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Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings

EXECUTIVE SUMMARY

6th ALLIANCE AGAINST TRAFFICKING IN PERSONS
HIGH-LEVEL CONFERENCE

“NATIONAL MONITORING AND REPORTING MECHANISM TO ADDRESS THB: THE ROLE
OF NATIONAL RAPPORTEURS”

21 May 2007, Vienna, Austria

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Organization for Security and
Co-operation in Europe

According to the 2006 Annual Report **From Policy to Practice: Combating Trafficking in Human Beings in the OSCE Region**, “*The need for reliable information and data on trafficking was cited by the (OSCE) participating States as a challenge to making progress in their efforts to combat trafficking in human beings (THB). In particular, responses included the need for further information on the changing patterns of trafficking, the structure of criminal gangs, the complex relationships between traffickers and victims, child trafficking and the discrepancies between reported numbers of victims and the numbers of victims served. Several States indicated that additional research and data collection should be accompanied by increased data sharing among international actors*”. As such, because this challenge was expressed in such clear terms, and because the problems resulting from the lack of reliable data invariably have consequences for the types of anti-trafficking measures which are developed at national and international level, in 2007 the Special Representative chose as one of her Office’s priorities the promotion of evidence- based anti-trafficking policy, including rendering support for the function of a national mechanism for self-monitoring and reporting. The **OSCE Action Plan** recommends that participating States: “*Consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.*”¹ In 2006 the **Brussels Ministerial Decision No.14** further underscored the importance of a national self-reporting mechanism and recommended, again, that States “*consider appointing National Rapporteurs or similar independent monitoring mechanisms.*”

The 6th *Alliance* conference on “**National Monitoring and Report Mechanism to Address THB: The Role of National Rapporteurs**” (Vienna, 21 May 2007) was the first event of its kind which aimed at developing a broader understanding of such reporting mechanisms, in order to identify common denominators involved in the work of the national rapporteur or equivalent mechanism concerning the role, as well as issues related to the establishment of a national monitoring and reporting mechanism on (THB) as foreseen in the above mentioned commitments. The event focused on concrete examples based on existing practices in the participating States of national rapporteurs or equivalent mechanisms (i.e., The Netherlands, Romania, Sweden, United States of America, Czech Republic, and Albania) in order to examine the tasks of gathering and analyzing information, the role played by such mechanisms, as well as the challenges countries face at national level concerning THB. The overall goal of this event was to support and encourage participating States in the establishment or strengthening of such a reporting mechanism, as recommended in the OSCE Action Plan adopted in 2003, the MC Decision No. 14/06 on Enhancing Efforts to Combat Trafficking in Human Beings, as well as in the 1997 Hague Ministerial Declaration under the Dutch EU Presidency, in order to have an anti-trafficking policy based on empirical evidence.

As mentioned during the course of the event, The Hague Ministerial Declaration in 1997 was the first international document which recommends EU Member States to establish a new national reporting mechanism, thus giving birth to the concept of a National Rapporteur. Similar recommendations followed in 2002 from the Council of Europe

¹ Maastricht Ministerial Council Decision No. 2/03 Combating Trafficking in Human Beings, Section VI of the Action Plan.

Parliamentary Assembly, and the European Council, and in 2003 in the OSCE Action Plan. It is important to highlight that, in general, recommendations made to such structures aimed at: (1) identification of the scale of the problem; (2) encouraging the exchange of information among counterparts at international level; (3) calling upon the mechanism to draw up annual reports for government discussion at national level with a view to developing appropriate policies (e.g., Parliamentary debate); and (4) encouraging research in order to better understand and fight this phenomenon².

The representative of the Spanish Chairman-in-Office, Deputy Head of Mission of Spain to the OSCE, **Arturo Pérez Martínez**, reminded participants of the role of the OSCE as a catalyst of anti-trafficking initiatives by, facilitating co-operation with and among the participating States, as a promoter of the concept of national referral mechanisms as a system of co-operation between the State and non-State actors, as well as an advocate for the human rights-based approach. *“It has been in co-operation with the OSCE that a wide array of the participating States have started to elaborate, or have already adopted, National Plans of Action, they have brought the national legislation in compliance with the international standards and established co-ordinating structures which enable any country to avoid the fragmentation of anti-trafficking measures”*, he stressed. Moreover, he recalled the efforts made by the international community, in particular the *Alliance* partners in the fight against trafficking, while reiterating that *“not a single international structure, however powerful and advanced in its approaches and methods would be capable to settle the problem of any States in combating human trafficking if the State does not possess the national will”*.

