

ESTONIA¹

The phenomenon

Estonia is primarily an origin and transit country of victims trafficking in human beings. According to the Report of UNODC, within Central and South Eastern Europe, Estonia is ranked as 'high' in the citation index as country of origin. There are also indications of internal trafficking, mostly from the North-Eastern region to the capital city.

Victims who transit through Estonia mainly arrive from neighbouring countries, such as the Russian Federation and Latvia, as well as from Ukraine, Moldova, Afghanistan and Poland. Main destinations of these victims are Scandinavian and other European Union countries, as well as Japan, China and the USA.

The main socio-economic risk factors for trafficking include: unemployment, low wages, lack of possibilities for professional growth and a wish to obtain a prestigious education. In particular, in some counties of the North-Eastern part of Estonia, the unemployment rate is relatively higher. Thus, there is a trend of internal trafficking within Estonia from the North-Eastern region to the capital city. Also the majority of Estonian victims of trans-national trafficking are thought to come from this part of the country.

Even though trafficking in human beings concerns both women and men, most of the victims are female, due to existing gender-based discrimination. There is an unequal treatment of women in the labour market of Estonia, which can be seen by comparing the average hourly wage of men with that of women. According to the data of the Department of Gender Equality of the Estonian Ministry of Social Affairs women are mostly employed in less prestigious working places and there are a lot less women than men in higher positions.

Victims from Estonia are trafficked for both sexual (children and women) and labour (both men and women) exploitation. In case of sex-related trafficking victims are usually not above 35 years old, whereas in cases of labour-related trafficking victims belong to different age groups.

National anti-trafficking legislation and institutions

While the Estonian Penal Code does not directly name trafficking in human beings as a criminal offence, there are approximately 16 articles prohibiting activities that are linked to human trafficking (e.g. enslavement, abduction, provision of opportunity to engage in unlawful activities, pimping, illegal donation of organs, manufacturing and distributing child pornography). The articles above can be used in combination with provisions of other laws (Advertising Act, Transplantation of Organs and Tissues Act and Republic of Estonia Child Protection Act) that relate to the topic of trafficking in persons. Although the phenomenon of trafficking in persons may contain elements of offences mentioned in the Penal Code, cases in practice unfortunately are often more complex and do not entirely fit within the current legal framework. In year 2010 the specific offence of "trafficking in persons" is expected to be included into Estonian legislation. The Ministry of Justice is formally responsible for the drafting and implementation of laws on human trafficking.

Estonian legislation defining and punishing the offence related to trafficking in human beings covers almost only cases of sexual exploitation and trafficking for organ removal. In addition, there are specific law provisions that explicitly prohibit and punish the use of forced labour, compulsory labour or forced services.

The legislation does not state any clear difference between trafficking of children

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and of adults; although in case of “sexual exploitation” there are different paragraphs stating actions to be taken in case of involvement of minors or adults into prostitution, punishment for those offences are nevertheless equal (§ 175, § 176, § 177, § 178, § 268, § 2681 of Penal Code).

On 26 January 2006 the Estonian Government adopted the first Development Plan for Combating Trafficking in Human Beings (2006-2009). The Governmental institution responsible for the coordination of the implementation of the Plan is the Ministry of Justice. Within the framework of the Development Plan for Combating Trafficking in Human Beings (2006–2009), in 2006 the ‘National Human Trafficking Network’ was organised, where all ministers and governmental institutions are represented together with NGOs. Appointed in 2006 as Adviser at the Ministry of Justice, Criminal Policy Department, Criminal Statistics and Analysis Division the National Coordinator (NC) is responsible for setting the agenda for the meetings of the Coordination Network, gathering information on the status of implementation of the measures foreseen by the national action plan, collecting input and suggestions from different stakeholders for the yearly report on NAP implementation, and liaising with the Minister of Justice on a regular basis.

