

**2nd of the Eleventh Meeting**

MC(11) Journal No. 2, Agenda item 8

**DECISION No. 2/03  
COMBATING TRAFFICKING IN HUMAN BEINGS**

The Ministerial Council,

Reaffirming the commitments that participating States have adhered to in the field of combating trafficking in human beings, especially the 2000 Vienna Ministerial Council Decision No. 1, the 2001 Bucharest Ministerial Council Decision No. 6, and the 2002 Porto Ministerial Declaration,

Recalling furthermore Permanent Council Decision No. 557 of 24 July 2003 on the adoption of the OSCE Action Plan to Combat Trafficking in Human Beings, which provides participating States with a comprehensive toolkit to combat trafficking in human beings through a multidimensional approach, covering protection of victims, prevention of trafficking in human beings, and prosecution of those who facilitate or commit the crime,

With the goal of enhancing the OSCE's efforts in fighting trafficking in human beings,

1. Decides to endorse the OSCE Action Plan to Combat Trafficking in Human Beings as annexed to this Decision; and
2. Establishes, under the aegis of the Permanent Council, an OSCE mechanism to provide assistance to participating States to combat trafficking in human beings. The mechanism will consist of two parts, complementing the activities of each other: a Special Representative appointed by the Chairmanship-in-Office, and a special unit in the OSCE Secretariat,

The mechanism is set up to:

- (a) Assist OSCE participating States in the implementation of commitments and full usage of recommendations proposed by the OSCE Action Plan to Combat Trafficking in Human Beings;
- (b) Ensure co-ordination of OSCE efforts in combating trafficking in human beings across all three dimensions of the OSCE;

- (c) Strengthen co-ordination among the relevant authorities of the participating States and between the OSCE and other relevant organizations;
- (d) Raise the public and political profile of the combat against trafficking in human beings;
- (e) Operate in the whole OSCE area and as appropriate, assist the participating States, in a spirit of co-operation and following consultations with the respective authorities of the relevant participating States in aiming at the implementation of their commitments in combating human trafficking;
- (f) Provide and facilitate advice and technical assistance in the field of legislation as well as policy development, together, as necessary, with other OSCE structures engaged in this field;
- (g) Be ready to offer advice to senior level authorities representing the legislative, judicial, and executive branches in participating States and discuss with them the implementation of the OSCE Action Plan to Combat Trafficking in Human Beings and commitments in the field of combating trafficking in human beings. In specific cases calling for special attention, seek direct contacts, in an appropriate manner with the participating State concerned and discuss the provisions of advice and concrete assistance, if needed;
- (h) Co-operate with National Rapporteurs or other national mechanisms established by participating States for co-ordinating and monitoring the anti-trafficking activities of State institutions. It will also co-operate with relevant Non-Governmental Organizations of the participating States. Furthermore, it will assume responsibility within the OSCE for hosting and facilitating meetings for the exchange of information and experience between national co-ordinators, representatives designated by participating States, or experts on combating trafficking in human beings;
- (i) Closely co-operate and co-ordinate with the Office for Democratic Institutions and Human Rights (ODIHR) and other OSCE Institutions, the Secretary General, relevant structures of the Secretariat including the Office of the Co-ordinator for OSCE Economic and Environmental Activities (OCEEA), the Strategic Police Matters Unit (SPMU), the Senior Gender Adviser, as well as, where appropriate, the OSCE field operations. The mechanism will draw on the expertise within these OSCE structures, and will see that duplication is avoided. Participate when appropriate in the work of the Informal Working Group on Gender Equality and Anti-Trafficking in Human Beings;
- (j) Co-operate and co-ordinate with relevant international actors such as the United Nations Office on Drugs and Crime, the United Nations High Commissioner for Refugees, the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, the International Labour Organization, as well as the International Organization for Migration, the International Centre for Migration Policy Development, the European Union, the Council of Europe, the Stability Pact Task Force on Trafficking in Human Beings, the Council of Baltic Sea States, the Southeast European Co-operative Initiative, Interpol and Europol;

3. Affirms that the Special Representative will be politically accountable to, and will report regularly and when appropriate to the Permanent Council. It will function in accordance with Decision No. 8 of the Tenth Meeting of the Ministerial Council in Porto;
4. Calls on the Chairmanship-in-Office to appoint as Special Representative a prominent personality with relevant expertise, according to OSCE procedures, following consultations with participating States through the Preparatory Committee on his or her mandate. In order to ensure continuity for the Special Representative to carry out his or her responsibilities initially for at least the duration of two successive Chairmanships, the Chairmanship-in-Office will consult with the next incoming Chairmanship-in-Office on this appointment, and the next incoming Chairmanship-in-Office will, within its prerogative, undertake to prolong the Special Representative's duties for the duration of that Chairmanship-in-Office, in accordance with Decision No. 8 of the Tenth Ministerial Council Meeting in Porto;
5. Tasks the Permanent Council to establish the above-mentioned special unit, as a part of the OSCE Secretariat, with contracted or seconded staff. The Special Representative will have the capacity of the special unit at his or her full disposal in order to effectively implement the above-mentioned tasks;
6. Agrees that both parts of the mechanism will be funded by the participating States through the OSCE Unified Budget in accordance with existing procedures. The ACMF will elaborate, in consultation with the Chairmanship-in-Office and the Secretary General, administrative and funding modalities for the mechanism and submit its recommendations to the Permanent Council for approval in time for their inclusion into the OSCE 2004 Unified Budget.

