Presentation of Draft Assessment Report on Enhancing Transnational Cooperation on Trafficking cases in SEE

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Background & Objectives

- **Objective:** to gather information and opinions on the forms and tools of transnational cooperation used in cases of human trafficking in the SEE countries with the view to further enhance their implementation or development within and beyond the region.

- **Objective 1: FRAMEWORK / THEORY:** Overview of international, regional, and bilateral instruments, mechanisms and tools relevant to transnational cooperation in cases of THB in SEE

- **Objective 2: PRACTICE / REALITY:** Viewpoints from a wide range of anti-trafficking stakeholders and practitioners as to their experiences on cross-border cooperation functioning

- **FRAMEWORK / THEORY vs. PRACTICE / REALITY =** what are the discrepancies?...and what could be further improved? - How can theory and practice be aligned?
Methodology

- Desk research and interviews with relevant stakeholders
- Findings from the activities during the implementation of the TRM-II

<table>
<thead>
<tr>
<th>Anti-trafficking agencies</th>
<th>No. of professionals interviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministries</td>
<td>22</td>
</tr>
<tr>
<td>NGOs</td>
<td>15</td>
</tr>
<tr>
<td>Law enforcement agencies</td>
<td>11</td>
</tr>
<tr>
<td>IOs</td>
<td>11</td>
</tr>
<tr>
<td>Others</td>
<td>10</td>
</tr>
<tr>
<td>Judiciary</td>
<td>11</td>
</tr>
<tr>
<td>Labour inspectorates</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>83</strong></td>
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Asked questions about:

- Whether, how and by whom the TRM SOPs are implemented
- Obstacles and gaps encountered
- Suggestions for improvements
- Description of transnational cooperation practices in place in cases of trafficking in persons involving two or more countries.
Methodology - Limitations

- Limited information on TC in the field of trafficking for labour exploitation and child trafficking

- Missing voices and perspectives in the assessment report:
  - Victims perspectives: persons who experienced forms of transnational cooperation e.g. identification & return & reintegration.
  - Anti-trafficking stakeholders of the main countries of destination outside the SEE region - where SEE victims are trafficked and exploited.

- However, victims perspectives are covered in: *Listening to Victims. Experiences of identification, return and assistance in South-Eastern Europe (2007)*. - 80 trafficked persons were asked about their personal experience of return, referral, assistance and protection, which involved transnational cooperation among different stakeholders.
Findings Part1: International Cooperation in cases of Trafficking in Human Beings – The framework

- A wide range of International, regional, bilateral treaties and conventions, and Human rights instruments
- Specific agencies and tools for cross-border cooperation

**International treaties**

- The **UN Convention against Transnational Organized Crime (UNTOC)** includes several relevant clauses for cross-border cooperation
- The UN “Palermo” Protocol specifically requires international cooperation between the States Parties for:
  - Repatriation of victims (Art. 8)
  - Prevention of trafficking in persons (Art. 9)
  - Information exchange and training (Art. 10)
  - Border measures (Art. 11)
  - Legitimacy and validity of documents (Art. 13)

All the SEE countries has domestic legislation that criminalizes trafficking and is in most cases in compliance with the UN definition
International treaties & Conventions

- **ILO conventions - relevant to THB trafficking and Forced Labour:**
  - C29 Forced Labour Convention (1930),
  - C105 Abolition of Forced Labour Convention (1957),
  - C182 Worst Forms of Child Labour Convention (1999),
  - C189 Domestic Workers Convention (2011).
  - Furthermore, the ILO Declaration on Fundamental Principles and Rights at Work (1998), - Members obligations to eliminate all forms of forced labour and to abolish child labour (2(b) and (c)).
  - C97 Migration for Employment Convention (1949),
  - C143 Migrant Workers (Supplementary Provisions) Convention (1975)

Most SEE countries ratified these ILO conventions
International & Regional Treaties

- **UN Convention against Corruption** (2003)
  Chapter IV of the Convention specifically focuses on international cooperation

**Regional Treaties**

- The **Council of Europe Convention on Action against Trafficking in Human Beings** (2005) includes specific assistance and protection included

- The **Police Cooperation Convention for Southeast Europe**

Most countries in SEE ratified these International & Regional Conventions:

- UN Convention and Trafficking Protocol
- Council of Europe Convention
- UN Convention on Corruption
- Police Cooperation Convention for Southern Europe
EU framework