The main stated aim of the Plan (2006-2009) is to increase effectiveness of the fight against human trafficking by fulfilling six objectives:

- Continuous mapping of issues related to human trafficking in order to get a comprehensive and trustworthy overview of the actual extent and forms of human trafficking;
- Prevention of human trafficking by informing the public on the nature of the phenomenon and related dangers (both in Estonian and Russian languages);

- Development of the skills of professionals dealing with human trafficking, and promoting cooperation among them;
- Reduction of human trafficking by means of more effective border controls and control over employment mediation;
- Effective prosecution of criminal offences related to trafficking in persons;
- Providing assistance and recovery to victims of trafficking.

It has to be mentioned that, at governmental level, a great contribution to the anti-trafficking work has been made by the Gender Equality Department of the Ministry of Social Affairs, which in close cooperation with relevant NGOs has been addressing the issue of trafficking in human beings already for four years. The Ministry of Social Affairs is designated as the responsible institution for carrying out following activities: organizing of lectures, training and information campaigns on trafficking, within the scope of the Development Plan.

The Unit for Serious Crimes and Crimes against Persons of the Northern Police Prefecture and the Central Criminal Police are responsible for cases related to human trafficking. Investigative responsibility for labour cases is not clearly assigned at the moment. Many policemen however have taken specific trafficking training and have participated to different international and national events (conferences, seminars, roundtables, working meetings, study visits etc.) on the topic. They have also established cooperation with national NGOs working on anti-trafficking.

Following the “Development Plan for Combating Trafficking in Human Beings 2006-2009”, a new plan on “Development plan Against Violence 2010-2014” was adopted. This time NGOs and civil society representatives were officially invited to take part to the development of the new

plan. The Plan against Violence consists of three main parts:

- Violence against children, juvenile violence and offences,
- Domestic violence,
- Prevention of human trafficking.

For each of the three themes, working groups have been set up and are coordinated by Ministry of Justice. NGOs working in the field of trafficking prevention were against adoption of the whole Development Plan against Violence, because they were concerned that human trafficking might not get enough attention in comparison with other themes covered by the Plan.

Identification, protection of rights, and referral

There is no specific standard procedure for identification of victims of trafficking, but the Ministry of Social Affairs in cooperation with other relevant authorities issued a tool named "Human trafficking victim identification and assistance guidance", which includes:

- Indicators of different forms of exploitation;
- Instructions about referral practices specifying different options;
- Rules for ethical interviewing and a model interview;
- Contacts of assistance service providers and anti-trafficking actors in Estonia.

A small abstract of the guidelines was published and distributed among border guards.

Several agencies and organisations share the responsibility of identifying trafficking victims: NGOs working in field of human trafficking and governmental institutions (Ministry of Foreign Affairs, police and border guard, social workers). The NGO "Living for Tomorrow" often facilitates referral to different service providers. Referral between the police and service providers happens on an ad hoc basis. No designated contact exists for potential cases of trafficking for labour

exploitation among law enforcement agencies.

A separate section on children was included in the procedures for the identification of victims of trafficking (with the participation of the Ministry of Internal Affairs, the Central Criminal Police, the Citizenship and Migration Board and the Border Guard Administration); in case of suspicion, an additional interview will be carried out with the child at the border.

Indicators of human trafficking, which are mentioned in the guidance, are not effectively working in practice and are rarely used by state officials and law enforcement. A check-list for formal identification is in the pipeline at the moment at the Ministry of Social Affairs and will be hopefully finalized by the end of 2010.

Besides the insufficient provisions against human trafficking in the legislation, the conviction of traffickers is largely hindered by the reluctance and fear of the victims to turn to the police or to testify in court. On 15 June 2005, the Estonian parliament finally passed the Witness Protection Act that sets out ways and conditions for witness protection in criminal cases. Before that the only available protection was a possibility to declare a witness anonymous in accordance with the Code of Criminal Procedure. On 17 March 2000, Estonia signed a cooperation agreement on witness protection with Latvia and Lithuania.