The OSCE Secretary General, **Marc Perrin de Brichambaut**, highlighted that National Rapporteurs are a vital instrument in the fight against THB, because they can act as independent institutions in monitoring the situation, based on a national assessment and analysis of the data for the purpose of providing recommendations on government responses. *“To fight THB we need to know our enemy. We need to be able to predict trends and to understand modus operandi to prevent this inhuman practice, which treats human beings as commodities and destroys our societies from within”* he stressed. Perrin de Brichambaut recalled the existing system of reporting established by the UN family which obliges State parties to report, while recognizing that these reports only cover queries in relation to the respective international legal instruments, thus they do not provide a comprehensive picture of THB in relation to the 3 Ps (i.e., prevention, protection and prosecution). As part of his deliberation, the OSCE Secretary General stated that *“In February 2007, the OSCE Special Representative appealed to the participating States to establish such a mechanism within the next three years. With this timeline in mind, we aim to see the OSCE region once again contribute to a crucial aspect in the struggle against this most cynical crime against a human being”*.

The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, **Eva Biaudet**, focused her presentation on three important axes: first, why participating States need national rapporteurs and/or an equivalent reporting mechanism;

²Based on Mohamed Mattar “Comparative Modes of National Reporting Mechanisms on the Status of THB”, unpublished background paper, 2006.

second, what reporting structures exist in the OSCE Region; and third, what can we learn from these models. Biaudet stressed that “*we lack information not only on the scope of the problem but most important on the trends of this criminal behavior and its different forms and purpose*”. This lack of information leads to a lack of clear understanding and in-depth knowledge of the problem at national and international level. As a result, nowadays stakeholders have only a perception of the facets of the issue, but they lack a comprehensive picture of the phenomenon in its entirety. Therefore, she stressed that participating States should establish such a function with a view to develop sound and sustainable policies based on evidence, with a view to reduce THB. Biaudet reminded the audience that the OSCE Action Plan recommends the appointment of a national reporting mechanism, as well as the need for collecting data, research and exchange of information. Based on the experiences gathered for the conference among the OSCE participating States which have such a mechanism, one can attest to the fact that national rapporteurs have had a significant impact on developing national policy and legislation. In sum, Biaudet conveyed that national ownership is crucial in combating trafficking and this aspect needs strong emphasis when it comes to monitoring and reporting, which is a prerequisite for effective policy.

The Dutch National Rapporteur (NR) on Trafficking in Human Beings, **Corinne Dettmeijer** began her presentation by highlighting the importance of independency in her function and the role as a rapporteur. She focused her presentation on three aspects related to the function of NR, such as: collection of data, monitoring and the independent position of the Dutch National Rapporteur. One of the first aspects of her work is gathering information despite the difficulties in getting accurate data; yet knowledge, she stressed, is power. Dettmeijer stated that one of the main tasks of her office is to inform the government on all aspects of THB, including information on the nature and the scale of the problem, on perpetrators, on modus operandi, on victims, but also on more general themes like prevention, legislation, government policy and important developments in these fields at national and international level. Information is also collected from NGOs. The Office of the Dutch National Rapporteur reports its findings on an annual basis to the government, for which the Minister of Justice acts as the National Co-ordinator. Dettmeijer described that the Dutch report contains qualitative and quantitative information on criminal investigation and prosecution, on prevention, and on victim support and assistance, as well as recommendations. The report, she highlighted, is discussed in a Parliamentary debate, which from a formal point of view acts as the monitoring mechanism on efforts made by the government vis-à-vis its counter-trafficking policy. She stressed that “*facts based debate will prove to be the most valuable, both in terms of commitment to the outcomes and of the willingness to strive for further improvements...(since) Parliament can critically assess and evaluate the achievements of the governmental counter-trafficking policy*”.