## **OSCE ACTION PLAN TO COMBAT TRAFFICKING IN HUMAN BEINGS**

### **I. Objectives and purposes of the Action Plan**

1. The Action Plan intends to provide participating States with a comprehensive toolkit to help them implement their commitments to combating THB. It aims to provide participating States with a follow-up mechanism, which will also promote co-ordination between individual participating States, both within the OSCE structures and with other international organizations. The Action Plan adopts a multidimensional approach to combating trafficking in human beings. It addresses the problem comprehensively, covering protection of victims, the prevention of THB and the prosecution of those who facilitate or commit the crime. It provides recommendations as to how participating States and relevant OSCE institutions, bodies and field operations may best deal with political, economic, legal, law enforcement, educational and other aspects of the problem.
2. The Action Plan is further intended to assist participating States in employing these tools by drawing upon existing regional experience gained through the implementation of such concrete initiatives and measures as those undertaken by the Stability Pact Task Force on Trafficking in Human Beings in South Eastern Europe.
3. A comprehensive approach to trafficking in human beings requires a focus on bringing to justice those responsible for this crime, and on carrying out effective measures to prevent it, while maintaining a humanitarian and compassionate approach in rendering assistance to its victims.

### **II. Definition of trafficking in human beings**

The Action Plan is based on the following definition contained in Article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime:

“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”.

The OSCE Ministerial Council in its Decision No. 6 (2001) called on participating States to sign and ratify the United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

### **III. Investigation, law enforcement and prosecution**

Commitments of participating States related to investigation, law enforcement and prosecution have been undertaken in the Ministerial Declaration on Trafficking in Human Beings adopted in Porto in 2002, the Bucharest Plan of Action for Combating Terrorism of 2001, the Ministerial Decision No. 6 adopted in Bucharest in 2001, and the Ministerial Decision on Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings adopted in Vienna in 2000. In these documents the participating States also agreed on the role of the OSCE in this field.

#### **Recommended action at the national level**

##### **1. Criminalization**

- 1.1 Adopting such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- 1.2 Adopting such legislative and other measures as may be necessary to establish as criminal offences:
  - Attempting to commit this criminal offence;
  - Participating as an accomplice in this criminal offence;
  - Organizing or directing other persons to commit this criminal offence.
- 1.3 Adopting such measures as may be necessary to establish the liability of legal persons for trafficking offences in addition to the liability of natural persons. Subject to the legal principles of the participating State, the liability of legal persons may be criminal, civil and/or administrative.
- 1.4 Making legislative provisions for effective and proportionate criminal penalties, including imprisonment, that take into account the serious nature of this crime. Where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, such as in the case of offences involving trafficking in children or offences committed by or involving the complicity of State officials.
- 1.5 Considering legislative provisions for confiscation of the instruments and proceeds of trafficking and related offences, specifying, where not inconsistent

with national legislation, that the confiscated proceeds of trafficking will be used for the benefit of victims of trafficking. Giving consideration to the establishment of a compensation fund for victims of trafficking and the use of the confiscated assets to help finance such a fund.

- 1.6 Ensuring that trafficking, its constitutive acts and related offences constitute extraditable offences under national law and extradition treaties.
  - 1.7 Adopting such legislative and other measures to establish as criminal offences acts of active or passive corruption of public officials, as referred to in Articles 8 and 9 of the United Nations Convention against Transnational Organized Crime.
  - 1.8 Ensuring that victims of trafficking are not subject to criminal proceedings solely as a direct result of them having been trafficked.
2. Law enforcement response
- 2.1 Fully implementing anti-trafficking and related measures set out in legislation.
  - 2.2 Establishing special anti-trafficking units — comprising both women and men — with advanced training in investigating offences involving sexual assault or involving children, in order to promote competence, professionalism and integrity.
  - 2.3 Building capacity in the anti-corruption field.
  - 2.4 Developing community-policing programmes: raising levels of trust between the police and the public in order, *inter alia*, to contribute to the acquisition of information relating to trafficking and to increase the willingness of victims to report offences.
  - 2.5 Enhancing co-operation between law enforcement investigating bodies in order to establish the possibly criminal, trafficking-related origins of suspicious assets.
  - 2.6 Providing not only the resources and training for developing intelligence-led policing for the management and analysis of crime and criminal information, but also the other advanced skills and equipment necessary for law enforcement bodies to carry out their anti-trafficking tasks.
  - 2.7 Encouraging investigators and prosecutors to carry out investigations and prosecutions without relying solely and exclusively on witness testimony. Exploring alternative investigative strategies to preclude the need for victims to be required to testify in court.
  - 2.8 Taking practicable measures to ensure that OSCE mission members who are behaving in breach of the OSCE Code of Conduct for Mission Members and

other regulations face prescribed sanctions, including, as appropriate, disciplinary and criminal proceedings.

- 2.9 Targeting corruption of local law enforcement as a matter of priority, and ensuring that appropriate disciplinary and criminal proceedings are undertaken against law enforcement authorities found to be engaged in corrupt practices related to trafficking in human beings.
3. Law enforcement co-operation and information exchange between participating States
    - 3.1 Co-operating closely with one another and consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action in combating the offences covered by this Action Plan. Promoting similar co-operation and co-ordination between law enforcement agencies within States.
    - 3.2 Adopting, in particular, effective measures
      - To enhance and where necessary to establish channels of communication between participating States;
      - To co-operate on inquiries regarding offences covered by this Action Plan;
      - To provide, when appropriate, items or evidence necessary for analytical or investigative purposes;
      - To facilitate effective co-ordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the participating States concerned, the posting of liaison officers;
      - To exchange information on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or forged documents or other means of concealing their activities;
      - To co-ordinate administrative and other measures considered appropriate for the early identification of the offences covered by this Action Plan.
    - 3.3 Concluding agreements on bilateral and multilateral law enforcement co-operation to facilitate exchange of information.
    - 3.4 Undertaking efforts to develop common standards for the collection of statistical data.