Until February 2007 another factor that made it difficult to investigate and prosecute trafficking cases was the fact that a person, who had arrived to Estonia illegally or whose right to stay in the country had expired, had no legal basis for staying even if s/he was an important witness in a criminal case. The problem was acknowledged by the National Development Plan (2006-2009). In order to solve this matter the Plan recommended to implement the EC Council Directive 2004/81/EC 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 subjects of an action to facilitate illegal immigration. The Directive was transposed into the domestic law by amending the Aliens Act. As a result of the amendments that came into force on the 1st of February 2007, a whole new chapter was added - Chapter IV3 "Special Cases of Issuing Temporary Residence Permit", which inter alia foresees issuance of a residence permit on the basis of public interest to victims or witnesses in criminal cases of trafficking. It also foresees the possibility of granting a reflection period of 30–60 days unconditionally and of issuing temporary residence permits to victims of trafficking cooperating in criminal proceedings. The duration of the temporary residence permit is of one year. No applications have been received since the norm was introduced.

When it comes to protecting trafficked children, there is a big gap both in theory and in practise. Until now in all cases of domestic child trafficking, children involved in prostitution were not considered as victims of trafficking. Moreover, it is not known what kind of assistance and protection they received during the investigation and after.

Services for victims of trafficking are provided by NGO, who depend on support from state budget provided on annual basis. There is a range of services available to victims of trafficking in Estonia. The main actors providing those services are listed below.

The NGO Eluliin, the rehabilitation centre Atoll for women involved in prostitution and the shelter Vega for victims of trafficking for sexual exploration offer a wide range of services, tailored on victims' needs. The NGO Estonian Women's Shelters Union provides sheltering, psychological, legal, social assistance in the Ida-Virumaa region. The NGO AIDS Support Centre provides medical assistance to women involved in

prostitution. The NGO Living for Tomorrow provides hotline service for trafficking victims and carries out prevention work through hotline, trainings and lectures. Since year 2006 the hotline service provided by NGO Living for Tomorrow receives governmental support in frame of the National Action Plan. The Consular Assistance Office also runs a hotline number active 24 hours/7 days. Victims can also contact the National Victim Support system that creates and employs a network of organisations in the region that offer assistance and services to victims of a crime.

Risk assessment is conducted only in case of victims' cooperation in criminal proceedings and upon request of the trafficked person or of the service providers. A program for safe return and reintegration of victims of trafficking is not in place at the moment. Budget resources available for the return of victims of trafficking are very limited.

Access to justice

According to the report on the implementation of the National Development Plan Against Human Trafficking, 89 persons in 2008 were sent by the Prosecutor's Office to court on the grounds of criminal offences related to human trafficking; 31 (35%) of these were related to the offence of fostering prostitution.

In 2008, 97 persons were investigated as suspected of perpetrating criminal offences related to trafficking. In general, in case of nearly half of these cases, no more than one person was suspected, while in cases of fostering prostitution there was more than one person suspected in 11 cases out of 15 (73%). Taking into consideration the total number of the cases above (trafficking and fostering prostitution), in 18% of criminal offences related to human trafficking there was more than one suspect. At least 31 persons (32%) were associated with cases of fostering prostitution and 35 persons

(36%) with cases of unlawful deprivation of liberty.

Estonian authorities did not criminalize victims for illegal acts committed as a direct consequence of their being trafficked. Trafficking victims are encouraged to participate in trafficking investigations and prosecutions.

Protection available for victims and/or witnesses during criminal proceeding is provided under general “Witness protection act”, but no additional measures are used by law enforcement and court officials to protect the victims.

A number of special measures may be used under the Code of Criminal Procedure. These include: the protection of identity of victims/witnesses; closed hearings; the use of equipment (e.g. video) to prevent contact with the defendants; phone hearings (only allowed with consent of the defendants).

Since 2008 the possibility of anonymous witnessing has been introduced in bigger courthouses. However such procedures are rarely used for trafficking cases. According to practitioners, this is due to lack of awareness of the sensitivity of such cases among criminal justice authorities.

Until now, all victim-witnesses received counselling and information in language that they can understand. Victims of trafficking have right to apply for compensation available in general for victims of crime in Estonia; no dedicated fund was established for victims of trafficking.

Prevention

The New Development Plan Against Violence (human trafficking section) points out several actions for the period 2010-2014:

1. Information on trafficking for the overall population and targeting risk-groups (especially youth and girls);
2. Labor exploitation prevention and detection;
3. Effective investigation of trafficking cases.

