

**2014 Human Dimension Implementation Meeting
OSCE/ODIHR**

Working Session 6: Humanitarian issues and other commitments, including:

**Implementation of the OSCE Commitments to
Combat Trafficking in Human Beings**

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Introductory Presentation

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Dear Mr. Chairman,

Dear colleagues,

All OSCE participating States have recognized that THB has reached the global scope and that all its forms have to be addressed in a comprehensive way and within a human rights based approach. This wide recognition led to the elaboration of advanced commitments and recommendations, tirelessly negotiated with the capitals, and finally adopted by consensus as politically binding. Let's try to make a short overview of what has been achieved in the field of implementation and identify challenges in the eradication of modern-day slavery.

The new Millennium was marked by the adoption of the Palermo Protocol that has been ratified by all OSCE participating State but one, as of 15 September 2014¹. In 2005 this overall recognition, now at the regional level, led to the adoption of the CoE Convention on Action against Trafficking in Human Beings, that at the moment has been ratified by 42 CoE Member States and signed, but not yet ratified, by two more. Four CoE Member States have not signed yet this fundamental treaty, while Belarus, being a non-member of the CoE, acceded to the Convention in November 2013².

Starting from the 2000 and further on, till 2013, all OSCE Ministerial Council Decisions were adopted not just for the sake of keeping the issue high up in the political agenda of the OSCE, but due to the increasing scope of the phenomenon, the experience gained and the gaps identified and having a serious impact on our vision of priorities. Let me quote just a few major points that shaped the OSCE approach to THB: THB constitutes “an abhorrent violation of the dignity and rights of human beings”³ and “represents a dangerous threat to security in the OSCE area and beyond”⁴. This is why the participating States agreed to “exercise zero tolerance towards sexual exploitation, slavery and all forms of exploitation of forced labour, irrespective of its nature” and stated that “the dignity and human rights of victims must be respected at all times”⁵. The OSCE commitments are broad in their scope: they address general issues, such as the root causes of trafficking⁶, including

¹ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en accessed 15 September 2014. Two Partners for Co-operation also have not done it yet.

² http://www.coe.int/t/dghl/monitoring/trafficking/Flags-sos_en.asp accessed 15 September 2014.

³ Declaration on Trafficking in Human Beings, Porto, 2002, MC(10).JOUR/2.

⁴ Ibid.

⁵ Ibid.

⁶ Declaration on Trafficking in Human Beings, Porto, 2002, MC(10).JOUR/2.

the demand for cheap and unprotected labour, and they tackle specific features and forms of trafficking, such as child trafficking⁷, THB for labour exploitation⁸, or promote a better criminal justice response⁹.

It was on the peak of attention to the trafficking issue that the OSCE participating States agreed to draft and adopt the 2003 Action Plan to Combat Trafficking in Human Beings¹⁰, the strategic document that gained wide recognition due to its advanced and detailed recommendations. I would dare say that the OSCE Action Plan is the major OSCE anti-trafficking document referred to, applied at the national level, promoted by other international organizations, and used by NGOs. Other OSCE MC Decisions forming the bulk of anti-trafficking commitments are hardly known at the ground level and definitely underused. To say the least, it is unfair.

The evolution of human trafficking since 2003 and the appearance of new forms of exploitation required an adequate response. This is why in 2013 the participating States engaged in the updating of the Action Plan so that a new Addendum could address these new forms of exploitation and take into account best practices developed at the national level as a basis for more advanced recommendations. For example, the Action Plan of 2003 contained no recommendations how to provide assistance to the victims of THB for organ removal¹¹ or to the victims of THB for exploitation in forced begging¹² (especially child victims). Or to the victims of domestic servitude. There were gaps in listing the audiences for specialized training to prevent THB, for example, airline and other commercial carriers' attendants. And there was one more gap that I would mention – the lack of attention to partnerships that appeared to be also crucial for effective counter-trafficking at all levels, including in collaboration with the private sector. These are just a few to name.

I would like to reiterate that it was not a revision of the Action Plan. No, it was an update that

⁷ Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance, Ljubljana, 2005, PC.DEC/685; Decision No. 15/06 “Combating Sexual Exploitation of Children”, Brussels, 2006, MC.DEC/15/06.

⁸ Decision No. 14/06 “Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach”, Brussels, 2006, MC.DEC/14/06; Decision No.8/07 “Combating trafficking in Human Beings for Labour Exploitation”, Madrid, 2007, MC.DEC/8/07.

⁹ Decision No.5/08 “Enhancing Criminal Justice Response to trafficking in Human Beings through a Comprehensive Approach”, Helsinki, 2008, MC.DEC/5/08.

¹⁰ OSCE Action Plan to Combat Trafficking in Human Beings. MC.DEC/2/03, Maastricht, 2003, Annex.

