

Introduction

Beggars in the hands of traffickers

This is the nineteenth 'Human trafficking and smuggling' report. Every year, Myria offers an independent assessment of human trafficking and smuggling policy. Besides its tasks concerning fundamental rights and information on migration flows (see our Migration Report 2016), Myria has the specific task of encouraging the fight against this scourge and has been explicitly appointed as the independent National Rapporteur on Human Trafficking for Belgium. This work takes on a great many and generally low-profile forms, and this annual report is only one of the facets. Besides its usual sections (case analyses, legal and political developments, best practices and experiences, case law, focus, analyses in figures, recommendations), this report will also now include a summary of the various interventions, civil proceedings, training sessions and tasks that Myria conducts every year, allowing it to develop and maintain its expertise, including the development and maintenance of an important national and international network. For instance, Myria instituted civil proceedings in six new cases in 2015 (three concerning trafficking and three smuggling). As mentioned in previous reports, these civil proceedings are instituted for the following reasons: to examine the cases, the need to put our weight behind a case owing to its symptomatic nature, and to support the victims. The relative increase in cases related to smuggling is of course linked to the migration crisis Europe experienced in 2015.

As for figures, which are widely expanded upon in this report, it is important to note that there is a lack of harmonisation between the data from the different stakeholders. Therefore, they aren't sufficient as a basis to assess the policy or to support strategic analyses. This lack of harmonisation also significantly restricts the possibilities of reporting with regard to the European institutions.

Major developments

The fight against human trafficking and smuggling has been marked by significant developments over the past year, especially in Belgium. A law was adopted to finalise the transposition of the European directive on human trafficking, allowing the related legislation to be coordinated with the provisions relating to sexual abuse and exploitation of prostitution at the same time. This law also improves the measures to protect victims. Furthermore, the government adopted an ambitious 2015-2019 action plan to combat human trafficking. It includes several advances, primarily linked to synergies with the federated entities, frontline stakeholders, and measures in terms of awareness raising and information. Significant emphasis is placed on the protection of victims in the plan; on this subject, Myria would like to emphasise that the best investment in this area would be to maintain and stabilise the structural financing of the three specialised reception centres - PAG-ASA, Payoke and Sürya - whose expertise and efficiency has been proved, since they are confronted with the withdrawal of the FIPI (funds to promote immigration policies) and no long-term solution at this stage, despite the considerable efforts of Secretary of State, Elke Sleurs, to find a temporary solution.

Despite these advances, Myria also has several concerns. The introduction of a 'guilty plea' procedure within the framework of criminal law reform and criminal procedure, considering its broad scope, could have negative consequences on trafficking cases, as shown in our analysis on legal developments further on in this report. According to Myria, it would have been preferable for this procedure to be explicitly excluded for acts of human trafficking for the purpose of sexual exploitation and for the most serious forms of trafficking. Moreover, we fear that there is less guarantee for the rights of victims within this framework than within the

framework of normal criminal procedure. Just like the specialised centres and O.R.C.A. (Organisation for Undocumented Workers), Myria is also very concerned about the punishment of people working illegally, adopted in May 2016 through an amendment to the Social Criminal Code. From now on, anyone working illegally is committing an offence and will receive an administrative fine as punishment. And yet, this measure seriously affects potential human trafficking victims, who often work illegally. Myria considers that this measure goes against the principle of non-punishment, included in several international texts, which allows victims to be considered as not having acted independently, despite having committed an offence, and thus sparing them from legal proceedings.

Among recent developments worth noting is the adoption of a 2015-2018 action plan to combat trafficking in human beings. This government initiative is a response to the current context of the migration crisis, which puts many migrants in the grip of smuggling networks and in an extremely vulnerable position. As also highlighted by the cases in which Myria has instituted civil proceedings, it is important to remember that Belgium is a transit country for smuggling, which is particularly prevalent along the E40 highway. In addition, Belgium, is also one of the rare European countries to have a network of judges specialised in the fight against smuggling. While the adoption of such a plan is obviously a positive move, Myria insist that we must continue to continue to keep watch on the victims.

Begging, a discreet but real form of exploitation

This year, we have decided to focus on the difficult theme of human trafficking for the purpose of exploitation of begging. It provides us with the opportunity to examine a tricky and multifaceted subject. Of course, not all begging is the subject of human trafficking but part of trafficking does indeed involve elements of

exploitation of begging. As such, begging hasn't been an offence in Belgium since 1993, even though certain communes are attempting to reinstate begging as an offence in a roundabout way through communal administrative penalties. Nevertheless, the exploitation of begging and acts of trafficking committed for this purpose are still punishable. However, it is still necessary to work on better defining begging and its exploitation, for instance, through a related criminal policy directive.

In this focus, we have chosen to pay particular attention to the Roma, because they are the subject of numerous stereotypes linked to their practice of begging, which is common to certain groups within this heterogeneous community. We thought it would be useful to examine the subject more closely and dispel some of the generalities, based in particular on the contribution of Judit Geller and Adam Weiss from the European Roma Rights Centre on the particular vulnerability of this group. The Roma are Europe's largest ethnic minority; but as we shall read, this term encompasses a wide variety of people, comprising a disparate group. According to the Council of Europe's Commissioner for Human Rights, there are approximately 25,000 Roma migrants in Belgium.

In some Roma groups, begging is considered a survival strategy, essentially carried out by the women. As we shall see, Roma people often demonstrate a strong feeling of internal loyalty, which has consequences on the attitude of victims towards their exploiter, who is generally from the same community. And it is in this link that the exploitation of victims by their exploiters takes root, through trafficking: recruited in their country of origin by an exploiter with the promise of a job and a better life in Belgium, these victims find themselves in a situation of dependency, and victims of trafficking, among other things, through begging. The situation of minors, within this framework, is particularly worrying. Myria considers it crucial to adopt a uniform

approach to begging, especially when it comes to stating the facts. This also requires the police and judges to consider beggars, who show signs of exploitation, as potential victims, above all else, rather than people who cause a nuisance; these people must also be referred to specialised centres, which have the skills to more easily win their trust. We also believe that judges could pay greater attention to cases of trafficking for the purpose of exploitation of begging, by giving priority to cases involving minors. As regards minors, begging is sometimes the only visible activity, revealing other forms of exploitation such as forced criminal activities. Myria is therefore delighted about the future adoption of a directive on the investigation and prosecution of the exploitation of begging, and insists on the importance, both for judges and police officers, of being more familiar with the diversity inherent to the Roma community.

A continuing challenge

Belgium already has a good record in the fight against human trafficking and smuggling. Our legislation, seems more or less capable of dealing with this phenomenon. But we could still do better in some areas. We still need to raise awareness among frontline services dealing with victims; there are cases where the victim referral mechanism hasn't been applied. The issue of false posted workers should be given far greater attention. And, because this involves smuggling, the effort to combat it could be more efficient if a more humane approach to the victims was adopted thus turning them into rapid allies against the smugglers, and if international cooperation, especially regarding financial aspects, was intensified. Let us not forget that the best way to tackle human smuggling is to open more legal and safe migration routes. In many respects, the fight against trafficking and smuggling is a bottomless pit: it is an endless, multifaceted task that must constantly adapt to changing crime, victim profiles that are very different from one environment to another, whose

only point in common is the exploitation of vulnerability or human distress in common. By forcing so many people onto the road, the current situation could lead to a growing number of potential trafficking and smuggling victims. Therefore, it is important to share the experience and expertise our country has garnered over the years and deploy it at national and international levels, so that we can profit from our partners' cooperation. Because in this field, as in many others, no-one is capable of winning alone.

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