Dumitru Licsandru, President of the Romanian National Agency Against Trafficking in Persons, started his presentation by stating that problems related to the transition to a free market economy in Romania has led to an increase in the search for jobs abroad, despite the lack of appropriate information on risk factors, which contributed to a flourishing environment for the trafficking in persons. However, nowadays Romania has

proper legislation in force to combat this crime, and a National Strategy against Trafficking in Persons which is in line with the EU Action Plan. Co-ordination of the responsibilities shared by the different agencies in charge of combating THB in Romania is under the National Agency, by government decree. Licsandru stated that the National Agency is also responsible for evaluation and monitoring at national levels of the way in which public institutions implement policies in the field of THB.

Ensuring co-ordination with NGOs, drafting of the National Strategy against THB (within an open dialogue with the other institutions, especially in the Inter Ministerial Working Group), as well as monitoring of the activities developed by public institutions against THB, were among the examples of concrete activities performed by the National Agency presented by Licsandru. He concluded by stressing that there is a need to create a common set of “core indicators” at EU and international level as a basis for periodical reporting on THB.

Mohamed Mattar, Director of the Protection Project, highlighted in his presentation some of the key issues elaborated in his draft background paper submitted to the Special Representative in May 2007 for the event. Mattar stressed that “*The ultimate goal of the monitoring and reporting on government policies and actions against trafficking in human beings is to create an effective mechanism, which ensures that promises made materialize into action, and corresponding legal and administrative provisions are implemented*”. He expressed that various approaches have been adopted by the countries in the OSCE Region and the following three ‘models’ are apparent: “(1) *to entrust the duty of reporting on THB to an Inter-ministerial Task Force, or a ministerial member of such a Task Force; (2) to appoint a more independent body, such as an office of a National Rapporteur; (3) reports may also be made by a Congressional (Parliamentary) Committee charged with oversight of the government’s performance in combating THB and having the authority to investigate government actions in this regard*”. Moreover, he reiterated that States may be required to submit reports to the United Nations pursuant to relevant international conventions. In addition, of the issues he elaborated during his presentation, it is important to highlight three, e.g.: the mandate and role of national rapporteurs; the difficulties and obstacles this mechanism encounters; as well as what power of authority this body can exercise in relation to the implementation of reform and changes in national policies. Mattar also conveyed that the role of NGOs in reporting the scope of the problem and the appropriate government responses is an important issue to consider. In conclusion, he reiterated the importance of monitoring and reporting on national government’s actions against THB.

Kajsa Wahlberg, Swedish National Rapporteur, National Criminal Police, highlighted that in December 1997 the Swedish government appointed the National Police Board to be the National Rapporteur on Trafficking in Women, and the task was subsequently delegated to the National Criminal Police. The mandate of the national rapporteur (NR) is set out in the National Action Plan which, she stated, stipulates that the NR is to: firstly, identify and characterize the existence of THB, within and to Sweden, for sexual exploitation and other purposes; and secondly, in the annual report, to review the

connection between THB and other forms of serious crime, smuggling of human beings, prostitution and sexual exploitation. Wahlberg conveyed that the mandate of the NR includes a number of functions, such as: (1) collection and analysis of data and information about the extent of THB within and to Sweden; (2) provide recommendations on how to prevent and address this problem; (3) handles intelligence information concerning suspected criminal activities; (4) co-operates with police forces of countries of origin and transit in joint cases; (5) answer queries from the media and the public; and (6) arranges and participates in seminars, including trainings at national level and abroad. The NR publishes a yearly report on the character, state and scale of THB in Sweden and so far eight reports have been released. In her presentation Wahlberg suggested that *“Member States (MS) are in need of a central independent monitoring mechanism that is responsible for gathering, analyzing and presenting comparative data about the scale and state of THB within and to MS, and for the evaluation of local and national policy and legal measures, and initiatives”*. Furthermore, the Swedish National Rapporteur called upon NR to *“pay particular attention (in their reports) to the adequacy of legal and policy measures for the protection, assistance, rescue, rehabilitation, reintegration, redress and compensation of victims of THB, especially women and children.”*

