



Fighting Human Trafficking – The Experience of Greece

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Your Excellency, distinguished participants,

The subject of my intervention is the fight against human trafficking in Greece, focusing on the existing legislative framework and its implementation problems.

I. Preliminary remarks

Trafficking in human beings is a particularly acute phenomenon that evolves rapidly and has political, social and economic implications. Its main characteristic is that it continuously takes new forms. Although jurists focus on trafficking for sexual exploitation (prostitution, child prostitution, child pornography) and forced labor[1], other forms of exploitation have also arisen, including recruiting combatants for armed conflicts and the trade of babies, organs and tissues. Human trafficking in all its forms is not merely an internal social problem, but also an international issue, since it is rarely exhausted within a country's borders in the modern globalized world[2]. #s a phenomenon it is closely related to organized crime, in the same way as drug trafficking and money laundering.

II. The Greek legislative framework

Greek Law **3064/2002** and Presidential Decree **233/2003** prohibit both sex trafficking and forced labor and prescribe punishments of up to 10-years' imprisonment. Due to the severity of the threatened penalties, special measures of investigation may be carried out for their detection. More specifically, PD 233/2003 is an act of secondary legislation issued on the basis of legislative authorization of Article 12 of Law 3064/2002. It provides for the operational provisions in view of the application of Article 12 of Law 3064/2002 on the protection and relief of victims of the crimes described in Articles 323, 323A, 323#, 348#, 349, 351 and 351A of the Criminal Code and of Articles 29(5) and (6) and 30 of Law 4251/2014. It should be noted that PD 233/2003 has undergone several amendments through the years, which resulted in gradually extending its scope so as to include victims of crimes of trafficking in human beings. What is essential for this assessment is that this presidential decree applies to all victims of trafficking of human beings, nationals or foreigners, and its protection does not depend on the cooperation with the criminal authorities. It should be further observed that some provisions of PD 233/2003 are also cross-referred in Law 4251/2014 dealing exclusively with third-country nationals.

Law **3226/2004** is an act of primary legislation which establishes mainly the provision of legal aid to citizens of low income. Following the amendments brought by Law 3875/2010, this legal aid was extended to victims of trafficking in human beings or migrant smuggling.

In addition, Law **3811/2009** gives victims of crimes of violence that have been committed intentionally the right to claim compensation. Following the amendments brought by Law 3875/2010, the scope of application of this law was extended so as to cover victims of trafficking in human beings.

Furthermore, Law **4216/2013** ratifies the 2005 Council of Europe Convention on action against trafficking in human beings.

Also, Law **4198/2013** aims at transposing Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA to which it makes explicit reference. The adoption of the above-mentioned law brought changes to the Criminal Code and the Code of Criminal Procedure in view of harmonizing crimes of trafficking in human beings with the definition under Article 2 of the Directive and ensuring the protection of victims in criminal proceedings. Amendments are also brought to Law 3811/2009 as regards the compensation granted to victims under Article 17 of the Directive. Furthermore, Law 4198/2013 introduced several new provisions in relation to the liability of legal persons (Articles 5 and 6 of the Directive), investigative tools used for organized crime (Article 9(4) of the Directive), as well as the establishment of the Office of the National Rapporteur (Articles 19 and 20 of the Directive).

Additionally, Law **4251/2014** represents the first code concentrating and classifying provisions on immigration and social inclusion issues. More specifically, the second Part, Section B of Law 4251/2014, actually transposes Directive 2004/81/EU in Greek legal order and has been used in this assessment in an auxiliary manner as

regards the assistance and support granted to victims of trafficking in human beings who are third-country nationals (Articles 11, 12, 13, 14, 16 and 18 of the Directive)[3].

Finally, Law **4267/2014** aims at transposing Directive 2011/92/EU of the European Parliament and of the Council “on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA” to which it makes explicit reference. More specifically, the Articles of the above law brought changes to the Criminal Code and the Code of Criminal Procedure in view of harmonizing crimes of sexual exploitation of children and child pornography with the definitions of the Directive and ensuring the protection of the children victims in criminal proceedings.

III. The implementation – statistics on trafficking

According to the statistics of the Greek Ministry of Justice, Transparency and Human Rights, during the years 2013 – 2015 criminal proceedings commenced against **103** (36 + 35 + 32) suspects for sexual exploitation and **16** (6 + 5 + 5) suspects for forced labor. During this time period, the convictions in first instance amounted to **63** (39 + 12 + 12) for sexual exploitation and **11** (7 + 1 + 3) for forced labor. Just **7** persons were convicted in second instance for sexual exploitation and only 1 for forced labor.