4. Assistance and protection of witnesses and victims in the criminal justice system
  - 4.1 Taking appropriate measures within participating States' means, including legislative ones, to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Action Plan and, as appropriate, for their relatives and other persons close to them.
  - 4.2 Sensitizing law enforcement authorities and officials to their responsibility for ensuring the safety and immediate well-being of victims of THB.
  - 4.3 Ensuring data protection and the victim's right to privacy, also in the course of data collection and analysis.
  - 4.4 Facilitating the victim's participation as a witness in the investigation and court hearings or other criminal proceedings by providing him/her with the possibility of relocation as a form of witness protection.
  - 4.5 Providing legal counselling for victims when they are in the process of deciding whether or not to testify in court.
  - 4.6 Permitting NGOs to support victims in court hearings, if it is not inconsistent with national legislation.
5. Training
  - 5.1 Providing or improving training for border officials, law enforcement officials, judges, prosecutors, immigration and other relevant officials in all aspects of trafficking in persons.
  - 5.2 Giving, in such training programs, consideration to human rights and child- and gender-sensitive issues, and encouraging co-operation with non-governmental organizations, other relevant organizations and other elements of civil society.
6. Border measures
  - 6.1 Considering taking measures that permit, in accordance with its domestic law, the denial of entry, the revocation of visas or possibly the temporary detention of persons implicated in committing offences as defined by the legislation in force.
  - 6.2 Considering strengthening co-operation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.
7. Security and control of documents
  - 7.1 Taking such measures as may be necessary, within available means, to ensure that travel or identity documents issued by or on behalf of participating States



are of such quality that they cannot easily be misused, readily falsified or unlawfully altered, replicated or issued.

8. Legitimacy and validity of documents

- 8.1 At the request of another participating State and in accordance with its domestic law, verifying within a reasonable time the legitimacy and validity of travel or identity documents issued or purporting to have been issued in its name, where there are reasonable grounds to suspect their usage for trafficking in persons.

**Action for OSCE Institutions and Bodies**

9. Legislative review and reform

- 9.1 The ODIHR, and where appropriate the field operations, will continue to promote and support legislative review and reform efforts in compliance with international standards.
- 9.2 The OSCE will further develop co-operation with other relevant partners and organizations.

10. Law enforcement response

- 10.1 The OSCE Strategic Police Matters Unit will further promote the concept of community policing.
- 10.2 The Strategic Police Matters Unit and the Office of the OSCE Co-ordinator of Economic and Environmental Activities (OCEEA) will facilitate the exchange of information between participating States on best practices to be used by relevant investigating units to check the possibly criminal and trafficking-related origin of suspicious assets.
- 10.3 The OCEEA will further work together with the United Nations Office on Drugs and Crime Global Programme against Money Laundering and use its good offices to promote the organization of workshops on tackling money-laundering in interested participating States.
- 10.4 As part of its assistance in the development of National Referral Mechanisms the ODIHR will continue to promote and encourage co-operation between law enforcement and civil society.

11. Disciplinary response

- 11.1 The Office of Internal Oversight is requested to maintain data on investigations into offences related to trafficking in human beings by mission members and all subsequent related actions taken thereon. The Secretary General is requested to report regularly to the Permanent Council on measures

taken to implement regulations in cases of breaches of the Code of Conduct while respecting the privacy of alleged perpetrators.

12. Training

- 12.1 The ODIHR and the OSCE Strategic Police Matters Unit will continue to develop training materials targeted at law enforcement authorities on trafficking and sex crimes investigation, consult with the International Law Enforcement Academy (ILEA) in Budapest regarding possibilities for incorporating this training into ILEA programs, identify law enforcement trainers to conduct training, and facilitate funding training sessions for law enforcement authorities in OSCE participating States.
- 12.2 While international partners such as the International Centre for Migration Policy Development and the International Organization for Migration provide basic police training on how to respond to allegations of trafficking, and others such as the United Nations Development Programme provide advanced training, additional training needs to be provided on dealing with particular aspects of sexual crime, e.g. sexual abuse of children. The OSCE Strategic Police Matters Unit will provide such training in co-operation with the United Nations Children's Fund and other relevant organizations.

13. Security and control of documents

- 13.1 The relevant OSCE bodies, in particular the Anti-Terrorism Unit, will continue to facilitate workshops focusing on detecting documents used for illegal purposes in relation to trafficking in human beings, detecting false travel documents being used for entry of trafficked persons, and improving non-technical means of detection, such as interview techniques. In addition, workshops will focus on means of protecting freedom of movement of persons across the border, within the restrictions that are consistent with relevant OSCE commitments.

#### **IV. Prevention of trafficking in human beings**

Commitments of participating States related to prevention have been undertaken in the Ministerial Declaration on Trafficking in Human Beings adopted in Porto in 2002, the OSCE Permanent Council Decision No. 426 of 2001, the Ministerial Decision on Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings adopted in Vienna in 2000, the OSCE Action Plan for Gender Issues approved by the Permanent Council in 2000, the Charter for European Security adopted in Istanbul in 1999, the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE adopted in Moscow in 1991, the Final Act of the Conference on Security and Co-operation in Europe adopted in Helsinki in 1975. In the above-mentioned documents the participating States also agreed on the role of the OSCE in this field.

## **Recommended action at the national level**

### **1. Data collection and research**

- 1.1 Collecting separate data related to women, men and children victims of trafficking, and improving research into and analysis of subjects such as the character and scale of THB and the trafficking and exploitation mechanisms deployed by the organized criminal groups, in order to develop effective and well-targeted prevention measures on trafficking in human beings. Promoting more research and exchange of information on trafficking in children.
- 1.2 Identifying the most vulnerable segments of the population and developing specially designed awareness-raising campaigns for them.
- 1.3 Conducting more far-reaching analysis of the root causes of THB, its demand and supply factors, its networks and its economic consequences, and its link with illegal migration.

### **2. Border measures**

- 2.1 Without prejudice to international commitments in relation to the free movement of people, strengthening, to the extent possible, border controls as may be necessary to prevent and detect THB.
- 2.2 Adopting legislative or other appropriate measures to prevent, as far as possible, means of transport operated by commercial carriers from being used in committing offences, as defined by the provisions against trafficking.
- 2.3 Where appropriate, and without prejudice to applicable international conventions, obliging commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of valid travel documents. In accordance with domestic law, taking the necessary measures to provide for sanctions in case of violation.

