

INTRODUCTION

Visibly invisible is the title of Myria's 2021 annual report on the trafficking and smuggling of human beings. As the Belgian rapporteur on human trafficking, Myria fulfils its legal mandate by compiling an independent and public report. The fight against the trafficking and smuggling of human beings is assessed and the phenomenon of trafficking and smuggling of human beings is discussed in detail.

It is often said that the fight against human trafficking is consensual: its importance is emphasised beyond ideological borders. All players agree on this. However, this consensus conceals the fact that the fight against human trafficking can only be effective if there is a high degree of specialisation, adequate human and material resources and sufficient support for victim support centres.

At the time of writing, the Chamber Committee on Justice was holding hearings on an ambitious bill aimed at radically reforming sexual criminal law. Prostitution should be destigmatised and allowed to take place as sex work. Properly organised prostitution should no longer lead to prosecution and punishment. As a result of the social debate, there seems to be a move towards change. A development that could have a strong impact on the fight against human trafficking, not only for the purpose of sexual exploitation, but possibly also for other forms of exploitation, especially labour exploitation.

If this legislative initiative succeeds, the impact of this destigmatisation won't only be social. Victims of human trafficking for the purpose of sexual exploitation will no longer have their claims for material compensation rejected by the courts on the grounds that this compensation concerns sexual services provided illegally.

If it is the legislator's intention to no longer associate sex work with human trafficking, then the conceptual framework used will have to be clearly delineated and the law properly understood and applied by frontline players and magistrates. Criminal networks working with frontline players could also play on the distinction between the abuse of prostitution and human trafficking, and elaborate the underlying business model in a sophisticated manner.

The bill envisages a model whereby an independent sex worker can neither be coerced nor forced to hand over an excessive amount of their income to the organiser. However, many types of sex work, which are difficult to control, don't correspond to this model.

Local authorities can already "shape" the organisation of prostitution in their area and their rules.

However, every time, Myria has expressed its concern about the impact this reform could have on sex workers - especially those from third countries - who find themselves in a precarious (residence) situation.

The majority of prostitution — or sex work — takes place in a grey area, where sex workers with varying residence and socio-economic situations offer themselves to more or less similar clients. Exploited and abused — and often illegally staying — sex workers active in these places, who aren't hunted down, often manage to report their victimisation to local police officers and specialised NGOs.

Human trafficking indicators are an important tool in the detection of trafficking victims.

According to Myria, priority must be given to these victims, who run the greatest risk of remaining completely under the radar owing to their residence status, the meticulous organisation and brutality of the network that exploits them, and the possibility of deploying them quickly to other countries. At European level, there is still no referral mechanism allowing victims to be transferred and accompanied to a safer place, without jeopardising the prosecution of the traffickers.

Earlier, I mentioned the possible impact of the current reforms on the fight against human trafficking for the purpose of labour exploitation: for instance, when the Social Inspectorate's specialised services are asked to identify not only human trafficking for the purpose of labour exploitation, but also the abuse of prostitution. The Social Inspectorate's specialised services, especially the ECOSOC teams, have been waiting for adequate staff and resources for some time now.

Myria has repeatedly called for greater attention to be paid to the fight against social fraud. The prevention of human trafficking isn't simply a matter of raising awareness among users and clients. Tolerance of non-compliance with working and social security conditions is leading to the growth of a parallel economy in which the detection and protection of the most severely exploited victims is becoming almost impossible.

I would like to express my sincere thanks to the authors of the external contributions to this report, each of whom has provided valuable input through their expertise, mandate or commitment. The Dutch National Rapporteur focuses on the rapidly changing nature of human trafficking, among other things, and the fact that more and more is happening online - and paradoxically, more and more out of sight. Professor Magaly Rodríguez García offers a socio-historical interpretation of the current debate, in which she has frequently taken a public stand in the past. Martine Di Marino, coordinator of Entre 2 Wallonie, looks at current developments with an open mind, while holding up a political mirror, and stressing the need to take careful note of the expertise in the field and the very different (problematic) situations of prostitution. Another experienced voice from the field is that of Lieve Huijskens, a civil servant in charge of the prostitution problem in the city of Antwerp. She draws on prostitution situations recently experienced during the current Covid-19 crisis in order to improve coordination and interaction between local and supralocal levels.

I would like to conclude by asking that greater attention be paid to the analysis of the figures. The analysis of 2020 shows an unusually high number (234) of initial cases entering the public prosecution offices concerning trafficking for the purpose of sexual exploitation, compared with a very low number (36) of victims receiving assistance for the first time in the centres. Of these 36 victims, no less than 19 are Nigerian. This certainly deserves further analysis, especially since — besides the three Belgian victims — only two victims of sexual exploitation have the status of EU national. During the first wave of the pandemic, many women from Eastern Europe returned to their country of origin. However, the analysis of the figures hasn't yet shed any

light on this phenomenon. Once again, Myria is advocating further research in order to analyse the phenomenon of human trafficking in real time.

Visibly invisible doesn't only refer to the current twilight zone in which trafficking victims are active alongside other sex workers, who operate under safer conditions. Somewhat ironically, this title also applies in part to this report, drafted in the midst of uncertainty regarding the outcome of the current debate on sexual criminal law. It was a challenge for Myria to formulate appropriate and relevant advice and analyses on the one hand, and to produce an accurate analysis and assessment for the reader on the other.

The entire Myria human trafficking team and I hope that this report will contribute to an attitude of continuous assessment and clarification of the phenomenon of human trafficking.

I wish you a stimulating read.

Koen Dewulf
Director