

MISSION DIRECTIVE 52

Organisation for Security and Co-operation in Europe

PROHIBITING THE PROMOTION OR FACILITATION OF PROSTITUTION AND TRAFFICKING IN PERSONS

This Directive should be read in conjunction with the Mission Manual and supplements the information in Chapter E of Version 3. Directives should be filed with the manual and must be considered part of the current manual. These directives will be incorporated in the next version of the manual. For further details see Chapter F - Policy and Reporting.

Date: 2 August 2002
To: All
From: John Ging
Chief of Staff & Director of Planning

Introduction

Recognizing that trafficking in human beings is an increasing problem and convinced of the necessity for the OSCE to enhance its efforts to combat trafficking in human beings throughout the OSCE region, including in conflict and post-conflict situations, and to contribute to national, regional and international anti-trafficking efforts in defense of human rights and the fight against transnational organized crime.ⁱ

OSCE's commitment to combating all forms of trafficking in human beings is reflected in the organization's code of conduct. The Code of Conduct for OSCE Mission members requires all Mission members to "conduct themselves at the highest personal and professional level at all times, while on duty and off duty, in order to successfully represent the OSCE."ⁱⁱ

Mission members must also

refrain from any conduct, which could be detrimental to the goals of the OSCE. This includes, but is not limited to, an affiliation with any person who is suspected of being involved in any activity that violates national or international law or accepted human rights standards, or an affiliation with any person who could reasonably be suspected of engaging in the trafficking of human beings.

Mission members shall be aware that the use of the services of a person suspected of being a victim of trafficking contributes both to the profit of traffickers and the harm to the victims. Mission members shall adopt exemplary standards of behavior to ensure the OSCE is contributing to combating trafficking in human beings, and is not exacerbating the problem.ⁱⁱⁱ

Trafficking involves a wide variety of exploitative activities, which are defined fully in the mission directive below. However, it can be summarised as activities including the use of

deception, coercion or force with the intent of placing a person into debt bondage, forced labor, slavery-like conditions or an otherwise exploitative situation in a different location than their home community.

This directive regulates activities relating to both prostitution and trafficking. This is because of the very high proportion of trafficked women working in the sex industry in BiH, because prostitution is a criminal activity under BiH law and because of the generally high standards of behavior required by the Mission Code of Conduct.

The OSCE Mission to Bosnia and Herzegovina has adopted the following policy in order to more fully implement these provisions of the Code of Conduct and to clarify circumstances, which would violate provisions of the Code governing personal and professional behavior.

However, this directive is not meant to be an exhaustive description of behavior that would violate mission policy. Other situations may also violate the Code of Conduct for OSCE Mission Members. Mission members must use their best judgement in evaluating their own behavior and should always use caution when in doubt.

Mission Directive

- 1) Mission members are prohibited from:
 - a) procuring, profiting from, or facilitating prostitution or trafficking in persons; and
 - b) having a professional or personal relationship with anyone who promotes or facilitates, or who could reasonably be suspected of promoting or facilitating, prostitution or trafficking in persons.
- 2) Mission members are prohibited from visiting or patronising any establishment that a reasonable person would believe is being used to facilitate prostitution or trafficking in persons.
- 3) Mission members are prohibited from visiting or patronising a bar, café, or club where nude or partially nude dancers perform for an audience. (These establishments are commonly referred to as "night bars" or "noćni klub" in the local language. However, the prohibition applies no matter what the establishment is called.)
- 4) In order to comply with this directive, Mission members are required to exercise due diligence to determine the reputation of any bar, café, club, or other establishment that the Mission member visits.
- 5) Mission members accused of violating paragraphs 1 or 2 or 3 of this directive shall have the burden of proving to a Disciplinary Committee that:
 - a) they exercised the due diligence required by this directive,
 - b) and, in the case of alleged violations of paragraphs 2 and/or 3 above, that a fellow Mission member, exercising due diligence, would not have known that the bar, café, club, or other establishment was one described in paragraphs 2 or 3 above.
- 6) For the purpose of this directive:

- a) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) "Child" shall mean any person under eighteen years of age.^{iv}

ⁱ Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings, MC(8).DEC/1, 28 November 2000.

ⁱⁱ Code of Conduct for OSCE Mission Members, Article 1.

ⁱⁱⁱ Code of Conduct for OSCE Mission Members, Article 6.

^{iv} Article 3, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.