¹¹ The OSR/CTHB report “Trafficking in Human Beings for the Purpose of Organ Removal in the OSCE Region: Analysis and Findings” contains more detailed recommendations available at: www.osce.org/cthb/103393.

¹² For more detailed recommendations see the CBSS Report “Trafficking in Children: A Criminal Act Calling for a Child protection Response”, Oslo, 2011, accessed 17 September 2014 and available at: http://www.childcentre.info/public/Programme_Child_Trafficking_conference.pdf

accumulated the major political commitments taken in 2004-2011, and transformed these commitments into concrete and detailed recommendations. A sort of a roadmap.

A clear message stating that “victims are treated in a manner that respects their human rights and fundamental freedoms and that they are provided with access to justice, to legal assistance and to effective remedies and other services...”¹³ meant that a decade later the OSCE continued to pursue the human rights based approach. For example, the relevance of financial investigations linked with THB-related offences was reiterated with a view to enhance the capacities for tracing, freezing and confiscating the instrumentalities and proceeds of THB, and consider, where applicable, using confiscated proceeds to fund anti-trafficking initiatives and victim support, including the possibility of obtaining compensation. Particularly new was the recommendation to promote training “on all recent trends and aspects of THB, including methods used by traffickers to abuse legal process and methods to coerce their victims, the use of the Internet and other information and communication technologies (ICTs) for committing THB related crimes...”¹⁴. This is a clear manifestation of a human rights based approach applicable in the prosecution of trafficking cases.

Prevention, equally based on the respect for the human rights and fundamental freedoms of persons vulnerable to THB, is enhanced by the recommendation to pay special attention to “children in child institutions/orphanages, children in alternative care, runaway youth, unaccompanied and separated children, children with disabilities, children belonging to national minorities, children without any citizenship, children without birth registration, child asylum-seekers, refugees and IDPs, and children left behind by migrating parents”¹⁵. It is also recommended that all child victims of THB are provided with access to justice and remedies, including the possibility of obtaining compensation.

New and needed a lot are measures recommended to monitor, detect, investigate and disrupt “all forms of trafficking in human beings facilitated by ICTs, in particular by the Internet,..” as well as measures for “implementing “zero-tolerance” policies or other similar standards in government procurement of goods and services”, where applicable. This recommendation is logically linked with the other one, encouraging to “promote codes of conduct to ensure the protection of the human rights and fundamental freedoms of workers throughout the supply chain in order to prevent the exploitative situations that foster trafficking in human beings”¹⁶.

¹³ Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later. PC.DEC/1107/Corr.1

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

It is important that the pS agreed to explore possibility of removing the recruitment fees charged to employees and monitor the activities of recruitment agencies to prevent all forms of THB, as well as to encourage accessible complaint mechanisms and relevant information for workers to enable them to notify the authorities on abusive practices that foster THB.

Completely new are the provisions on the prevention of THB for domestic servitude, inter *alia* in diplomatic households, and recommendations to protect domestic workers and inform them of their rights as employees and how to report abuses.

For the first time the challenge of THB for organ removal led to the recommendation “to raise awareness on THB, including for the purpose of organ removal, through developing partnerships with health care and medical professionals, with associations in the medical profession, with transplant organizations and with relevant NGOs, where necessary, and other relevant mechanisms; and as appropriate, developing in this regard partnership with transplant organizations, promoting legal organ donation methods/channels”¹⁷.

As mentioned above, the Addendum recommends to provide training to a much broader scope of stakeholders, including personnel “employed by various commercial carriers, in particular airline attendants and staff working on other means of transportation by land and sea, aimed at the identification of trafficked persons”¹⁸. Also new is a particular attention to the training of media professionals, including through modules on the use of non-discriminatory language and countering stereotypes, training of medical professionals and social welfare services, aimed at assisting victims of trafficking, including victims of THB for the removal of organs, as well as on the ethical principles related to organ transplantation, and training of personnel of human resources units of private sector companies.

As for protection, the very first recommendation to the State authorities addresses a major challenge in the fight against modern-day slavery: to “identify individuals as trafficked persons, who have suffered human rights abuses, as soon as there are reasonable grounds to believe that they have been trafficked, and, in accordance with national law, ensure that victims of THB are provided with assistance even before the investigation is initiated; ensuring that this assistance is not made conditional on the victim’s willingness to participate in legal proceedings, without prejudice to the national regulations on the conditions of the residence of the victim in the territory of the State”¹⁹.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

One more recommendation worth mentioning is to take measures “so that relevant NGOs, trade unions and social welfare services, through a National Referral Mechanism (NRM) or other relevant structures, may initiate referrals for the assistance of victims of all forms of trafficking, regardless of their nationality, and co-operate with relevant authorities by providing information in the victims of THB identification process”²⁰. Indeed, it matters for their identification. The same can be said about the recommendation to facilitate “...simplified procedures for relevant NGOs to obtain permits from the competent authorities to access State facilities, including social service and immigration reception centres, prisons and detention facilities, to contribute to the timely identification of trafficked persons”²¹.