### **3. Economic and social policies aimed at addressing root causes of THB**

#### **3.1 In countries of origin:**

- Considering as priority goals: the fostering of social-economic and political stability, and the reduction both of migration caused by deep poverty and of supply factors of trafficking. Policies followed in pursuit of these goals should also promote both economic development and social inclusion;
- Improving children's access to educational and vocational opportunities and increasing the level of school attendance, in particular by girls and minority groups;

- Enhancing job opportunities for women by facilitating business opportunities for small and medium-sized enterprises (SMEs). Organizing SMEs training courses, and targeting them particularly at high-risk groups.

3.2 In countries of destination:

- Implementing measures to reduce “the invisibility of exploitation”. A multi-agency programme of monitoring, administrative controls and intelligence gathering on the labour markets, and, where applicable, on the sex industry, will contribute greatly to this objective;
- Considering the liberalization by governments of their labour markets with a view to increasing employment opportunities for workers with a wide range of skills levels;
- Addressing the problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration;
- Tackling underground economic activities which undermine economies and enhance trafficking.

3.3 Whether in countries of origin or countries of destination:

- Taking measures to raise levels of social protection and to create employment opportunities for all;
- Taking appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of gender equality, the right to equal pay for equal work and the right to equality in employment opportunities;
- Addressing all forms of discrimination against minorities;
- Developing programmes that offer livelihood options and include basic education, literacy, communication and other skills, and reduce barriers to entrepreneurship;
- Encouraging gender sensitization and education on equal and respectful relationships between the sexes, thus preventing violence against women;
- Ensuring that policies are in place which allow women equal access to and control over economic and financial resources;
- Promoting flexible financing and access to credit, including micro-credit with low interest;

- Promoting good governance and transparency in economic transactions;
- Adopting or strengthening legislative, educational, social, cultural or other measures, and, where applicable, penal legislation, including through bilateral and multilateral co-operation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, and that leads to trafficking.

4. Awareness-raising

- 4.1 Undertaking, in co-operation with civil society and NGOs, information campaigns to generate public awareness about trafficking in its various forms, including the methods employed by traffickers and the risks to victims.
- 4.2 Increasing awareness about trafficking among immigration authorities and consular and diplomatic personnel so that they use this knowledge in their daily contacts with potential victims.
- 4.3 Encouraging national embassies to disseminate information on relevant national legislation such as family law, labour law and immigration law as is of interest to potential migrants, including through NGOs.
- 4.4 Increasing awareness of other relevant target groups, including policy makers, law enforcement officers, and other relevant professionals such as medical, social services and employment officials, and in the private sector, to THB, to enhance their readiness to address it adequately and to strengthen their institutional capacity to counter it.
- 4.5 Encouraging the consular and visa sections of the diplomatic missions to use printed and other materials in their work with at-risk individuals.
- 4.6 Raising awareness of the media. The perception of the problem of trafficking in human beings brought forward by the media should include a clear explanation of the phenomenon and a realistic portrayal of the victims. To maximize public knowledge and awareness, anti-trafficking campaigns should be conducted with media professionals.
- 4.7 Targeting awareness-raising campaigns also at the most vulnerable groups, including persons belonging to national minorities, children, migrants and internally displaced persons (IDPs).
- 4.8 Extending awareness-raising campaigns to smaller towns and villages whose populations may be at particular risk.
- 4.9 Working in schools and universities as well as directly with families to reach young people and to raise their awareness about trafficking.

- 4.10 Addressing, also through the media, the need to reduce the demand for the activities of persons trafficked for sexual exploitation, forced labour, slavery or other practices similar to slavery and, in this connection, promoting zero tolerance towards all forms of trafficking.
  - 4.11 Establishing well-publicized telephone “hotlines” in the countries of origin, transit and destination, which should serve three purposes: to act as an independent source of advice and guidance to potential victims who may be considering job opportunities or other offers to go abroad, to act as a first point of contact providing access to a referral mechanism for victims of THB, and, furthermore, to facilitate the anonymous reporting of cases or suspected cases of THB.
5. Legislative measures
- 5.1 Adopting or reviewing laws, administrative controls and procedures relating to the licensing and operation of sectors of business that, according to intelligence, may be involved in trafficking, such as employment, tourist, au pair, adoption or mail-order bride agencies, as well as hotels and escort services.
  - 5.2 Ensuring that measures adopted for the purpose of preventing and combating trafficking in persons do not have an adverse impact on the rights and dignity of persons, including their freedom of movement.

#### **Action for OSCE Institutions and Bodies**

6. Data collection and research
- 6.1 Enhancing data collection and research on trafficking in persons, particularly on trafficking in children, by building on past research and engaging in exchanges with the United Nations Children’s Fund and other relevant actors.
  - 6.2 Tasking ODIHR’s Contact Point on Roma and Sinti with continuing to gather data regarding trafficking in human beings, especially children, and its effects on Roma and Sinti communities.
7. Addressing root causes of THB
- 7.1 The OCEEA will support the promotion and the development of national public information resource centres to allow individuals to check the legitimacy of businesses, particularly those advocating employment abroad, while avoiding overlap with existing Chambers of Commerce facilities or other business registration offices. The OCEEA can function as an intermediary, collecting examples of best practices on easily accessible legitimacy checks and distributing them to interested participating States and/or OSCE field operations.

