victims' private life and, where appropriate, identity;
 - b) victims' safety and protection from intimidation,
- in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures.

Article 31
Jurisdiction

1 Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

- a) in its territory; or
- b) on board a ship flying the flag of that Party; or
- c) on board an aircraft registered under the laws of that Party; or
- d) by one of its nationals or by a stateless person who has his or her habitual residence in its territory, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State;
- e) against one of its nationals.

2 Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 (d) and (e) of this article or any part thereof.

3 Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in this Convention, in cases where an alleged offender is present in its territory and it does not extradite him/her to another Party, solely on the basis of his/her nationality, after a request for extradition.

4 When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

5 Without prejudice to the general norms of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with internal law.

Chapter VI – International co-operation and co-operation with civil society

Article 32

General principles and measures for international co-operation

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

- preventing and combating trafficking in human beings;
- protecting and providing assistance to victims;
- investigations or proceedings concerning criminal offences established in accordance with this Convention.

Article 33

Measures relating to endangered or missing persons

1 When a Party, on the basis of the information at its disposal has reasonable grounds to believe that the life, the freedom or the physical integrity of a person referred to in Article 28, paragraph 1, is in immediate danger on the territory of another Party, the Party that has the information shall, in such a case of emergency, transmit it without delay to the latter so as to take the appropriate protection measures.

2 The Parties to this Convention may consider reinforcing their co-operation in the search for missing people, in particular for missing children, if the information available leads them to believe that she/he is a victim of trafficking in human beings. To this end, the Parties may conclude bilateral or multilateral treaties with each other.

Article 34

Information

1 The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.

2 A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.

3 Prior to providing such information, the providing Party may request that it be kept confidential or used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.

4 All information requested concerning Articles 13, 14 and 16, necessary to provide the rights conferred by these Articles, shall be transmitted at the request of the Party concerned without delay with due respect to Article 11 of the present Convention.

Article 35
Co-operation with civil society

Each Party shall encourage state authorities and public officials, to co-operate with nongovernmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.

Chapter VII – Monitoring mechanism

Article 36
Group of experts on action against trafficking in human beings

1 The Group of experts on action against trafficking in human beings (hereinafter referred to as “GRETA”), shall monitor the implementation of this Convention by the Parties.

2 GRETA shall be composed of a minimum of 10 members and a maximum of 15 members, taking into account a gender and geographical balance, as well as a multidisciplinary expertise. They shall be elected by the Committee of the Parties for a term of office of 4 years, renewable once, chosen from amongst nationals of the States Parties to this Convention.

3 The election of the members of GRETA shall be based on the following principles:

- a) they shall be chosen from among persons of high moral character, known for their recognised competence in the fields of Human Rights, assistance and protection of victims and of action against trafficking in human beings or having professional experience in the areas covered by this Convention;
- b) they shall sit in their individual capacity and shall be independent and impartial in the exercise of their functions and shall be available to carry out their duties in an effective manner;
- c) no two members of GRETA may be nationals of the same State;
- d) they should represent the main legal systems.

4 The election procedure of the members of GRETA shall be determined by the Committee of Ministers, after consulting with and obtaining the unanimous consent of the Parties to the Convention, within a period of one year following the entry into force of this Convention. GRETA shall adopt its own rules of procedure.

Article 37
Committee of the Parties

1 The Committee of the Parties shall be composed of the representatives on the Committee of Ministers of the Council of Europe of the member States Parties to the Convention and

representatives of the Parties to the Convention, which are not members of the Council of Europe.

2 The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in order to elect the members of GRETA. It shall subsequently meet whenever one-third of the Parties, the President of GRETA or the Secretary General so requests.

3 The Committee of the Parties shall adopt its own rules of procedure.

*Article 38
Procedure*

1 The evaluation procedure shall concern the Parties to the Convention and be divided in rounds, the length of which is determined by GRETA. At the beginning of each round GRETA shall select the specific provisions on which the evaluation procedure shall be based.

2 GRETA shall define the most appropriate means to carry out this evaluation. GRETA may in particular adopt a questionnaire for each evaluation round, which may serve as a basis for the evaluation of the implementation by the Parties of the present Convention. Such a questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GRETA.