The Addendum addresses a form of trafficking that goes beyond the Palermo definition, but nevertheless is spreading all over the OSCE region – THB for forced and organized begging. Especially it affects children, but not only children, and therefore the recommendations on this particular issue are quite relevant.

To be short, I would have to mention the issues of compensation for the victims of THB, “regardless of their legal status or nationality” and access to State compensation fund or other mechanisms; the safety of immediate family members of foreign citizens who have been victims of THB, in cases of criminal prosecution of traffickers, and the principle of “non-punishment”²² that was specifically underlined by the Special Representative. The wording on this particular issue reflected the agreed language from the Vilnius Declaration of 2011, but, in comparison with the Action Plan, it was still a step forward.

The additional chapter on partnerships reiterated co-operation at the international and regional level, involving the private sector (including the banking sector, credit card companies, ICT companies and Internet service providers), and relevant NGOs, and the need “to enlarge multi-disciplinary partnership in the framework of NRMs, such as national co-ordinator/co-ordination mechanisms or other national structures, to facilitate dialogue and co-operation between public authorities, NGOs, trade unions and other relevant institutions engaged in anti-discrimination programmes and protection of the rights of women, children, members of ethnic, national and religious minorities, and migrants to contribute to the identification of trafficked persons and advance the protection of the rights of potential, presumed and actual victims of THB”²³.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid.

A few words about the implementation of the OSCE commitments and recommendations. Reporting on best practices in the fight against THB at the events like this one, usually sounds encouraging, and every time there is a temptation to commend national authorities for doing this and that to decrease the scope of human trafficking. Indeed, the level of awareness in general has significantly increased. The majority of participating States adopted special anti-trafficking laws thus guaranteeing the state protection to the victims and criminalizing all forms of trafficking. Many as it was stated by the SR, have established national coordinating mechanisms and some, not that many, have created national monitoring and reporting mechanisms. A few participating States have created State Funds to ensure that victims of trafficking, not only nationals, but all persons under their jurisdiction, are compensated for the harm suffered. The media started to pay more attention to the problem. The private sector demonstrates signs of corporate social responsibility aiming to prevent labour exploitation and THB in the supply chains. National Action Plans/Programmes have become a part of a widely accepted strategic response. These measures are indeed the basics.

Still let me get back to the national reporting on best practices and impressive achievements. No doubt that the information provided is true, including official statistics. But - as it was once stated by the President of GRETA, the monitoring body of the Council of Europe, Mr Nicolas Le Coz, statistics related to THB clearly shows us what we are capable to achieve, and not more than that. In this context any figures demonstrating the decrease of THB cases cause more concern than appreciation, and often reflect shortages in the identification, failures of prosecution, scope of corruption, reluctance of trafficked persons to co-operate with law enforcement due to inadequate protection or lack of trust, threats and stigmatization or intimidation by the criminals, and many other factors hampering the criminal justice response²⁴. Once, when at a meeting of criminologists one country presented a significant increase of THB cases resulting from the enactment of a new anti-trafficking law, it caused a burst of doubt from a neighboring country's representative who said: "How could you have so many cases of THB?! People are not stolen cars!"

The global estimates, in comparison with official statistics, are discouraging. They show a significant increase of people in forced labour situations²⁵. The Special Representative has provided

²⁴ For more details see: Proceedings of the Joint CoE-OSCE-CIS Roundtable on Action against Trafficking in Human Beings, Saint-Petersburg, 2012, accessed 19 September 2014 and available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/activities/Proceedings_English_web_version.pdf

²⁵ The ILO estimates that 20.9 million people are victims of forced labour globally, trapped in jobs into which they were coerced or deceived and which they cannot leave. Human trafficking can also be regarded as forced labour, and so this estimate captures the full realm of human trafficking for labour and sexual exploitation, or what some call "modern-day slavery". The data from which the estimate derives cover the study reference period of 2002-2011. The estimate therefore means that some 20.9 million people, or around three out of every 1,000 persons worldwide, were in forced labour at any given point in time over this ten-year period. More information is available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf accessed 10 September 2014.

us with the ILO latest estimates of criminal assets nearly 5 time bigger than we used to quote²⁶ as a proof of how serious is the threat of THB for healthy economies and what the cost of human trafficking is now for the states and societies²⁷.

The figures of THB cases prosecuted in 2013²⁸, in comparison with the scope of the problem, is a clear manifestation of shortages in the national responses to modern-day slavery.

Indeed, millions are left beyond the rule of law and have no access to a fair trial, no adequate assistance, and no access to remedies including compensation. The failure of identification is a core problem that entails other failures leading to the impunity of the criminals.

