

**Summary of verbal submission to the OSCE by the National Rapporteur on Trafficking in Human Beings, Detective Inspector Kajsa Wahlberg, National Criminal Department, Sweden, in Vienna, Austria, May 21, 2007.**

I am delighted to have the opportunity to address the OSCE in this important matter.

The Hague Declaration 1997<sup>1</sup>

On 26 April 1977 the Ministers of Justice and the Ministers for Equality within the European Union adopted the so called Hague Declaration with guidelines for preventing and combating trafficking in women for sexual purposes. The Declaration contains recommendations for work at a national, as well as at an international, level, including an emphasis on cooperation between EU Member States. It specifically recommends that the Member States appoint National Rapporteurs (NR) who are to report to governments on the scale, the prevention and combating of trafficking in women.

Nationally, the declaration deals with the necessity of being able to prevent, investigate and institute legal proceedings against different actions that occur in connection with trafficking in human beings. Attention is called to the fact that investigations and legal proceedings should be directed towards the perpetrators responsible for trafficking of human beings, and under no circumstances towards the victims because of their actions. In addition, it includes a recommendation that the Member States (MS) should provide those who are subjected to trafficking with support and help, and take the introduction of e.g. special witness-protection programs into consideration.

**The Office of the National Rapporteur on Trafficking in Human Beings, Sweden**

In December 1997, in order to implement the Hague Declaration, the Swedish Government appointed the National Police Board of Sweden to be the National Rapporteur on Trafficking in Women.<sup>3</sup> The National Police Board in turn delegated the task to the National Criminal Police (NCP). The NCP prepared a national plan of action against trafficking in human beings for sexual purposes. **for the police forces.**

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<sup>1</sup> The Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (Hague, 24-26 April 1997).

<sup>2</sup> The Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (Hague, 24-26 April 1997).

<sup>3</sup> Nationell rapportör för människohandel.

This NAP sets out the mandate of the NR:

1. The NR is to identify and characterise the existence of trafficking in human beings for sexual and other purposes within and to Sweden; and
2. In the annual reports, she will review the connection between trafficking in human beings and other forms of serious crime, smuggling of human beings and as well as prostitution and sexual exploitation.

The mandate of the National Rapporteur includes the collection and analysis of data and information about the extent of trafficking in human beings in and to Sweden, as well as recommendations for how the problem can be prevented and combated. The Office of the National Rapporteur (ONRT) also handles intelligence information concerning suspected criminal activities and cooperates with police forces in countries of origin and transit in joint cases, answers questions from the media and the public, and arranges and participates in seminars and trainings nationally and internationally.

The NCP will also, before long, make public a joint policy document for police and prosecutors on investigative/operational measures against trafficking in human beings by law enforcement, which will include a manual for investigators.

The NR publishes annual reports on the character, state and scale of trafficking in human beings in and to Sweden. To ensure that the documentation is reliable, information is collected at source through the six existing regional Criminal Intelligence Units. So far the NR has released eight annual reports.<sup>4</sup> The next report is due in August 2007.

In 2004, in response to Sweden ratifying the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and its implementation into national laws, the area of investigation of the NR was expanded to also include trafficking in human beings for other purposes than sexual exploitation.

Over the years, the ONRT has developed a large national and international network with representatives from Interpol, Europol, governments, public authorities, agencies and regional and non-governmental organisations working to eliminate trafficking in human beings. For four years, the Swedish NR was the chairperson for the expert working group on trafficking in women within the Taskforce on Organized Crime in the Baltic Sea Region.

The ONRT mandate and work is reviewed by the Government with some regularity.

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<sup>4</sup> See website of the National Swedish Police: <http://www.polisen.se> [ Click on link for English language and then on "Publications".

## **Why is it important to establish a National Rapporteur on Trafficking in Human Beings?**

Today, the work to prevent and combat trafficking in human beings in Europe and the protection and assistance to its victims, is carried out by many different actors on regional and national levels; national and local governments, public authorities, and by non-governmental organizations and others within civil society while often lacking national overview as well as coordination. The knowledge of and research into the situation of trafficking in human beings in Europe, as well as into measures to ameliorate this, is limited.