3 GRETA may request information from civil society.

4 GRETA may subsidiarily organise, in co-operation with the national authorities and the “contact person” appointed by the latter, and, if necessary, with the assistance of independent national experts, country visits. During these visits, GRETA may be assisted by specialists in specific fields.

5 GRETA shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments are taken into account by GRETA when establishing its report.

6 On this basis, GRETA shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of the present Convention. This report and conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned.

7 Without prejudice to the procedure of paragraphs 1 to 6 of this article, the Committee of the Parties may adopt, on the basis of the report and conclusions of GRETA, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GRETA, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of the present Convention.

Chapter VIII – Relationship with other international instruments

Article 39

Relationship with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime

This Convention shall not affect the rights and obligations derived from the provisions of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, and is intended to enhance the protection afforded by it and develop the standards contained therein.

Article 40
Relationship with other international instruments

1 This Convention shall not affect the rights and obligations derived from other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention and which ensure greater protection and assistance for victims of trafficking.

2 The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

3 Without prejudice to the object and purpose of the present Convention and without prejudice to its full application with other Parties, Parties which are members of the European Union shall, in their mutual relations, apply Community and European Union rules in so far as there are Community or European Union rules governing the particular subject concerned and applicable to the specific case.

4 Nothing in this Convention shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of *non-refoulement* as contained therein.

Chapter IX – Amendments to the Convention

Article 41
Amendments

1 Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, any signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43.

2 Any amendment proposed by a Party shall be communicated to GRETA, which shall submit to the Committee of Ministers its opinion on that proposed amendment.

3 The Committee of Ministers shall consider the proposed amendment and the opinion submitted by GRETA and, following consultation of the Parties to this Convention and after obtaining their unanimous consent, may adopt the amendment.

4 The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this article shall be forwarded to the Parties for acceptance.

5 Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Chapter X – Final clause

Article 42

Signature and entry into force

1 This Convention shall be open for signature by the member States of the Council of Europe, the non-member States which have participated in its elaboration and the European Community.

2 This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 10 Signatories, including at least 8 member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

4 In respect of any State mentioned in paragraph 1 or the European Community, which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 43

Accession to the Convention

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties to this Convention and obtaining their unanimous consent, invite any non-member State of the Council of Europe, which has not participated in the elaboration of the Convention, to accede to this Convention by a decision taken by the majority provided for in Article 20 *d.* of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers.

2 In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 44

Territorial application

1 Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2 Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after

the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 45
Reservations

No reservation may be made in respect of any provision of this Convention, with the exception of the reservation of Article 31, paragraph 2.

Article 46
Denunciation

1 Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

Article 47
Notification

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43 of:

- a) any signature;
- b) the deposit of any instrument of ratification, acceptance, approval or accession;
- c) any date of entry into force of this Convention in accordance with Articles 42 and 43;
- d) any amendment adopted in accordance with Article 41 and the date on which such an amendment enters into force;
- e) any denunciation made in pursuance of the provisions of Article 46;
- f) any other act, notification or communication relating to this Convention
- g) any reservation made under Article 45.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Source: Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw 2005.

ANNEX IV

**TREATY ON EUROPEAN UNION
AS AMENDED BY THE TREATY BY
THE TREATY OF NICE, BEFORE
BEING REPEALED BY THE LISBON TREATY**

Article 34

[...]

2. The Council shall take measures and promote cooperation, using the appropriate form and procedures as set out in this title, contributing to the pursuit of the objectives of the Union. To that end, acting unanimously on the initiative of any Member State or of the Commission, the Council may:

[...]

(b) adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States. Framework decisions shall be binding upon the Member States as to the result to be achieved but shall leave to the national authorities the choice of form and methods. They shall not entail direct effect; ...

Source: Treaty on European Union as amended by the Treaty of Nice, before being repealed by the Lisbon Treaty, Official Journal of the European Union, Brussels 2003.