Tessa L. Platt, Office of Legal Policy, Department of Justice, United States of America, reminded the audience that the centrepiece of federal U.S. Government efforts to eliminate trafficking in persons is the Trafficking Victims Protection Act of 2000,³ known as the TVPA. She highlighted the fact that reporting requirements envision the submission of a yearly report to six Congressional committees that oversee the Government’s anti-trafficking efforts⁴. According to the statute, the report must include information on the following issues: (1) number of trafficking victims who receive benefits and services created in the TVPA from certain federal agencies; (2) number of trafficking victims who have applied for, been granted, or been denied certain immigration benefits; (3) number of persons who were charged or convicted of trafficking related crimes⁵ and the sentences that they received; (4) the amount, recipient, and purpose of federal grants created to carry out the purposes of the TVPA; (5) efforts to train government personnel on human trafficking; (6) the activities undertaken by the Senior Policy Operational Group; and (7) the amount, recipient, and purpose of grants designed to combat domestic trafficking. Platt elaborated that since the Annual Report’s role is to be responsive to the statutory mandate, its content is presented in a straightforward manner, and data come from a wide variety of sources (i.e., federal governmental agencies or organizations) which derive some of their information from statistics gathered by NGO partners, such as the information on victim services. She highlighted three main challenges in writing the report, among them the issue of poor data in general, given the hidden nature of the crime of human trafficking, which *“ is especially true with regard to estimates about the number of U.S. citizen human*

³ Signed into law on October 28, 2000.

⁴ House of Representatives: the Committees on Ways and Means, International Relations, and the Judiciary. Senate Committees of Finance, Foreign Relations, and the Judiciary

⁵ Peonage; enticement for slavery; sale into involuntary servitude; forced labor; trafficking with respect to peonage, slavery, involuntary servitude, and forced labor; sex trafficking of children by fraud, force or coercion; unlawful conduct with respect to documents in furtherance of trafficking; and general provisions.

trafficking victims within the United States". However, she stressed that *"despite challenges, the act of collecting the information and writing the report has played an important role in the Government's anti-TIP activities"*.

Katerina Levchenko, Member of Parliament, Ukraine and President of the International Women's Rights Center "La Strada-Ukraine", stated that monitoring is an integral part of any State policy, especially concerning THB since the up-to-date researches conducted by international organizations and NGOs, as well as analysis of practical experience show a trend towards increasing number of trafficking cases, new forms of trafficking, increasing internal trafficking, especially among men and children. Since the late 1990s the Ukraine has made very concrete efforts in the fight against THB, for example by adoption of legislation, national action plan and the creation of the Intergovernmental Task Force; yet she remarked that efforts have to be made towards the establishment of a national co-ordinator in order to ensure a steady and sustainable approach to the problem. When looking at monitoring and the reporting process she conveyed that the Action Plan foresees a number of actions, such as Para 2 and Para 4: *"P.2 To monitor national legislative acts in order to establish if they are in line with norms of international law on combating trafficking in human beings, and submit timely proposals to the Cabinet of Ministers of Ukraine regarding amendments to them. Ministry for Family, Youth and Sports, Ministry of Justice, Ministry of Internal Affairs, Ministry of Foreign Affairs, Ministry of Labour, Ministry of Education and Science, Ministry of Health Care, along with non-governmental and international organizations, 2007-2010"*; and *"P. 4 To hear information, once in six months, from heads of central bodies of executive power engaged in anti-trafficking activities about the progress in the implementation of the State Programme on Combating Trafficking in Human Beings for the period until 2010 in order to assess its efficiency. Inter-agency Coordination Council on Combating Trafficking in Human Beings, 2007-2010"*. Furthermore, Levchenko stated that based on the Ukraine Action Plan, at this point the responsible agencies for monitoring and co-ordination is not in place. She reiterated the need for the creation of a special independent office of National Coordinator and National Rapporteur in Ukraine, yet stated that political will is important in order to have political commitments transposed into action. In addition, on monitoring and reporting she reaffirmed the importance of international instruments mentioned during the event by a number of speakers, and added to the list the ILO Conventions against Forced Labor, Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Levchenko also highlighted the importance of NGOs' participation and contribution to the reporting and monitoring process, including the possibility and readiness of NGOs in preparing shadow reports.