- 7.2 The OCEEA will continue to promote SMEs training and to target it in particular at high-risk groups, including by assisting in the development of legislation to reduce barriers to the establishment of SMEs.
  - 7.3 The OCEEA should develop programmes to tackle economic factors that increase the vulnerability of women and minorities to trafficking, including discrimination in the workplace and lack of access to credit.
8. Awareness-raising
- 8.1 The ODIHR and, where appropriate, field operations will continue to contribute to research efforts as well as promoting and carrying out awareness-raising initiatives in co-operation with relevant partners throughout the OSCE region.
  - 8.2 The Press and Public Information Section will help to raise media awareness of OSCE activities in the field of trafficking. The ODIHR will enhance training activities with regard to the responsibility of the media for dealing with the topic of trafficking in a sensitive manner and without reinforcing negative stereotypes. Training will stress the complexity of the trafficking phenomenon and the need for a comprehensive response.
  - 8.3 In order to ensure that staff of OSCE field operations do not engage in or in any way knowingly facilitate trafficking in human beings, and to fulfil the norms contained in part 4 of the OSCE Code of Conduct which is an integral part of the Staff Regulations, the Secretary General will draft comprehensive staff instructions for review by the Permanent Council no later than 15 November 2003.
  - 8.4 The OSCE Training Co-ordinator, the Senior Adviser on Gender Issues and the Senior Security Co-ordinator will continue to use the induction course to develop and implement staff training on gender issues, trafficking in human beings and on relevant regulations and guidelines, in co-operation with the ODIHR, and to organize special workshops in the field. Heads of field operations will ensure that attendance at such training courses will be compulsory for all staff.
  - 8.5 The OCEEA will help to mobilize and strengthen the private sector's efforts to combat trafficking in human beings by raising awareness, and by identifying and disseminating best practices, such as self-regulation, policy guidelines and codes of conduct.

## **V. Protection and assistance**

The OSCE commitments related to protection and assistance to the victims of trafficking in human beings have been undertaken in the Ministerial Declaration on Trafficking in Human Beings adopted in Porto in 2002, the Ministerial Decision No. 6 adopted in Bucharest in 2001, the Ministerial Decision No. 1 adopted in Vienna in 2000, the Charter for European Security adopted in Istanbul in 1999.

### **Recommended action at the national level**

1. Data collection and research
  - 1.1 Collecting data through the exchange and analysis of best practices and other information regarding effective protection of and assistance to victims of trafficking in the OSCE participating States.
2. Legislative measures
  - 2.1 Considering the need for adopting legislation which will provide the legal basis for rendering assistance and protection to victims of THB, especially during pre-trial investigations and in court proceedings.
  - 2.2 Ratifying, or acceding to, and fully implementing the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
3. National Referral Mechanisms (NRM)\*
  - 3.1 Establishing National Referral Mechanisms by creating a co-operative framework within which participating States fulfil their obligations to protect and promote the human rights of the victims of THB in co-ordination and strategic partnership with civil society and other actors working in this field. (\*The ODIHR's Handbook on Guidelines and Principles to Design and Implement National Referral Mechanisms may serve as a useful source of advice and information regarding the role of NRMs in rendering assistance and protection to victims of THB).
  - 3.2 Providing guidance to facilitate the accurate identification and appropriate treatment of the victims of THB, in ways which respect the views and dignity of the persons concerned.
  - 3.3 Combining the efforts of law-enforcement bodies, including specially established anti-trafficking units and police at local level, officials of migration and border services, social protection units, medical institutions, as well as NGOs and other civil society institutions as the most relevant actors to be involved in NRM activities.



- 3.4 Establishing appropriate mechanisms to harmonize victim assistance with investigative and prosecutorial efforts.
  - 3.5 Drawing special attention to the need for enhanced co-operation between the police and NGOs in identifying, informing and protecting victims of THB.
  - 3.6 Linking the activities of NRMs with those of inter-ministerial bodies, national co-ordinators, NGOs and other relevant national institutions to form a cross-sectoral and multidisciplinary team capable of developing and monitoring the implementation of anti-trafficking policies.
4. Shelters
- 4.1 Establishing shelters, run by governmental bodies, NGOs, or other institutions of civil society to meet the needs of trafficked persons; these shelters are to provide safety, access to independent advice and counselling in a language known by the victim, first-hand medical assistance, and an opportunity for reflection delay after the experienced trauma. Shelters may be established on the basis of already existing facilities such as crisis centres for women.
  - 4.2 Providing access to shelters for all victims of trafficking, regardless of their readiness to co-operate with authorities in investigations.
  - 4.3 Giving special attention to ensuring security for personnel of such shelters, confidentiality of information obtained, and safety and privacy for victims of THB.
  - 4.4 Using shelters to provide the kind of training opportunities for victims of THB which will facilitate their future reintegration, employment and independence, as well as improving their competitive capabilities after the experienced trauma.
5. Provision of documents
- 5.1 Ensuring provision of documents, if necessary, as a first step to clarifying the victim's identity and status in countries of destination, thus making it possible to proceed with options of assistance in appropriate cases, such as repatriation, preferably voluntary, provision of a temporary or permanent residence permit, and/or legalization of employment.
  - 5.2 Enhancing co-operation amongst law enforcement bodies in the countries of origin, transit and destination, and responsible officials of all institutions involved in the restoration of rights of victims of THB, including the personnel of embassies and consulates of participating States in order to facilitate the speedy verification of personal data and the avoidance of undue or unreasonable delay.