I suggest that Member States (MS) are in need of a central independent monitoring mechanism that is responsible for gathering, analyzing and presenting comparative data about the scale and state of trafficking in human beings within and to MS, and for the evaluation of local and national policy and legal measures and initiatives.

By implementing a National Rapporteur on Trafficking in Human Beings, MS would show their commitment to the prevention, suppression and prosecution of trafficking in human beings nationally and internationally.

It should be noted that several international and regional instruments specifically encourage MS to appoint National Rapporteurs on trafficking in human beings – such as the recent Council of Europe Convention on Action against Trafficking in Human Beings, the Outcome Document of the UN Beijing + 5 conference in 2000, as well as the OSCE Action Plan from 2003.<sup>5</sup>

## **What should be the tasks of a National Rapporteur on Trafficking in Human Beings?**

Firstly, it is necessary that a National Rapporteur on trafficking in human beings should operate as an independent and autonomous entity, with a general mandate to investigate, monitor and analyze the character, state and scale of trafficking in human beings to and within MS. It could be argued that the placement at the National Criminal Police, may compromise the independence of the Swedish Rapporteur. In hindsight it may even have been better to create a separate public authority. However, the benefits of the placement of the ONRT at the National Police Board surpass the disadvantages: it allows the NR to monitor the status of

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<sup>5</sup> OSCE Action Plan to Combat Trafficking in Human Beings [PC.DEC/557 24 July 2003] in VI. Follow-up and coordinating 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.”

trafficking in human beings in and to Sweden through regular information updates from the national and regional police and prosecution authorities, as well as from other actors working against trafficking in human beings.

The NR should study the effectiveness of already implemented policy, legal and practical measures, or as the case may be, lack of measures. It should not, however, coordinate the implementation of those measures to prevent and combat trafficking in human beings, decided upon and/or developed by the government and parliament. It is essential to keep these two functions apart – the NR is solely a monitoring mechanism, not an implementor.

To be effective, all actions of and research carried out by such a NR must have a firm gender equality perspective, and be based on internationally recognized principles of non-discrimination including non-discrimination based on gender, race, ethnicity, disability and sexual orientation. Hence, it is important that the monitoring not just focus on legislative and prosecutorial measures, but also includes an analysis of prevention programs, including prevention against the demand, protection and assistance programs for victims, and the effects of anti-trafficking policies internationally and regionally.

The NR should, as part of its mandate, present annual reports to the government on the extent and development of the situation of trafficking in human beings within and to MS. The focus could be on trafficking in human beings for sexual purposes to be extended to other forms of trafficking in human beings, such as for forced marriages, forced labour and organ trafficking in accordance with international obligations under international agreements such as the Convention for the Elimination of All Forms of Discrimination of Women (CEDAW) article 6, the Convention on the Rights of the Child (CRC) articles 34 and 35, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, including article 9.5 of the Convention that focuses on measures to discourage the demand, as well as appropriate regional agreements.

In its reports, the NR should pay particular attention to the adequacy of legal and policy measures for the protection, assistance, rescue, rehabilitation, reintegration, redress and compensation of victims of trafficking in human beings, especially women and children. Also, the NR should closely monitor and consider the effectiveness of the legislative and policy framework on trafficking in human beings, including policies and legislation criminalizing the demand for sexual services. The NR should also examine investigations, prosecutions and sentencing of buyers, procurers and traffickers and organized crime networks. In addition, the NR should actively monitor, evaluate, and publicize information and data about

emerging issues, such as new forms and methods of trafficking in human beings of women and children to and within MS.

A National Rapporteur should be given the authority to issue recommendations on how to develop and ameliorate the work to prevent and combat trafficking in human beings, and victim protection and support in MS to governments, public authorities and civil society in the annual reports. For the recommendations to have genuine practical effects, Governments must commit themselves to pay them close attention and, when suitable, to implement measures in accordance with these recommendations.

In order to carry out its work effectively, an Office of a NR should be adequately funded and authorized to hold consultations with affected groups and individuals, public authorities, members of parliament and legislatures, researchers, representatives of countries with diplomatic offices in MS, interest groups, non-governmental organizations such as women's equality seeking groups, and other stake holders. In order to be truly independent, I recommend that the NT is allocated direct funding for its activities, rather than through the general budget of a public authority as is the case in Sweden.