ANNEX V

Number of probable trafficked persons by nationality in the Netherlands and Germany

Top 10 Countries of Origin					
2010		2009		2008	
1. Netherlands	315	1. Netherlands	240	1. Netherlands	320
2. Nigeria	130	2. Nigeria	101	2. China	78
3. Hungary	56	3. Romania	89	3. Nigeria	64
4. Romania	49	4. Hungary	47	4. Hungary	45
5. Bulgaria	46	5. Bulgaria	39	5. Sierra Leone	44
6. Slovakia	39	6. China	37	6. Bulgaria	32
7. Sierra Leone	36	7. Guiney	35	7. Guiney	20
		7. Sierra Leone	35		
8. Guiney	26	8. Ghana	23	8. Romania	19
9. China	23	9. Poland	19	9. Brazil	13
				9. India	13
10. Ghana	21	10. Indonesia	17	10. Thailand	12

Source: CoMensha, Annual Report 2010, Anti-trafficking Centre 2010, page 7.

	2010		2009	
	Anzahl	%	Anzahl	%
EUROPA	520	85,2 %	609	85,8 %
Deutschland	121	19,8 %	176	24,8 %
Rumänien	119	19,5 %	141	19,9 %
Bulgarien	115	18,9 %	137	19,3 %
Ungarn	53	8,7 %	21	3,0 %
Polen	31	5,1 %	27	3,8 %
Türkei	16	2,6 %	27	3,8 %
Tschechische Republik	16	2,6 %	14	2,0 %
Sonstige	49	8,0 %	63	8,8 %

Source: Bundeslagebild. (2010). Menschenhandel, Bundeskriminalamt, Wiesbaden, page 10.

ANNEX VI

SENDING COUNTRIES OF TRAFFICKING VICTIMS TO THE UK BY NATIONALITY

UK 09 - 11	Referrals	RG	Population	GNI PC PPP \$	SS Enroll	TI CPI	GII	HDI	P. ratio	lit.	Displ.	HR	Confl.
UK	52	49	62262000	35840	102	7,6	0,0209	0,862	0,246	100	0	0	0
Nigeria	262	122	170124000	2240	44	2,4	0,724	0,454	0,079	65	3	3	3
China	167	78	1339725000	7640	81	3,5	0,209	0,682	0,271	99	4	3	2
Vietnam	145	94	91519000	3070	77	2,7	0,305	0,59	0,347	96	3	2	2
Romania	77	66	19043000	14290	95	3,7	0,333	0,779	0,108	98	0	2	1
Uganda	50	29	35873000	1250	28	2,5	0,577	0,442	0,459	82	5	3	3
India	40	29	1210193000	3400	60	3,3	0,617	0,542	0,115	65	5	2	3
Albania	34	18	2832000	8520	89	3,3	0,333	0,737	0,197	99	1	2	1
Bangladesh	27	19	148000000	1810	49	2,4	0,55	0,496	0,228	77	4	3	2
Cameroon	13	8	19100000	2080	42	2,2	0,639	0,479	0,161	77	4	2	2
DRC	9	5	71713000	320	38	2	0,71	0,282	0,084	62	4	3	3
Afghanistan	8	2	29835000	1060	46	1,4	0,709	0,394	0,382	60	5	3	3
Eritrea	17	4	5939000	540	32	2,6	n.a	0,345	0,282	86	1	3	2
Ethiopia	16	8	83321000	1040	36	2,7	n.a	0,358	0,343	33	4	3	3
Gambia	16	5	1783000	1300	54	3,2	0,61	0,418	0,082	60	1	2	1
Ghana	19	9	24233000	1620	59	4,1	0,598	0,533	0,09	79	2	2	2
Guinea	10	3	10058000	1020	38	2	0,532	0,342	0,239	54	4	3	2
Indonesia	9	6	237424000	4200	77	2,8	0,505	0,613	0,22	99	0	2	1
Kenya	15	11	43013000	1640	60	2,1	0,627	0,505	0,109	94	4	3	2
Morocco	10	2	32545000	4600	56	3,4	0,51	0,579	0,072	72	1	2	1
Pakistan	21	17	177100000	2790	34	2,3	0,573	0,503	0,266	61	5	3	3
Sierra Leone	33	20	5486000	830	41	2,4	0,622	0,334	0,152	48	3	2	2
Somalia	23	12	10086000	310	88	1,1	0,75	0,2	0,073	22	5	3	3
South Africa	14	8	48810000	10360	94	4,5	0,49	0,615	0,746	98	3	2	1
Thailand	12	6	66720000	8190	77	3,5	0,382	0,68	0,162	99	4	2	2
Zimbabwe	25	13	12521000	595	99	2,4	0,538	0,364	0,218	73	3	3	3
Zambia	9	3	12935000	1380	n.a	3	0,627	0,425	0,163	99	2	2	1
Tanzania	7	5	43188000	1440	27	2,7	0,59	0,461	0,563	76	3	2	1
Sri Lanka	7	6	20860000	5010	75	3,2	0,419	0,686	0,056	99	4	3	3

Source: made by the author of this study (data collected from various sources, including the UNDP, WB, UKHO, SOCA, TI, UNDPKO, UNHCR, UN Women, HRW, and Indian Ministry of Education).

