Human Trafficking

Report
DENMARK

Every country in the world is affected by human trafficking, whether as a country of origin, transit, or destination for victims. In 2000, the United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the “Palermo Protocol”). Its definition of human trafficking contains three elements:

1. The Act: the recruitment, transportation, transfer, harbouring or receipt of persons;
2. The Means: by threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or by giving payment or benefits to a person in control of the victim;
3. The Purpose: to exploit the prostitution of others or other forms of sexual exploitation, forced labour, slavery or similar practices, servitude or the removal of organs.

Over 110 States have signed and ratified the Palermo Protocol, however, the United Nations Office on Drugs and Crime recently reported that “[v]ery few criminals are convicted and most victims are probably never identified or assisted”.

In 2002, the U.N. based Office of the High Commissioner for Human Rights noted the need to harmonize legal definitions, procedures and cooperation at the national and regional levels consistent with international instruments like the Palermo Protocol. The purpose of this questionnaire is to explore the extent to which member countries have implemented domestic anti-trafficking legislation and whether that legislation is effective in addressing these concerns.

Question 1: Has your country signed and ratified the Palermo Protocol? If yes, on what date?

Yes, Denmark has signed the Palermo Protocol on the 12th of December 2000. It has also ratified it on the 30th of September 2003.

Question 2: Does your country have special legislation for the criminal prosecution of human trafficking? If yes, please answer Questions 3 to 10. If no, is there any such legislation presently under consideration?

Yes, Denmark has such legislation, see below.

Question 3: How is human trafficking defined in your country’s legislation?

According to the Danish Criminal Code, art. 262a, sec. 1, anyone who recruits, transports, transfers, harbors or subsequently receives a person using or having used illegal coercion according to the Criminal Code art. 260, illegal custody according to the Criminal Code art. 261, threats according to the Criminal Code art. 266, unlawful processing, corroboration or exploitation of an error or other improper approach – for utilization of the person by sexual immorality, forced labor, slavery or practices similar to slavery or the removal of organs – can be punished for human trafficking.

Question 4: Does the legislation criminalize:
  a) Attempts to commit a trafficking offence?
  b) Participation as an accomplice or party in a trafficking offence?
c) Organizing or directing others to commit a trafficking offence?

*Ad. a.*
Yes, according to the Criminal Code art. 21.

*Ad. b and c.*
Yes, according to the Criminal Code art. 23.

Question 5: Can corporations be charged with human trafficking along with natural persons (i.e. employment agencies, travel agencies, escort services)?

Yes, according to the Criminal Code art. 306, corporations can be charged.

Question 6: Does the legislation contain special provisions regarding the trafficking in children? If yes, please describe.

Yes. According to the Criminal Code art. 262a, sec. 2, the use of illegal coercion, illegal custody, threats etc. is not required to punish trafficking regarding persons under 18 years of age.

Question 7: What are the penalties for human trafficking offences? Do they include deportation/extradition? Do they include confiscation of instruments of trafficking and proceeds of trafficking?

According to the Criminal Code art. 262a, the penalty for human trafficking is prison with a maximum of 8 years.

If the offence is committed by foreign citizens they can be deported, depending on the length of their prior stay in Denmark and the length of the penalty.

According to the Criminal Code, art. 75, both the instruments of trafficking and the proceeds can be confiscated.

Question 8: Are there statistics available on the number of prosecutions and rates of conviction in your country for human trafficking offences since its antitrafficking legislation was adopted? If yes, please provide.

Yes, according to information from the Danish National Police of May 2010, the statistics is as follows regarding the use of the Criminal Code, art. 262a

<table>
<thead>
<tr>
<th>Year</th>
<th>Reported</th>
<th>Charged</th>
<th>Indicted</th>
<th>Convicted</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2001</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2002</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2003</td>
<td>1</td>
<td>7</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2004</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>2005</td>
<td>4</td>
<td>3</td>
<td>8</td>
<td>7</td>
</tr>
<tr>
<td>2006</td>
<td>5</td>
<td>2</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>2007</td>
<td>11</td>
<td>23</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>2008</td>
<td>11</td>
<td>30</td>
<td>15</td>
<td>7</td>
</tr>
<tr>
<td>2009</td>
<td>10</td>
<td>24</td>
<td>25</td>
<td>11</td>
</tr>
</tbody>
</table>
Question 9: To what extent does your country permit (through legislation or protocols) the pursuit of anti-trafficking investigations in cooperation with foreign intelligence or police services?

Yes, the Danish Police cooperates with foreign police services, e.g. through Europol, FRONTEX and Interpol.

Question 10: Are there provisions protecting trafficked persons from being prosecuted or punished for their illegal entry or residence in your country as a result of having been the victims of human trafficking? Are there provisions preventing their deportation where there are grounds to believe that their return to their country of origin presents a significant security risk to them or their family members?

Yes. According to the Danish Alien Act, art 33, sec. 14, if a person has been the victim of trafficking, the Immigration Service provides at the request an exit deadline of 30 days unless there are special reasons against it. Exit deadline may be set at a later date or extended if special reasons justify it, or if the alien is working on a prepared return. Departure period may not exceed 100 days.