- 5.3 Informing identified victims of THB of their right to access to diplomatic and consular representatives of their country of nationality.
6. Provision of social assistance
  - 6.1 Developing social assistance and integration programmes, including legal counselling in a language known by the victim, medical and psychological assistance and access to health care, to be made available either in shelters or other relevant institutions.
  - 6.2 Considering, where not inconsistent with national legislation, legal measures to allow confiscated assets to be used to supplement government funding for programmes that address the needs of victims of THB and to compensate the victims in accordance with the gravity of the crime committed against them.
7. Repatriation, rehabilitation and reintegration
  - 7.1 Assisting the victims of THB in — preferably — voluntary repatriation to the country of origin with due regard for their safety and that of their families, and without undue or unreasonable delay.
  - 7.2 Ensuring due process in all return and removal proceedings, taking into account a humanitarian and compassionate approach.
  - 7.3 Considering contributing to the rehabilitation and social reintegration of victims of THB by providing them with social and economic benefits.
  - 7.4 Raising media awareness of the need to safeguard privacy by avoiding public disclosure of the identity of victims of THB, or publication of confidential information inimical to victims' security or to the cause of justice in criminal proceedings.
8. Provision of a reflection delay and temporary or permanent residence permits
  - 8.1 Considering the introduction of a reflection delay to give the victim due time to decide whether or not to act as a witness.
  - 8.2 Considering on a case-by-case basis, if appropriate, the provision of temporary or permanent residence permits, taking into account such factors as potential dangers to victims' safety.
  - 8.3 Considering, if appropriate, the provision of work permits to victims during their stay in the receiving country.
9. Ensuring the right to apply for asylum
  - 9.1 Ensuring that anti-trafficking laws, policies, programmes and interventions do not affect the right of all persons, including victims of THB, to seek and enjoy

asylum from persecution in accordance with international refugee law, in particular through effective application of the principle of *non-refoulement*.

10. Protection of children

- 10.1 Ensuring that the special needs of children and the best interests of the child are fully taken into account when deciding upon appropriate housing, education and care. In appropriate cases, if there is no direct threat to the safety of the child, providing the children with access to the State educational system.
- 10.2 Deciding on the repatriation of a child victim of THB only after having taken account of all the circumstances of the specific case and if there is a family or special institution in the country of origin to ensure the child's safety, protection, rehabilitation and reintegration.
- 10.3 Considering the provisions outlined in the United Nations High Commissioner for Refugees Guidelines for the Protection of Unaccompanied Minors when elaborating policies targeted at this risk group, and in particular for those who are not in possession of identification documents.
- 10.4 Using bilateral and/or regional agreements on fundamental principles of good reception of unaccompanied children in order to combine efforts targeted at the protection of children.
- 10.5 Ratifying or acceding to, and fully implementing, the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography.

**Action for OSCE Institutions and Bodies**

11. National Referral Mechanism

- 11.1 Enhancing the activities of the OSCE, especially the ODIHR, in assisting participating States, upon their request, in establishing the NRM.
- 11.2 Tasking the OSCE Strategic Police Matters Unit, together with the ODIHR, with the further development of guidelines or a manual on the identification of suspected victims and of evidence of THB, in order to assist participating States, as appropriate.

12. Reintegration

- 12.1 The OCEEA will facilitate contacts between public and private actors with a view to encouraging the business community to offer job opportunities to victims of trafficking.

13. Protection of children

- 13.1 The OSCE as a whole shall give special attention to the issue of trafficking in children and to recognizing the vulnerability of unaccompanied children. Efforts should be made to develop co-operation with specialized international agencies, especially the United Nations Children's Fund and relevant international NGOs, on expert meetings, research and the development of guidelines promoting the best interest of the child.

14. Training

- 14.1 Tasking the OSCE Training Co-ordinator, the Senior Adviser on Gender Issues and the Senior Security Co-ordinator in co-operation with the ODIHR with developing information material on how to assist victims of trafficking, especially children, in response to requests either from individuals or governmental and non-governmental bodies, and with providing relevant training for OSCE mission members. The material might also be disseminated to military personnel, peacekeepers and other international staff in the field.
- 14.2 Tasking the ODIHR with the collection and dissemination of information on measures, training programmes and materials already in place in OSCE participating States.

15. Legislative measures

- 15.1 In co-ordination with the United Nations Office on Drugs and Crime, the Council of Europe and other relevant actors, the ODIHR will continue to assist participating States, upon their request, in bringing their national legislation into compliance with international norms and standards, particularly by promoting a humanitarian and compassionate approach to the victims of THB.

## **VI. Follow-up and co-ordinating mechanisms**

Besides monitoring the implementation of the OSCE commitments by participating States through existing OSCE mechanisms, including the annual Human Dimension Implementation Meeting, Review Conferences and relevant human dimension events,

The Permanent Council recommends the following actions at the national level:

1. To consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements;
2. To consider establishing Anti-Trafficking Commissions (task forces) or similar bodies responsible for co-ordinating activities within a country among State agencies and NGOs, and for elaborating measures to prevent THB, to punish perpetrators of THB and to protect its victims;

3. To improve co-operation between State institutions and national NGOs active in rendering protection and assistance to the victims of THB, combating violence against women and children, promoting gender equality and raising awareness in human rights issues;

Furthermore, the Permanent Council:

4. Tasks the Chairmanship with conducting discussions on follow-up to this Action Plan, including augmenting current structures and examining the need for a new mechanism, with a view to enhancing the OSCE's efforts in fighting trafficking in human beings by raising its political profile and giving it a prominent role on the issue, as well as better co-ordinating work among the three dimensions of the OSCE;

5. Tasks the OSCE relevant structures with hosting and facilitating annual meetings in Vienna of national co-ordinators, representatives or experts on combating trafficking, to monitor the process of the implementation of the OSCE Action Plan. This will provide them with a chance to build networks, exchange information, and outline priorities for co-operation;

6. Urges the pursuit of close interaction between the OSCE Secretariat, its institutions and its field operations, to assist participating States, where appropriate, in implementing the current Action Plan;

7. Tasks the ODIHR with rendering necessary technical assistance to participating States, when appropriate, in developing National Anti-Trafficking Plans of Action, including legislative and other assistance measures aimed at effective prevention and combating trafficking and protection of victims;

8. Tasks OSCE institutions and bodies with engaging in more extensive regular exchange of information, data collection and research with relevant international organizations;

9. Tasks the ODIHR with the further development of its clearing-house function for the exchange of information, contacts, materials and good practices and with the enhancement of its project activities.