I would like to refer to two cases. The first was the ordinance of the Council of Misdemeanors of the Court of Appeal of the Aegean **35/2005**[4]. In this case the traffickers brought women from Russia into their territory, deceiving them, promising them employment in Greece. In this way, they took advantage of the vulnerability of their position (since they were far away from their country etc.) and distracted their consent for their sexual exploitation.

The second important case was that of the ordinance of the Council of Misdemeanors of the Court of first instance of Kalamata **34/2011**[5]. In this case the traffickers acted like professionals; they used force and threats and carried their victims into their territory, in order to exploit their begging. More specifically, the traffickers exploited the imposition they exerted on their victims, since the latter lived in a foreign country, in complete ignorance of the Greek language, as well as totally dependent on the former for their food and survival. Furthermore, the traffickers used constant threats against their relatives, kept them confined in a closed private truck, had their victims under constant surveillance, forced them to beggary and took their proceeds themselves.

Several evidential difficulties exist for the detection of these offenses. The main one is the victims' unwillingness to testify and their detachment from the rest of society[6]. Experience gained over the last few years has shown that the adoption of special measures of investigation, such as wiretapping, and judicial and police cooperation are essential for combating these types of trans-boundary crime. Carrying out routine investigations is not sufficient for dismantling these criminal organizations, and even the lifting of the confidentiality of communications would not be sufficiently effective, given the trans-boundary nature of these communications. Trafficking in human beings is a type of organized crime that needs to be tackled at European and international level.

IV. Concluding remarks - Solutions

The role of the state should not be limited to addressing human trafficking only as a criminal issue. Criminal law is certainly a useful tool, but it is inadequate. The European Economic and Social Committee has stated in its Opinion “**on the 'Exploitation of children and sex tourism'**” already since 1998[7] that “*[t]he policy of public condemnation, and the moralistic and legalistic approach to the problem combined with law enforcement, have not resulted in more respect for law and order nor in mechanisms for effective preventive measures and action*”. EU Member States and international organizations should address the root causes of the phenomenon, such as the spread of poverty and the lack of opportunities for improving living standards in the victims' countries of origin on the one hand and the social crisis of values and the materialistic trend, which is prevalent in developed societies, on the other. Undoubtedly, human trafficking thrives only where there are customers “ready to buy”. Apparently, the development of a demand reduction policy would be the most effective way to tackle the problem[8]. Trafficking is affected by many social phenomena and global warming which causes migratory movements; therefore, combating trafficking depends on the regulation of other major social issues, such as the rate of immigration, the recognition of minority and labor rights and the reduction of unemployment, as well as the implementation of a global environmental protection policy[9]. In conclusion, it should be particularly stressed that by promoting and facilitating a legal immigration framework, Europe may combat not only illegal immigration, but also the trafficking in human beings[10].

[1] See, further, *M. Papantoniou – Frangouli*, Trafficking for labour in Greece, 2011, pp. 1-166, http://www.ccme.be/fileadmin/filer/ccme/20_Areas_of_Work/10_Slavery___Anti-Trafficking/National_reports/2011-03-Greek_Report_GOING_BEYOND.pdf (last access 22.6.2016).

[2] See, further, *T. Kyriazi*, Trafficking in human beings, 2010, pp. 87-101, 297-308.

[3] For all, Information note of 25.4.2016 of the Department of the European Union and International Organizations of the Greek Ministry of Justice, Transparency and Human Rights.

[4] *Criminal Justice*, 2005, p. 672.

[5] *Criminal Justice*, 2012, p. 490.

[6] See, further, *A. Sykiotou*, The difficulties and the importance of recognizing a person as a victim of human trafficking, *Criminology*, 2009, pp. 25-34.

[7] ## C 284/14.9.1998, pp. 92-108.

[8] See *E. Symeonidou – Kastanidou*, Human trafficking: Special countermeasures and implementation problems, *Criminal Justice*, 2006, pp. 234-237, particularly p. 237.

[9] See, further, *T. Kyriazi*, n. 2 above.

[10] See further, *N. Chatzinikolaou*, The criminal repression of illegal immigration and human trafficking in the Greek legal system: searching evaluative coherence between punitive sharpening and victimology approach, *Criminal Justice*, 2008, pp. 213-230.