- *Lisbon Treaty on the Functioning of the European Union*

- *Action-Oriented Paper on strengthening the EU external dimension on action against trafficking in human beings; Towards Global EU Action against Trafficking in Human Beings*
  - TRM mentioned in the paper

- The *Stockholm Programme*

- The EU *Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims*
Bilateral & other instruments

Bilateral
- Specific MOU’s between countries (often mentioned by stakeholders as highly effective)

Human Rights Instruments
- Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR, 1966)
- International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1966)
- Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT, 1984)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW, 1990)
- Convention relating to the Status of Refugees (CSR, 1951)
- Protocol relating to the Status of Refugees (PSR, 1967)
- International Convention for the Protection of All Persons from Enforced Disappearance (ICAED, 2006)
Agencies and Tools for Cross-Border Police and Judicial Cooperation

- The Southeast European Cooperative Initiative Regional Center for Combating Trans-border Crime (SECI Center)
- The Southeast European Prosecutors Advisory Group (SEEPAG)
- The European Judicial Network (EJN)
- The Migration, Asylum, Refugees Regional Initiative (MARRI)
- Interpol
  - Interpol communications system known as I-24/7
  - Interpol Mind/Find databases
- Frontex
- Europol
  - European Organised Crime Threat Assessment (OCTA)
  - Phoenix : The Analysis Work Files (AWFs)
- Eurojust
  - Eurojust & Europol: Joint Investigation Teams (JITs)
Non-Treaty instruments

- **UNHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking** (2002): Guideline 11: Cooperation and coordination between States and regions
- **UNICEF, Guidelines for the Protection of Child Victims of Trafficking** (2006): Section 2.9 “Coordination/Cooperation”;
- **OSCE, Action Plan to Combat Trafficking in Human Beings** (2000): Section 3 “Law enforcement cooperation and information exchange between participating States”.

Specifically related to referral mechanisms:
Part 2: Improving transnational cooperation to Combat THB – suggestions from practitioners in SEE

Conclusion: Part 1: All SEE countries have rather comprehensive anti-trafficking legislation and mechanisms in place. All countries of the region have enacted anti-trafficking legislation, implemented National Action Plans, developed NRMs, and tested TRM guidelines over the last decade.

• Most interviewees shared the opinion that transnational cooperation is crucial for their work

• All key informants expressed positive comments on the establishment of the anti-trafficking legal and policy framework in their countries
Part2: Improving transnational cooperation to Combat THB – suggestions from practitioners in SEE

- **HOWEVER:** Many interviewees mentioned a range of **obstacles and challenges** and called for improvements to ensure better and sustainable cross-border collaboration.

- Some of the obstacles mentioned are that transnational cooperation and communication often turns out to be
  - SLOW
  - INEFFECTIVE
  - BUREAUCRATIC
Critical points from practitioners

- “There are many useful materials created in supporting the fight against trafficking. However, I’m disappointed by their low level of promotion, distribution, and use. Sometimes, the arena players simply do not use available support and guidelines.” (NGO worker)

- “Last year, we sent out 33 requests through rogatory letters and, so far, we got only 4 replies…this results in prolongation of the investigation” (Public prosecutor)

- “We sent information through our liaison officer there, but there was no feedback and actions from the foreign authorities.” (Police officer)

- “It takes too long to receive an answer from abroad. If we receive any” (Public prosecutor)
Critical points from practitioners

- “Bureaucracy is the problem, especially with regard to prolonged procedures of answer to our formal requests of the destination countries.” (Governmental officer)

- “Informal procedures can give positive effects. Formalized procedures are not always flexible. Not having a bureaucracy system sometimes allows real assistance.” (Social worker)

- “Timely and documented information from the sending country in case of return is often lacking.” (Police officer)

- “We often do not receive any feedback on the case.” (Governmental official)
TC within the region (SEE) vs. TC with countries outside SEE

- Transnational cooperation among the SEE countries seems to be more attainable due to several factors, such as:
  - Similar languages spoken by some groupings of countries
  - Similar legal systems in place in some countries
  - Establishment of national anti-trafficking mechanisms and structures with clear mandates and common procedures (i.e. NRMs, National Coordinator’s Offices, National Action Plans);
  - Implementation of some SOPs of the TRM by some stakeholders;
  - Frequent exchange of information among anti-trafficking actors through meetings, workshops, seminars, conferences.

