

Malta Action Plan on Combating Trafficking in Persons

October 2011- December 2012

Background

What is Trafficking in Persons?

The United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* (the Palermo Protocol) defines trafficking in persons as 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 includes 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.

The consent of a victim of trafficking in persons to the intended exploitation set forth above is deemed irrelevant where means such as coercion or abduction are used at any stage.

Trafficking in persons is to be distinguished from migrant smuggling, which involves the facilitation of irregular migration. Migrant smuggling would involve the payment of a fee by the prospective migrant to the smuggler, in exchange for transportation to the country of destination. The relationship between the smuggler and the irregular migrant would end upon the migrant's arrival at the country of destination.

It would however have to be noted that irregular migrants may be vulnerable to human trafficking upon arrival at the country of destination or a country of transit, in particular due to the lack of familiarity with their new environment and circumstances.

Anti-Trafficking Legislation

In Malta trafficking for sexual exploitation, exploitation in the production of goods or the provision of services, and exploitation in the removal of organs is prohibited by the *Criminal Code* (Cap. 9 of the Laws of Malta). Act III of 2002 introduced Sub-title VIII BIS entitled *Of The Traffic of Persons* into the *Criminal Code* (Cap. 9 of the Laws of Malta) in accordance with Malta's commitment to the *United Nations Convention Against Transnational Organized Crime* and the protocols thereto. Malta ratified the Convention and Protocols, including the Palermo Protocol, on the 14th of September 2003.

Nonetheless, trafficking in persons from Malta for the purposes of prostitution was already a criminal offence under the *White Slaves Traffic (Suppression) Ordinance* (Cap. 63 of the Laws of Malta). The *White Slave Traffic (Suppression) Ordinance* transposed the *International Agreement for the Suppression of White Slave Traffic* 1904 into domestic law, which was subsequently amended by the Protocol approved by the General Assembly of the United Nations on the 3rd of December 1948.

The punishments meted out for the conviction of the crime of trafficking in persons range from two to nine years imprisonment, except in cases of trafficking for exploitation in organ removal, where the punishment is imprisonment for a term between four and twelve years. Punishments are increased by one degree where the victim is a minor. The prescribed penalties are commensurate with those prescribed for other serious crimes.

Additionally, the crime of trafficking in persons is also dealt with under the Title of the Maltese Criminal Code focusing on Crimes Against Humanity and War Crimes and the Title addressing Crimes Against the Peace and Honour of Families and Against Morals.

Subsidiary Legislation (SL 217.07) transposing European Union Council Directive 2004/81/EC *on the residence permit issued to third country nationals who are victims of trafficking of human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities*, which provides for giving victims of trafficking or illegal immigrants who cooperate with the Maltese authorities permission to reside in Malta for a period of 6 months (renewable), was passed in 2007. This legislation also provides for a period of reflection not exceeding 2 months (prior to the granting of the 6-month residence permit) to victims of trafficking so as to give them the opportunity to detach themselves from the influence of the perpetrators of the offence and enable them to take an informed decision on the possibility of cooperating. Wherever the victim is found under circumstances which clearly indicate that he or she is a child or young person, he or she is assisted in terms of the Children and Young Persons (Care Orders) Act and is provided with the necessary care under this Act.

The Maltese Human Trafficking Scenario

Between 2002 and 2010, 10 cases of trafficking in persons were registered, which involved the conviction of 14 persons. All cases related to trafficking for the purposes of sexual exploitation.

With a view to ensuring the provision of adequate victim support, a Memorandum of Understanding was signed between the Malta Police Force and the Ministry responsible for Social Policy. The MOU is complemented by the services provided by Aġenzija Appoġġ, the Government Agency responsible for providing and coordinating social support services to potential victims of human trafficking.

Victims of human trafficking may use the 179 helpline run by Appoġġ to receive assistance and support. In 2009 Appoġġ joined The Body Shop in its worldwide campaign to raise awareness about the exploitation of children and young adolescents for sexual purposes. The Information Campaign was launched to assist in disseminating information about the issue in Malta.