At the moment, prevention measures implemented include services provided by the National Anti-trafficking Hotline (run by NGO Living for Tomorrow), lectures and training for professionals and risk-groups (supported both by the government and other sources of funding) and awareness materials about risks associated to trafficking.

Monitoring and evaluation system

Since the adoption of the Development Plan (2006-2009), the Ministry of Justice issues a report at the end of the implementation period. These reports contained information about measures undertaken, as well as analysis about further measures that needed to be taken in future for successful development of anti-trafficking responses. It is worth highlighting that the first Development plan was very well made and all the participants of the National Network were satisfied with its provisions and subsequent implementation. The Ministry of Social Affairs, other institutions and NGOs are constantly monitoring and evaluating anti-trafficking issues and responses in Estonia. Monitoring and evaluation were insofar mainly focusing on trafficking for the purpose of sexual exploitation, while trafficking of children and for labour exploitation are under currently reviews. In 2010 a research on trafficking for labour exploitation was conducted by University of Tartu. Several other researchers are equally carried out by NGOs and other institutions, most of the time on their own initiative and without government support, aimed to monitor the situation of trafficking in Estonia and to analyse measures implemented by governmental bodies. However, the findings of these studies are constantly referred to by the Government.

In 2010, a new “Development Plan Against Violence 2010-2014” was adopted. Most likely, hereinafter monitoring and evaluation of anti-trafficking measures will

be entirely performed in the framework of implementation of this plan.

No official declarations on the impact of antitrafficking measures in Estonia has ever been made by the Office of the Chancellor of Justice, which is responsible for investigating and reporting on allegations of human rights abuses.

Since year 2010, the Ministry of Justice appointed a National Rapporteur on Trafficking in Human Beings.

Recommendations

- To adopt long-term national policies, which extend the impact of the measures envisaged in the National Development Plan for Combating Trafficking in Human Being;
- To provide a definition for the term 'trafficking in persons' in the national legislation, in compliance with international standards, and to form a separate chapter in the criminal law prohibiting actions that constitute trafficking;
- To run ongoing regular prevention activities, programmes and campaigns about trafficking and related issues, in order to break the human trafficking chain;
- To raise Government's attention on the demand side of trafficking, in order to shift perspective from curbing businesses to putting human beings at the hearth of antitrafficking work;
- To ensure a sustainable anti-trafficking hotline service and to provide shelters and all necessary services for trafficked persons (psychological, medical, social, judicial etc.).

Update New Phenomenon (from 2010/2011)

Estonian citizens and inhabitants were still trafficked abroad for purposes of sexual and labour exploitation. However we've also encountered several of victims that were trafficked from Ukraine to Estonia for purposes of labour

exploitation. In such cases it's very complicated to provide victims with necessary assistance, since if discovered they will have to be deported from country right away and employer at worst might be only submitted to a fine. It's suspected that number of such victims is constantly growing. Main destination countries for victims from Estonia are still UK, Scandinavian countries (Finland, Norway), Cyprus, Germany and USA.

Main forms of TIP in Estonia are still the same: trafficking for purposes of sexual and labour exploitation, forced marriages with citizens of third countries. Estonia is still mainly source and transit country. In case of trafficking for purposes of labour exploitation main vulnerable groups in Estonia are male and female with Russian citizenship or without citizenship with Estonian permanent residence permit. They are mostly being trafficked to Finland and Germany. Migrants from third countries that enter Estonia on base of Schengen agreement are at risk to be subjected to labour exploitation. As for forced fictive marriages risk group is still the same (young women with Estonian citizenship). Main risk group for sex trafficking are young women who either have history of abuse and addiction, or are already involved into sex industry in Estonia.

Most of the traffickers use Internet and media to place job offers, promising people from Estonia profitable employment abroad. In case of possible sexual exploitation such ads offer job as dancers and waitresses, in agreements is mentioned that they are motivated to prevent human trafficking, hence girls are not allowed to offer sex related services. Traffickers also try to use official channels to recruit victims, such as State Unemployment Board and European employment service (EURES). Victims are also interviewed via Skype.

As until now, changes offered to Estonian TIP legislation are not being accepted by the Parliament, some of

deputies are questioning need to criminalise pimping activities and define it as human trafficking, they would rather classify it administrative responsibility.