ANNEX VII

SOCA – IDENTIFIED THB VICTIMS IN THE UK BY NATIONALITY

See the next page

Source: UK Home Office, SOCA, National Referrals Mechanism Database, NRM statistics April 2009 to March 2011 web: <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics>, retrieved: 16.8.2012

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INTRODUCTION

The information provided in this report concerns the referrals made to the National Referral Mechanism (NRM) during the first 24 months of operation from 1st April 2009 to 31st March 2011. The data used is as at 15th July 2011. It should be noted that the data used is a 'snapshot in time' and there are outstanding decisions yet to be made.

BREAKDOWN OF REFERRALS BY NATIONALITY SHOWING REASONABLE GROUNDS (RG) DECISION AND CONCLUSIVE GROUNDS (CG) DECISION

During the period 1st April 2009 to 31st March 2011 there were 1481 referrals to the National Referral Mechanism. These referrals include 88 nationalities. This table shows the 10 most referred nationalities. These 10 nationalities account for 954 (64%) of all referrals.

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				
		Suspension of Consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of Consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	Positive CG Decision
Nigeria	262	1	3	21	115	122	5	0	31	35	51
China	167	1	4	7	77	78	4	0	5	44	25
Vietnam	145	5	3	9	34	94	20	3	23	19	29
Romania	77	1	6	0	4	66	2	0	0	5	59
Czech Republic	68	0	9	0	2	57	3	0	0	3	51
Slovakia	59	0	3	0	4	52	3	0	0	8	41
United Kingdom	52	0	1	0	2	49	0	0	0	4	45
Uganda	50	0	1	4	16	29	0	1	9	6	13
India	40	0	0	3	8	29	1	0	14	8	6
Albania	34	0	2	2	12	18	0	1	4	2	11
Total	954	8	32	46	274	594	38	5	86	134	331

Not Protectively Marked

BREAKDOWN OF REFERRALS SHOWING ALL NATIONALITIES

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	Positive CG Decision
Afghanistan	8		1	1	4	2			2		
Albania	34		2	2	12	18		1	4	2	11
Algeria	1			1							
Angola	5				2	3			2	1	
Bangladesh	27				8	19			6	3	10
Belarus	1					1					1
Belgium (disputed)	1				1						
Benin	1				1						
Benin / Nigeria	1					1	1				
Bolivia	1					1					1
Bosnia	1			1							
Botswana	1				1						
Brazil	2					2					2
Bulgaria	7				1	6					6
Burundi	3				2	1					1
Cambodia	1					1					1
Cameroon	13				5	8				2	6
Chad	1			1							
Chile	1					1					1
China	167	1	4	7	77	78	4		5	44	25
China / Vietnam	1					1				1	
Columbia	1				1						
Congo	1					1					1
Czech Republic	68		9		2	57	3			3	51
Democratic Republic of the Congo	9			1	3	5			4		1

Not Protectively Marked

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	Positive CG Decision
Egypt	1				1						
Eritrea	17			1	12	4			1	2	1
Eritrea (disputed)	3				3						
Estonia	2				1	1					1
Ethiopia	16			1	7	8			2	3	3
Ethiopia (disputed)	3				3						
Gambia	16		2	2	7	5			2	1	2
Georgia	1					1				1	
Ghana	19			2	8	9			2	4	3
Guinea	10				7	3			1		2
Guinea - Bissau	1				1						
Guinea / Senegal	1				1						
Hong Kong	1					1			1		
Hungary	23		1			22	2				20
India	40			3	8	29	1		14	8	6
Indonesia	9			1	2	6	1		1	2	2
Iran	2				1	1					1
Iraq	2		1		1						
Ivory Coast	5			1	1	3			1		2
Jamaica	5				4	1				1	
Kazakhstan	1					1			1		
Kenya	15				4	11			1	4	6
Kosovo	1					1					1
Kyrgyzstan	1					1					1
Latvia	7		1			6					6
Liberia	5				3	2					2
Lithuania	24		1		2	21				6	15