Scope of the Action Plan

The Action Plan is built on the premise that the competent authorities are to take appropriate action with a view to prevent trafficking in persons, to prosecute offenders and to protect victims.

Government considers that constant vigilance is called for, particularly as the circumstances affecting trafficking in persons and the operations of criminal networks are by nature dynamic and therefore subject to change.

Moreover, further action is always called for, in particular preventive action with a view to protect persons who may be vulnerable to trafficking in persons, as well as to offer proper support to persons who have fallen victim of trafficking.

Government and the respective authorities therefore consider a National Action Plan against Trafficking in Persons a necessity.

The implementation of the Action Plan will be coordinated by the Trafficking in Persons (TIP) Coordinator appointed by the Prime Minister, with the support of all Ministries and other authorities concerned, including the Human Trafficking Monitoring Committee.

The purpose of this Action Plan is to:

1. Consolidate current procedures and initiatives relating to trafficking in persons;
2. Identify areas of concern requiring action;
3. Enhance accountability in relation to the delivery of actions within the National Action Plan;
4. Provide the necessary tools and resources for the development of a holistic strategy in the fight against trafficking in persons;
5. Raise awareness among Public Authorities in relation to the importance of trafficking cases with a view to register greater effectiveness in relation to the prosecution of cases and the identification of victims; and,
6. Where necessary, enhance the Administrative Capacity of Maltese authorities to deal with Human Trafficking cases.

SCOPE OF ACTIONS	ACTIONS	TARGET DEADLINE	TARGET AUDIENCE	RESPONSIBLE PARTIES
GENERAL	<p>The regular convening of the Human Trafficking Monitoring Committee with a view to:</p> <ul style="list-style-type: none"> -ensure that human trafficking is being addressed in a strategically effective manner; -ensure that relevant stakeholders are being monitored; and -make policy proposals as necessary. <p>The Committee will assess the implementation of the Action Plan.</p>	Ongoing	All stakeholders.	Office of the Prime Minister
	<p>The establishment of a Stakeholder Task Force on Trafficking in Human Beings at operational level.</p>	4 th quarter 2011	All stakeholders.	<p>Ministry for Education, Employment and the Family</p> <p>Employment and Training Corporation</p> <p>Aġenzija Appoġġ</p> <p>Ministry for Justice and Home Affairs</p> <p>The Office of the Attorney General</p> <p>The Police (in particular Special Branch and Vice Squad)</p> <p>Ministry of Foreign Affairs</p> <p>Central Visa Unit</p> <p>Citizenship and Expatriate Affairs Department</p> <p>Ministry for Health and Elderly Care</p>

	Submission of a quarterly report (including statistics) to the Prime Minister outlining actions taken, progress achieved and difficulties encountered.	Ongoing	Prime Minister	Monitoring Committee in collaboration with all stakeholders.
	Publication of a yearly report (including statistics) on actions undertaken in the field of human trafficking	4 th quarter 2012	Stakeholders and the General Public	Monitoring Committee in collaboration with all stakeholders.
	Identification of international partners to assist in the implementation of measures foreseen by this and future Action Plans.	4 th quarter 2011	All stakeholders	Ministry for Justice and Home Affairs
	Conducting an awareness raising campaign	Awareness campaign conducted over the period 2 nd quarter 2012- 4 th quarter 2012	All stakeholders	Ministry for Education, Employment and the Family Ministry for Justice and Home Affairs Ministry of Foreign Affairs
	<p>Enhance the Administrative Capacity of the competent authorities in the fight against human trafficking, be it from the point of view of prevention, protection or prosecution.</p> <p>Such action may include the recruitment of personnel or contracting of services (e.g. legal and psychological services) and the procurement of equipment.</p> <p>Actions undertaken under this area, which would have to be approved by the TIP Coordinator, would be required to fulfil at least one of the following objectives:</p> <p>a) Facilitate the identification or investigation of human trafficking cases;</p> <p>b) Enable more expeditious prosecution or determination of human trafficking cases;</p>	Ongoing	Government stakeholders	<p>Capacity building may be carried out as necessary by the following authorities:</p> <p>Ministry for Justice and Home Affairs</p> <p>The Judiciary</p> <p>The Office of the Attorney General</p> <p>The Police (in particular Special Branch and Vice Squad)</p> <p>The Office of the Refugee Commissioner</p> <p>The Agency for the Welfare of Asylum Seekers (AWAS)</p> <p>The Detention Service</p> <p>Security Service</p>