Jakub Švec, Ministry of Interior, Czech Republic, initiated his presentation by saying that the Czech Institute of the National Rapporteur for Trafficking in Human Beings was established in 2003, as a result of the *National Strategy to Fight against Trafficking in Human Beings for Sexual Exploitation* approved by a governmental resolution in September 2003. The National Strategy, he conveyed, included a mechanism for policy co-ordination, evaluation and data collection. The function of National Rapporteur, he explained, was delegated to the Ministry of Interior, which in turn appointed the duty to

the Analysis and Strategy Unit of the Security Policy Department. Švec stated that the National Rapporteur is a body responsible for situation analysis, policy making and co-ordination in the Czech Republic, while having three main tasks: (1) information gathering, analysis and continuous monitoring; (2) the co-ordination of anti-trafficking policy; and (3) the submission of reports and policy papers to the government. Regarding information gathering, Švec declared that his services use all possible sources for example, “*information on state bodies activities, which means reports on criminal cases being solved by law-enforcement agencies, criminal and judicial statistics, reports about controls carried by immigration services and labor inspectors etc (... in addition, they) try also to describe the latent situation (not revealed by competent authorities), where (they) use mainly NGOs reports, operational police information, intelligence services sources, international information exchange or even open sources*”. Overall, Švec stressed that “*the purpose of information gathering is not only to report regularly on the situation, but also to identify a potential trends or problems and react properly (e.g., North Korean Workers)*”.

Ana Janku, Co-ordinator, Anti-Trafficking Unit, Albania Ministry of Interior, stated that 2005 saw the establishment of the Office of the National Coordinator, which is the central point for co-ordinating the anti-trafficking efforts of the different government ministries both at a national and international level. Janku explained that the Office of the National Coordinator has a number of duties, including: one, monitoring the activity of the institutions tasked with the implementation of the National Strategy of Fight Against Trafficking in Human Beings; two, data gathering and analysis from institutions included in the national strategy, and from other public sources on THB; and three, managing the database of information related to THB with a view to submit a comprehensive reports to the State (Inter-ministerial) Committee of Fight against Trafficking in Human Beings. Concerning the monitoring and reporting, Janku stated that the office prepares periodic reports on the situation of THB in the country, and these function as official reference documents regarding identification of results and gaps, thus being useful instruments for improving activities performed by State and independent institutions, as well as a vehicle for increasing awareness among domestic and international actors about the situation and efforts made. The report, she stated, focuses on three main areas: prevention, criminal investigations, prosecution, and protection and assistance to victims. Monitoring by the Office of the National Coordinator is carried out throughout the year via requests for submission of reports to the different institutions and entities (i.e. General Prosecutors, NGOs and Ministry of Interior, Justice, Labour, Foreign Affairs, Health, Education, etc.) in the context of the Action Plan and statistical indicators and duties assigned by the State Committee of Fight against Trafficking in Human Beings. In 2006 the Office of the National Coordinator has predominantly focused on the following six areas: “(1) *establishment of national referral structures for victims of trafficking both at central and local levels; (2) better management of Albania’s borders and preventing illegal migration; (3) preventing internal trafficking of children and women; (4) improving victim identification; (5) increasing prevention activities; and (6) increasing awareness of the people who work with assistance services*”.

Hanno Hartig, Head, Media, Equality and Minorities Department, Council of Europe (CoE), highlighted in his presentation some of the key aspects concerning the role and function of the national rapporteur in relation to the development of an effective anti-trafficking policy. As such, he conveyed that the Council of Europe Convention on Action against Trafficking in Human Beings provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in it. Hartig attempted in his presentation to demonstrate how the national rapporteur or equivalent national mechanisms could be used to fulfil the States' obligations as laid down in the CoE Convention. For example, he stated that in the areas of international co-operation and co-operation with civil society, Article 29 of the Convention stresses the need to co-ordinate policy and action of public agencies responsible for combating THB and suggests that such co-ordination may be performed by specially established co-ordination bodies. As such, he highlighted "*the office of national rapporteur or an equivalent national mechanism could be an adequate answer to this treaty obligation*". In addition, Hartig recalled that "*Article 29 obliges States to consider appointing national rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements*". Furthermore, Article 32 - which contains the Convention's general principles and measures for international co-operation - foresees that such co-operation is not confined to judicial co-operation in criminal matters, but is also concerned with co-operation in other trafficking matters, such as prevention, victim protection and assistance. As a result, he provided an interesting comment to the fact that since States must co-operate with one another "*to the widest extent possible*" (including the smooth and rapid flow of information and evidence internationally), perhaps governments could envisage fulfilling some of these obligations by letting the office of national rapporteur or an equivalent national mechanism carry out a number of these duties.