## **THE OSCE COMMITMENTS RELATED TO:**

### **Investigation, law enforcement and prosecution**

*(Declaration on Trafficking in Human Beings adopted in Porto, 2002)*

“We recognize that trafficking in human beings represents a serious and rapidly expanding area of transnational organized crime, generating huge profits for criminal networks that may also be associated with criminal acts such as trafficking in drugs and arms, as well as smuggling of migrants.

...

We will strive for adequate measures to prevent trafficking in human beings in our countries ... and will seek ... to organize training for relevant officials and government employees in the areas of law enforcement, border control, criminal justice and social services, and to recommend full co-operation with NGOs in this field.

...

We call on participating States to enhance international co-operation in combating transnational organized crime, including criminal acts such as trafficking in drugs and arms, as well as smuggling of migrants. Such co-operation should include international law enforcement bodies, such as Europol and Interpol, as well as the Southeast European Co-operative Initiative (SECI), with a view to investigating and prosecuting those responsible for trafficking in human beings in accordance with domestic law and, where applicable, international obligations. In this regard, we ask that the Senior Police Adviser should devote increased attention to the fight against trafficking in human beings.”

*(Bucharest Plan of Action for Combating Terrorism, 2001)*

“Secretariat: Will assist participating States, on their request, through measures to combat trafficking in human beings, drugs and small arms and light weapons, in accordance with relevant Permanent Council decisions, and will undertake efforts to assist in facilitating increased border monitoring, where appropriate. Will further assist participating States, on the request and with their agreement, through provision of advice and assistance on restructuring and/or reconstruction of police services; monitoring and training of existing police services, including human rights training; and capacity building, including support for integrated or multi-ethnic police services. Will, to this end, reinforce its existing police-related activities in conflict prevention, crisis management and post-conflict rehabilitation.”

*(Bucharest Ministerial Council Decision No. 6, 2001)*

“Calls on participating States to sign and ratify the United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;

...

Encourages information exchange with a view to strengthening investigation, law enforcement and crime prevention”.

*(Vienna Ministerial Council Decision No. 1, 2000)*

“Reaffirms that trafficking in human beings is an abhorrent human rights abuse and a serious crime that demands a more comprehensive and co-ordinated response from participating States and the international community, as well as a more coherent and co-operative approach among countries, in particular those of origin, transit and destination;

Welcomes the adoption, by the United Nations General Assembly, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime as well as the definition of trafficking in persons contained therein and calls upon all participating States to sign and ratify the United Nations Protocol as well as the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography;

...

Stresses the role of national parliaments in the enactment, among others, of laws necessary to combat trafficking in human beings and welcomes articles 106 and 107 of the Parliamentary Assembly's Bucharest Declaration on trafficking in persons;

...

Commits to take necessary measures, including by adopting and implementing legislation, to criminalize trafficking in human beings, including appropriate penalties, with a view to ensuring effective law enforcement response and prosecution. Such legislation should take into account a human rights approach to the problem of trafficking, and include provision for the protection of the human rights of victims, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked.”

## **Prevention of THB**

*(Declaration on Trafficking in Human Beings adopted in Porto, 2002)*

To prevent trafficking in human beings, the members of the Ministerial Council of the OSCE have recognized “the need to address root causes of trafficking and to reduce the economic and social inequalities and disadvantages, which also provoke illegal migration, and which may be exploited by organized criminal networks for their profit”. They also have recognized “the need to fight corruption, which facilitates the operation of such networks”. They have recommended “that the Office of the Co-ordinator of OSCE Economic and Environmental Activities play an increased role in addressing all economic aspects of trafficking in human beings”.

They have recognized “that, in countries of destination, demand for the activities of persons trafficked for the purpose of sexual exploitation, forced labour, slavery or other practices similar to slavery is an integral factor in trafficking in human beings”. They have urged “countries of destination to take measures to effectively address such a demand as a key element in their strategy for effectively preventing and combating trafficking in human beings, and to exercise zero tolerance towards sexual exploitation, slavery and all forms of exploitation of forced labour, irrespective of its nature”.

They decided to “strive for adequate measures to prevent trafficking in human beings in our countries, taking the form, *inter alia*, of target-oriented awareness raising campaigns and education in countries of origin and transit, directed in particular towards youth and other vulnerable groups” and to “seek to develop appropriate campaign in the countries of destination ...”.

*(Vienna Ministerial Council Decision No. 1, 2000)*

The Ministerial Council “undertakes to raise awareness, including with assistance from the ODIHR, non-governmental organizations and other relevant institutions, through, where necessary, establishing training programmes among public officials, including law enforcement, judiciary, consular and immigration officials, about all aspects of trafficking”.

*(Charter for European Security adopted in Istanbul, November 1999)*

The Heads of State or Government have applauded “the unprecedented process of economic transformation taking place in many participating States”. They have encouraged them “to continue this reform process, which will contribute to security and prosperity in the entire OSCE area”. They have decided to step up their “efforts across all dimensions of the OSCE to combat corruption and to promote the rule of law”.



*(CSCE Helsinki Document 1992 - the challenges of change)*

“The participating States emphasize the need for continuing co-operation and investment in human resources development in order to cope with problems of transition to market economies, rapid technological changes and the evolution of society. Recognizing the importance of education and training, including management and vocational training at all levels, they will intensify their dialogue on education and training systems and promote further co-operation in this area.

The participating States will enhance opportunities for industrial co-operation by providing an appropriate legal and economic environment for business, particularly with the aim of strengthening the private sector and developing small and medium-sized enterprises.”

*(Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE - Moscow, 3 October 1991)*

The participating States will “encourage measures effectively to ensure full economic opportunity for women, including non-discriminatory employment policies and practices, equal access to education and training, and measures to facilitate combining employment with family responsibilities for female and male workers; and will seek to ensure that any structural adjustment policies or programmes do not have an adversely discriminatory effect on women;

...

seek to eliminate all forms of violence against women, and all forms of traffic in women and exploitation of prostitution of women including by ensuring adequate legal prohibition against such acts and other appropriate measures;

...

develop educational policies, consistent with their constitutional systems, to support the participation of women in all areas of study and work, including non-traditional areas, and encourage and promote a greater understanding of issues relating to equality between men and women”.