	<p>c) Increase awareness of human trafficking through campaigns and other initiatives ; or</p> <p>d) Enhance services and support offered to victims of human trafficking.</p>			<p>The Ministry of Health, the Elderly and Community Care</p> <p>Emergency and Casualty Department</p> <p>Health Centres</p> <p>Transplant Register Unit</p> <p>Health and Safety Authority</p> <p>Ministry of Education, Employment and the Family</p> <p>Employment and Training Corporation</p> <p>Aġenzija Appoġġ</p> <p>Ministry of Foreign Affairs</p> <p>Central Visa Unit</p> <p>Citizenship and Expatriate Affairs Department</p>
PREVENTION	<p>Follow-up on past training initiatives, including by means of the delivery of training to the Judiciary, Assistants to the Judiciary, law enforcement officers, the legal profession and the Police Force, as well as to officials of Aġenzija Appoġġ, the Agency for the Welfare of Asylum Seekers (AWAS), the Office of the Refugee Commissioner and other Public Authorities, as well as NGO's involved in the sector.</p>	1st quarter 2012	<p>Public Authorities and NGOs</p> <p>Vulnerable</p> <p>Groups/Professionals/Competent Authorities</p>	<p>Ministry for Education, Employment and the Family</p> <p>Ministry for Justice and Home Affairs</p> <p>Ministry of Foreign Affairs</p>

	<p>The fostering of awareness among groups vulnerable to trafficking, in particular by means of awareness sessions:</p> <ul style="list-style-type: none"> a) for irregular migrants and asylum seekers; b) for other vulnerable groups; c) for professionals working with vulnerable persons. 	Ongoing	Vulnerable groups and professionals working with vulnerable persons	<p>Agency for the Welfare of Asylum Seekers (AWAS)</p> <p>Aġenzija Appoġġ</p> <p>NGOs</p>
	The establishment of a Manual of Procedures, including guidelines for the identification of victims of trafficking for Health Care Providers, Social Service organisations and Law Enforcement officers.	2 nd quarter 2012	Officials providing health care, social services and Police Officers Professionals	<p>Ministry for Education, Employment and the Family</p> <p>Aġenzija Appoġġ</p> <p>Ministry for Justice and Home Affairs</p> <p>Police Force</p> <p>Ministry of Foreign Affairs</p> <p>Ministry of Health, the Elderly and Community Care</p>
PROTECTION	Completion of a study relating to the needs of victims of human trafficking based on available data and secondary sources.	3 rd quarter 2012	All stakeholders.	<p>Ministry for Education, Employment and the Family</p> <p>Aġenzija Appoġġ</p> <p>Ministry for Justice and Home Affairs</p> <p>Police Force</p>

	The formalisation of existing arrangements and conclusion of new arrangements, including by means of MOUs, for the identification and referral of victims of trafficking.	2 nd quarter 2012	Aġenzija Appoġġ Police Force	Ministry for Education, Employment and the Family Aġenzija Appoġġ Ministry for Justice and Home Affairs Police Force Ministry for Health and Elderly Care Local NGO/s as necessary
PROSECUTION	Assess current procedures for the identification of human trafficking cases prior to the initiation of prosecution proceedings, and make proposals as necessary to reform the relevant procedures.	1 st quarter 2012	Police Force Office of the Attorney General	Ministry for Justice and Home Affairs Police Force Office of the Attorney General
	To review and monitor anti-trafficking domestic legislation related to trafficking, and its practical implementation whilst pursuing the full implementation of international legal instruments, including transposition of Council Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Directive 2002/629/JHA.	3 rd quarter 2012	All Stakeholders	Ministry for Justice and Home Affairs