Furthermore, the proportion of cases of sex and labour exploitation that have been prosecuted and ended with a conviction significantly differs from the ILO global estimates²⁹. It means that the cases of trafficking for labour exploitation are rarely recognised as such, and that much more often they are treated as illegal migration (or, at a maximum, minor labour rights violations). Why? The reasons are multiple – the victims are too many to accommodate and assist, they have no legal status, there are no shelters for victims of labour exploitation, etc.

The 2012 UNODC Global Report³⁰, based on a different methodology, provides us with another upsetting data revealing a 7 per cent increase of child trafficking between 2007-2010 (from 20 to 27 per cent), and points to two thirds of girls among trafficked children. It also shows that the vast majority of identified victims are women (55-60 per cent globally), confirms a growing trend of THB for labour exploitation and indicates that half of all cases are happening either within the same

²⁶ <http://www.globalresearch.ca/global-human-trafficking-a-modern-form-of-slavery/5377853>

²⁷ Profit and Poverty: Economics of Forced Labour. ILO, 2014. More information is available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf accessed 10 September 2014.

²⁸ 2014 TIP Report, accessed 10 September 2014 at: <http://www.state.gov/j/tip/rls/tiprpt/2014/226647.htm>. As stated in the report, “*the above statistics are estimates only, given the lack of uniformity in national reporting structures*”: 9,460 cases that have been prosecuted (out of them, 1,199 are cases of labour trafficking), 5,776 cases that ended with a conviction (convictions for labour trafficking is just 470), and 44,758 persons that have been identified as victims of THB (the amount of victims of forced labour is less than 25 per cent of the whole estimate).

²⁹ According to the Report, of the total number of 20.9 million forced labourers, 18.7 million (90%) are exploited in the private economy, by individuals or enterprises. Out of these, 4.5 million (22% total) are victims of forced sexual exploitation, and 14.2 million (68%) are victims of forced labour exploitation, in economic activities such as agriculture, construction, domestic work and manufacturing. The remaining 2.2 million (10%) are in state-imposed forms of forced labour, for example in prison under conditions which contravene ILO standards on the subject, or in work imposed by the state military or by rebel armed forces (2012 Global Estimates of Forced Labour: Results and Methodology. ILO, 2012. All percentages and numbers are rounded).

³⁰ More information is available at: http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf accessed 12 September 2014

region or within the national borders (27 per cent).

This global data is well known to the experts. Also known are the multiple forms of exploitation – the actual purpose of human trafficking: THB for exploitation in forced prostitution and pornography, THB for labour exploitation in many economic sectors prone to labour rights violations (construction, agriculture, fishing, food-processing, garment production, restaurant and hospitality sectors, tourism and entertainment, market-places, domestic work, care sector, communal work (cleaning), forestry, etc.), in forced criminality (drug trafficking and selling drugs or stolen items, pickpocketing, and others), in organized begging, and THB for organ removal that, according to the UNODC, was reported from 16 countries. Certainly, we cannot exclude the existence of other purposes of THB, and we would encourage participating States to share any data on such investigated and prosecuted cases, not just allegations and stories.

To summarize the challenges, let me highlight the increasing trend of THB for labour exploitation, and THB for other forms of exploitation not mentioned in the Palermo Protocol and absent in many national anti-trafficking laws: these are cases of THB for exploitation in forced criminality and in forced begging. On the margins of attention are cases of THB for exploitation in domestic servitude. All these forms, in addition to THB for organ removal, need specific treatment of the victims, specific rehabilitation programmes, additional funding, and furthermore, the engagement of new social partners for better identification of cases and potential victims. Certainly, there are other, structural, factors that distract the attention of participating States from the scourge of human trafficking, and the Special Representative has mentioned all of them. But – they are all related to each other. Being either a cause or a consequence, THB grows from poverty and unemployment, discrimination and inequality, it serves as a contributing factor to corruption, the vulnerability to THB is related to illegal migration and directly affects persons with no legal status. THB grows through the fabrics of our societies, and destructs it if not addressed in all related policy areas.

This session will provide an excellent opportunity to share best practices in addressing “traditional” and new forms of trafficking. The participating States are strongly encouraged to exchange experience in overcoming the existing challenges through applying the human rights based approach in the protection, prevention and prosecution phases of anti-trafficking action, as well as in establishing partnerships, promoting zero tolerance towards exploitation, and mainstreaming the fight against THB into other policy areas (migration, tolerance and non-discrimination, youth policies, employment, child protection, and many others). Certainly, the OSCE executive structures and especially the Office of the Special Representative remain at the disposal of the participating States standing ready to assist in the implementation of commitments and accomplish together this ambitious mission, the eradication of modern-day slavery, if so decided. And actually this is the

case.

Thank you for your attention.