Not Protectively Marked

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	Positive CG Decision
Malawi	7				4	3				1	2
Malaysia	3				2	1				1	
Mali	1				1						
Mauritius	1					1				1	
Moldova	5			1	1	3			1		2
Mongolia	1				1						
Morocco	10			6	2	2					2
Morocco (prev. Western Sahara)	1				1						
Nepal	4					4			3	1	
Nigeria	261	1	3	21	115	121	5		31	34	51
Nigeria (suspected)	1					1				1	
North Korea	1				1						
Pakistan	21				4	17			2	5	10
Philippines	4	1				3			1		2
Poland	19		9			10	1			1	8
Romania	77	1	6		4	66	2			5	59
Russia	3					3			3		
Rwanda	5			1	3	1				1	
Rwanda (Suspected to be Uganda)	2				2						
Senegal	5					5			1	3	1
Serbia	1					1				1	
Seychelles	1					1					1
Sierra Leone	31			1	11	19				8	11
Sierra Leone / Nigeria	2				1	1					1

Not Protectively Marked

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	Positive CG Decision
Sierra Leone claims to be Guinea	1					1				1	
Slovakia	59		3		4	52	3			8	41
Somalia	22		2		8	12			2	4	6
Somalia (Suspected)	1				1						
South Africa	14				6	8		1		1	6
Spain	1					1				1	
Sri Lanka	7			1		6			1	3	2
Sudan	4				4						
Swaziland	1					1					1
Syria	1				1						
Tajikistan	1					1			1		
Tanzania	7				2	5					5
Thailand	12		2	1	3	6	1		2	2	1
Togo	2				1	1				1	
Trinidad and Tobago	2					2			1		1
Turkey / North Cyprus	1					1	1				
Uganda	50		1	4	16	29		1	9	6	13
UK	52		1		2	49				4	45
Ukraine	5				2	3				3	
United State of America	1					1				1	
Unknown	1			1							

Not Protectively Marked

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	Positive CG Decision
Unknown (Potentially Vietnam)	1				1						
Vietnam	144	5	3	9	33	94	20	3	23	19	29
Western Sahara	1			1							
Zambia	9			1	5	3			1		2
Zimbabwe	25		2		10	13			1	9	3
Zimbabwe/ South Africa	1				1						
Total	1481	9	54	73	450	895	45	6	133	214	497

Not Protectively Marked

BREAKDOWN OF REFERRALS BY GENDER SHOWING REASONABLE GROUNDS (RG) DECISION AND CONCLUSIVE GROUNDS (CG) DECISION

Of the 1481 referrals 1066 (72%) are female.

Gender	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				Positive CG Decision
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	
Female	1066	4	28	51	359	624	20	3	96	171	334
Male	415	5	26	21	91	272	24	3	39	43	163
Total	1481	9	54	72	450	896	44	6	135	214	497

Not Protectively Marked

BREAKDOWN OF ADULT REFERRALS BY EXPLOITATION TYPE SHOWING REASONABLE GROUNDS (RG) DECISION AND CONCLUSIVE GROUNDS (CG) DECISION

Of the 1481 referrals 1091 (74%) were exploited as adults. The exploitation type is shown as unknown where individuals have been encountered prior to the exploitation beginning but there were indicators that there was an intention to exploit.