- Cooperation with countries outside the SEE region seems to be more problematic for all anti-trafficking actors interviewed
- In most instances, they collaborate across borders by using procedures and tools developed in the course of their cooperation throughout the years.
- Many highlighted the need to establish more structured forms of cooperation with main destination countries outside SEE
Positive quotes from practitioners

- “JITs are the future of the international cooperation in investigation and particularly in the international cases of trafficking.” (Public prosecutor)

- “The TRM contact list helped us a lot.” (Public prosecutor)

- “The TRM contact list provides for fast communication with relevant authorities in other countries in the region” (Former police officer)

- “The TRM has really helped us because now we have some contacts that previously were formal and we didn’t know how to get. Now, we just open the TRM Guidelines and find the right contacts. It really proved to be very useful.” (Governmental officer)
Specific Recommendations

- LEGISLATION
- GOOD GOVERNANCE
- CAPACITY DEVELOPMENT
Recommendations - Legislation:

- **Anti-trafficking stakeholders** should:
  - Make full use of the provisions on transnational cooperation provided by the regional and international instruments
  - Make full use of the support of the regional and international agencies their States are members of
  - **Use to their full potential the available tools** (e.g. European e-Justice Internet portal, UNODC MLA Tool, Interpol Human Smuggling and Trafficking message, Europol Phoenix AWF, JITs Manual).

- States should **identify and overcome the legal and bureaucratic obstacles hindering transnational cooperation and provide for less rigid and lengthy procedures to collaborate across borders.**

- States and the competent agencies should **ensure a prompt and accurate information and documents exchange** in full compliance with **data protection regulations.**
Recommendations - Good Governance

- States should consider the establishment of a national focal point to receive and reply to all requests received from abroad.
- In order to ensure the good governance of the TRMs, Agencies responsible for the TRM governance should ensure:
  - Full participation of all relevant anti-trafficking stakeholders, including NGOs and IOs.
  - Provide for a more detailed division of roles and responsibilities of the local, national and international stakeholders.
  - TRM rely on simpler and less bureaucratic procedures, which should also include timelines, to faster information exchanges between anti-trafficking stakeholders.
  - Contact lists of the national anti-trafficking stakeholders are regularly updated and widely distributed within the countries and among their foreign counterparts.
  - Regular and independent monitoring and evaluation of the national and transnational anti-trafficking frameworks and activities.
Recommendations – Capacity Building

- Agencies responsible for the implementation of the NRM and TRM should:
  - Develop National and local multi-agency training modules and refresher’s courses on how to perform TRM
  - Develop Transnational multi-agency training modules on how to perform TRM measures should be organized linking up anti-trafficking stakeholders of countries of origin, transit and destination
  - Organize regular exchange of good practices on transnational cooperation between anti-trafficking stakeholders of different countries through meetings, study visits, and exchange programmes
  - The numerous operational tools (e.g. guidelines, handbooks, training modules, portals, software…) should be adequately promoted, adapted, translated, distributed, and used.

- An online database / website containing updated country, regional, and international information on TC instruments and tools; TRM guidelines; forms to place requests; agencies contact details etc. might be useful
Additional challenges: Trafficking for Labour Exploitation

New challenges - requires:

New strategies & approaches:
- supply chain monitoring), supply-chain responsibility, promotion of decent working conditions, code of conduct, CSR etc.

New partners:
- Labour inspectors, private sector, trade unions, retail industry, consumers, etc.

More knowledge & awareness:
- Research and documentation on THB for LE Awareness campaigns

Enhanced capacity:
- Capacity building, training programmes

“We feel a great need for training for labour inspectors. [...] It would be useful to have a joint training, with labour inspectors and representatives of other anti-trafficking actors.” (Labour Inspection)
Additional challenges: Child Trafficking

Conclusions from the TRM workshop on Child Trafficking in Albania May, 2011

- The best interest of the child as a primary consideration
- No clear definition of the concept best interest of the child – applied ad hoc
- Age assessment and finding durable solutions – is still a challenge and debate across Europe
- No standard model and guidelines how to determine both issues
- Age assessment procedures to undertaken as a measure of last resort
Conclusion & Points for discussion:

- **Overall conclusion:**
  - A lot of legal frameworks and instruments in place
  - Great achievements throughout the TRM project
  - BUT – still gaps...
  - The TRM model needs to be regular maintained and further developed

  Assessment report will be finalised within next months:

- **Feedback from LLO’s countries...**
  - Your feedback and additional comments:
  - Feedback & comments on the main Challenges. Do you recognise the challenges presented? What is the main challenge to effective TNC to combat THB?
  - Are there additional challenges that haven’t been mentioned?
  - Recommendations: Comments to the recommendations? – Any additional recommendations?
Thank you very much for your attention!
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