*(Final Act of the Conference on Security and Co-operation in Europe - Helsinki, 1 August 1975)*

The participating States “will equally endeavour, in developing their co-operation, to improve the well-being of peoples and contribute to the fulfilment of their aspirations through, *inter alia*, the benefits resulting from increased mutual knowledge and from progress and achievement in the economic, scientific, technological, social, cultural and humanitarian fields. They will take steps to promote conditions favourable to making these benefits available to all; they will take into account the interest of all in the narrowing of differences in the levels of economic development, and in particular the interest of developing countries throughout the world”.

The participating States “are of the opinion that the problems arising bilaterally from the migration of workers in Europe as well as between the participating States should be dealt with by the parties directly concerned, in order to resolve these problems in their mutual interest, in the light of the concern of each State involved to take due account of the requirements resulting from its socio-economic situation, having regard to the obligation of each State to comply with the bilateral and multilateral agreements to which it is party, and with the following aims in view:

to encourage the efforts of the countries of origin directed towards increasing the possibilities of employment for their nationals in their own territories, in particular by developing economic co-operation appropriate for this purpose and suitable for the host countries and the countries of origin concerned;

to ensure, through collaboration between the host country and the country of origin, the conditions under which the orderly movement of workers might take place, while at the same time protecting their personal and social welfare and, if appropriate, to organize the recruitment of migrant workers and the provision of elementary language and vocational training;

to ensure equality of rights between migrant workers and nationals of the host countries with regard to conditions of employment and work and to social security, and to endeavour to ensure that migrant workers may enjoy satisfactory living conditions, especially housing conditions;

to endeavour to ensure, as far as possible, that migrant workers may enjoy the same opportunities as nationals of the host countries of finding other suitable employment in the event of unemployment;

to regard with favour the provision of vocational training to migrant workers and, as far as possible, free instruction in the language of the host country, in the framework of their employment;

to confirm the right of migrant workers to receive, as far as possible, regular information in their own language, covering both their country of origin and the host country;

to ensure that the children of migrant workers established in the host country have access to the education usually given there, under the same conditions as the children of that country and, furthermore, to permit them to receive supplementary education in their own language, national culture, history and geography;

to bear in mind that migrant workers, particularly those who have acquired qualifications, can by returning to their countries after a certain period of time help to remedy any deficiency of skilled labour in their country of origin;

to facilitate, as far as possible, the reuniting of migrant workers with their families;

to regard with favour the efforts of the countries of origin to attract the savings of migrant workers, with a view to increasing, within the framework of their economic development, appropriate opportunities for employment, thereby facilitating the reintegration of these workers on their return home”.

## **Protection of victims of THB and rendering assistance to them**

*(Declaration on Trafficking in Human Beings adopted in Porto, 2002)*

Participating States undertook “to render assistance and protection to the victims of trafficking, especially women and children, and to this end, when appropriate, to establish effective and inclusive national referral mechanisms, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked. The dignity and human rights of victims must be respected at all times. We will consider adopting appropriate measures, such as shelters, and establishing appropriate repatriation processes for the victims of trafficking, with due regard to their safety, including the provision of documents; and developing policies concerning the provision of economic and social benefits to victims, as well as their rehabilitation and reintegration in society”.

Participating States expressed their “concern about the increase in trafficking in minors and, recognizing the special needs of children”, supported “more research and exchange of information on trafficking in children and, with due regard to the best interest of the child as the primary consideration in all actions concerning children,” called “for the elaboration of special measures to protect trafficked minors from further exploitation, mindful of their psychological and physical well-being”.

Participating States recognized that “intensified co-operation among relevant actors in countries of origin, transit and destination plays a critical role in the return programmes for victims of trafficking and facilitates their reintegration”. Therefore participating States “encourage all organizations providing assistance to victims, including NGOs, to further develop such co-operation”.

Participating States reiterated “the need for national strategies in order to unite efforts directed towards combating trafficking in human beings and to enhance co-ordination among national, international and regional organizations in this field. This need could be met through measures such as appointing inter-ministerial bodies and national co-ordinators or, as appropriate, other relevant bodies or mechanisms”.

Participating States asked “that the Senior Police Adviser should devote increased attention to the fight against trafficking in human beings”.

*(Ministerial Council Decision No. 6 adopted in Bucharest, 2001)*

The Ministerial Council called on participating States “to sign and ratify the United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children”.

*(Ministerial Council Decision No. 1 adopted in Vienna, 2000)*

The Ministerial Council called upon participating States “to sign and ratify the United Nations Protocol as well as the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography”.

Ministerial Council called “on OSCE institutions, in particular the ODIHR, and field operations, to develop and implement anti-trafficking programmes and to promote co-ordinated efforts in the areas of prevention, prosecution and protection, in co-operation with non-governmental organizations as well as international organizations and other relevant institutions”.

Ministerial Council decided that relevant “legislation”, criminalizing trafficking in human beings, ... “should take into account a human rights approach to the problem of trafficking, and include provision for the protection of the human rights of victims, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked”.

Ministerial Council confirmed the need to “consider adopting legislative or other appropriate measures, such as shelters, which permit victims of trafficking in persons to remain in their territories, temporarily or permanently, in appropriate cases; and establishing appropriate repatriation processes for the victims of trafficking, with due regard to their safety, including the provision of documents; and developing policies concerning the provision of economic and social benefits to victims as well as their rehabilitation and reintegration in society”.

*(Charter for European Security adopted in Istanbul, November 1999)*

Participating States decided to “undertake measures to eliminate all forms of discrimination against women, and to end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings. In order to prevent such crimes”, participating States decided to, “among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims”.