Exploitation Type	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				Positive CG Decision
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	
Sexual Exploitation	506	0	14	24	193	275	8	3	46	79	139
Labour Exploitation	331	2	26	2	63	238	11	0	24	36	167
Domestic Servitude	201	1	2	12	71	115	3	0	26	39	47
Unknown exploitation	53	0	2	2	42	7	0	0	2	2	3
Total	1091	3	44	40	369	635	22	3	98	156	356

Not Protectively Marked

BREAKDOWN OF REFERRALS BY ADULT AGE RANGE SHOWING REASONABLE GROUNDS (RG) DECISION AND CONCLUSIVE GROUNDS (CG)¹⁷¹

Age	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				Positive CG Decision
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	
18-20	140	0	3	2	44	91	4	0	12	16	59
21-30	528	2	17	22	198	289	6	2	35	88	158
31-40	263	0	13	11	91	148	8	1	35	25	79
41-50	96	0	7	2	22	65	4	0	8	12	41
Over 50	36	1	4	1	5	25	0	0	2	9	14
Age Unknown (adult)	28	0	0	2	9	17	0	0	6	6	5
Total	1091	3	44	40	369	635	22	3	98	156	356

¹⁷¹ Exploited as adults

Not Protectively Marked

BREAKDOWN OF MINOR REFERRALS BY EXPLOITATION TYPE SHOWING REASONABLE GROUNDS (RG) DECISION AND CONCLUSIVE GROUNDS (CG) DECISION

Those shown as being over 18 were over 18 at the time of referral but were trafficked and exploited when they were under 18. The age is shown as unknown where the child does not know their date of birth or age and the Competent Authority has no way of establishing their exact age.

Exploitation Type	Age Range at date of referral	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				Positive CG Decision
			Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	
Sexual Exploitation (115)	Under 10	0	0	0	0	0	0	0	0	0	0	0
	10 to 11	0	0	0	0	0	0	0	0	0	0	0
	12 to 15	35	0	1	1	5	28	0	0	2	1	25
	16 to 17	70	0	2	2	12	54	3	0	8	13	30
	Over 18	9	0	0	1	1	7	0	0	0	3	4
	Age Unknown	1	0	0	0	0	1	0	0	0	0	1
Labour Exploitation (134)	Under 10	8	0	0	0	1	7	0	0	1	4	2
	10 to 11	5	0	0	0	0	5	0	0	1	0	4
	12 to 15	39	1	0	1	6	31	5	0	5	4	17
	16 to 17	65	2	1	6	12	44	11	0	7	9	17
	Over 18	6	1	2	0	1	2	0	1	1	0	0

Not Protectively Marked

	Age Unknown	11	0	0	6	3	2	0	1	0	1	0
Domestic Servitude (52)	Under 10	2	0	0	0	1	1	0	0	0	0	1
	10 to 11	1	0	0	0	0	1	0	0	0	0	1
	12 to 15	19	0	0	1	2	16	1	0	0	3	12
	16 to 17	21	0	0	4	1	16	0	0	3	2	11
	Over 18	6	0	0	0	1	5	0	0	2	0	3
	Age Unknown	3	0	0	0	0	3	0	0	1	0	2
Unknown exploitation (89)	Under 10	14	0	0	1	9	4	0	0	1	3	0
	10 to 11	7	0	0	0	5	2	0	0	1	1	0
	12 to 15	24	1	2	5	6	10	0	1	0	3	6
	16 to 17	35	1	1	2	12	19	2	0	4	8	5
	Over 18	3	0	0	1	0	2	0	0	0	2	0
	Age Unknown	6	0	1	1	3	1	0	0	0	1	0
Total		390	6	10	32	81	261	22	3	37	58	141

Not Protectively Marked

BREAKDOWN OF MINORS REFERRALS BY NATIONALITY SHOWING REASONABLE GROUNDS (RG) DECISION AND CONCLUSIVE GROUNDS (CG) DECISION

Of the 1481 referrals 390 were for minors of 47 nationalities. This table shows the 5 most referred nationalities. These 5 nationalities account for 263 (67%) of all child referrals.

Nationality	Referrals as at 31/03/11	Reasonable Grounds Decision					Conclusive Grounds Decision				Positive CG Decision
		Suspension of consideration	Withdrawn	RG Decision not yet made	Negative RG Decision	Positive RG Decision	Suspension of consideration	Withdrawn	CG Decision not yet made	Negative CG Decision	
Vietnam	107	4	2	7	20	74	17	3	16	13	25
Nigeria	48	1	2	5	9	31	3	0	4	7	17
China	45	1	1	4	10	29	2	0	3	17	7
UK	38	0	1	0	2	35	0	0	0	2	33
Romania	25	0	2	0	2	21	0	0	0	3	18
Total	263	6	8	16	43	190	22	3	23	42	100