In conclusion, speakers and participants commended the OSCE for arranging this conference, which for the first time addressed the issue of monitoring and reporting mechanisms. Confirming the political relevance of the national rapporteur and equivalent mechanism, more than two hundred experts, including leading government representatives, national anti-trafficking co-ordinators, national and EU Parliamentarians, international organizations and NGOs from the participating States and Partners for Co-operation gathered in Vienna in order to examine three elements. One, the key aspects concerning the role and function of such a mechanism in relation to the development of an effective anti-trafficking policy; two, identification of gaps in research; and three, the examination of lessons learned in establishing such a body, based on the experiences and practices of those countries which have already established them. Speakers from the six participating States mentioned above were given the opportunity to introduced concrete national experiences and challenges in gathering and analyzing data on THB, monitoring and evaluating scope and impact of State's countermeasures, their placement within the national anti-trafficking structure, in particular in relation to the national co-ordinator, as well as their work on formulating recommendations on related government policies (e.g., amendment to the legislation, enhancement of victims' service provision, existing needs

in the field of capacity building, exchange of information, networking and co-operation, etc). In spite of the numerous challenges discussed in the course of the conference, it is important to highlight four issues which have a direct impact on the substance of the national reports, such as: (1) problems in conducting quantitative analysis due to obstacles of obtaining information on the number of victims; (2) a tendency to focus on the work of law enforcement (thus analyzing THB from a crime-control perspective); (3) lack of contribution from NGO and experts (including academia) within the report; and (4) overwhelming lack of reporting on trafficking for labour exploitation and child trafficking.

The conference catalyzed a fruitful discussion among experts from the OSCE capitals on costs and benefits of establishing this new function, on the variety of the approaches to national self-reporting, on the advantages in terms of fulfilling obligations under international law (e.g. under UNTOC and Council of Europe Convention on Action against Trafficking in Human Beings, where appropriate), the mandate and function of the mechanism, and monitoring the implementation of national laws and policy, as well as allocation of the resources required to establish such new administrative structures. Based on the presentations, it is important to point out that, although State mechanisms report on a number of conventions, such reporting mechanisms cannot be considered as a replacement for any form of national self-assessment because at best they only cover queries in relation to the respective international legal instruments. A main outcome was a step forward in States' recognition of the existing gaps between the estimated scope of human trafficking, the efforts invested and the results in terms of numbers of victims, prosecutions, convicted traffickers, etc. and, hence the necessity to ensure a valid and reliable national process to measure progress and achieve more effective and evidence-based policies to tackle THB. In addition, the results from the conference led to a set of concluding remarks and recommendations which identified a number of common denominators in relation to the establishment and implementation of this national mechanism for the first time. Therefore, assisting the participating States to "operationalise" commitments.

In general, recommendations called on States to establish the rapporteur function allocating resources and efforts dedicated to build a solid base of evidence for policies addressing all forms of trafficking. In sum, the ultimate goal of a self-monitoring and national reporting mechanism is to identify the scope of the problem at national level, and to assess government policies and actions against THB in order to contribute towards effective tools, policies and initiatives, thus ensuring national ownership. "*Countries need to turn commitments given 10 years ago into concrete actions, and establish a reporting mechanism to identify the scope of human trafficking within their borders. [...] Without good information, the policy will not address the real problems. Perpetrators will not be arrested or convicted, and victims will not be helped.*" said the Special Representative in her address to conference participants.