The NR should be given full access to all relevant documentary material such as police investigatory material, witness and victim statements, research reports etc, including material covered by privacy legislation. All involved public authorities should be expected to fully cooperate with the NR in order to facilitate her/his investigations. The NR should also have the mandate to act in an urgent situation of trafficking in human beings, and in such a situation have the authority to request information and/or clarification from the responsible public entity.

A NR should have the authority to establish cooperation with other National Rapporteurs on Trafficking in Human Beings. Such cooperation could include discussion and development of joint research measures to prevent and suppress trafficking in human beings, data sharing about prevention measures, victim protection and repatriation, prosecutions, joint information campaigns, and about law enforcement initiatives. The NR should also be expected to liaison with regional and international initiatives against THB, including with the United Nations Special Rapporteur on Trafficking in Persons, especially in Women and Children, the Special Rapporteur on Violence against Women, and other appropriate United Nations bodies, in order to exchange information and, in appropriate cases, collaborate on joint activities.

**What impact has the work of the National Rapporteur had on policy development, legislation and measures to prevent and combat trafficking in human beings in Sweden?**

Through its wide mandate, the Swedish NR has been given a unique opportunity to influence the policy and legislative development and the implementation of measures to prevent and combat trafficking in human beings in Sweden.

Since the appointment of the NR in 1998, the sitting governments have been very receptive to the recommendations put forward by the NR in her annual reports. In September of 2006, national elections were held and a new government came into power. This government has yet to establish a policy on trafficking in human beings, and set aside funding for different measures to prevent and combat trafficking human beings.

For the police and prosecuting authorities, investigations of cases of trafficking in human beings are very resource-intensive and costly. In the past, a few smaller police districts have not been able to initiate proper investigations because of lack of resources. In 2003, after discussions with the NR, the Minister of Justice Thomas Bodström (as he was then) allocated SEK 30 million (approx. Euro 3.3 million) over three years to the National Board of Police, specifically earmarked for operative assistance to police districts to combat trafficking in human beings, and for training of law enforcement personnel.

An inter-agency working group has been appointed that determines how these funds should be distributed, based on applications from the different police districts. Over the years, the funds have been used for preliminary investigations, as well as for training of law enforcement personnel and projects focusing on the sale of women and children for prostitution purposes on the Internet.

The NR concluded in her reports from 2003 and 2004, after having studied case law on the trafficking legislation and interviewed police, prosecutors and other key informants that the legislation was too complex, leading to misinterpretations by the courts. The government, as a response, appointed in 2006 an Expert Commission with the task to analyze procuring and trafficking cases, and based on this analysis, develop and strengthen the existing legislation. The Commission will present its report in 2008.

The responsibility for providing protection and assistance of victims of trafficking in human beings is, according to Swedish law, the responsibility of local municipalities. After a recommendation by the NR in one of her reports, the government decided, in connection with an amendment of the Alien Act allowing for time-limited residence permits for victims of trafficking in human beings, to reimburse the local authorities for all costs.

Thanks to media, the annual reports of the NR have been widely disseminated – both in Sweden, but also around the world. Every week, the ONRT receives request for information from journalists, parliamentarians, police officers and prosecutors, and of course the general public about the situation of prostitution and trafficking in human beings for all purposes to and within Sweden.

In particular, the NR reports that focus on new successful methods to combat trafficking in human beings have attracted a lot of attention, such as the positive result of the active implementation of the provision in the Swedish Criminal Code that prohibits the purchase of a sexual service by law enforcement and the prosecution services.<sup>6</sup> It is evident that the existence of a National Rapporteur on Trafficking in Human Beings in Sweden, and the publication of eight annual monitoring reports have been central to the development and implementation of government policy and legislation, and important contributing factors for the increase in understanding and knowledge about prostitution and trafficking in human beings in Sweden.

In conclusion, I urge the OSCE Member States to appoint National Rapporteurs on Trafficking in Human Beings as soon as possible, in order to the work to prevent, suppress and punish trafficking in human beings within the borders of Member States as well as cross-border trafficking.

Thank you!

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<sup>6</sup> Criminal Code., ch. 6: On Sexual Crimes, section 11: A person who obtains casual sexual relations in exchange for payment shall be sentenced—unless the act is punishable under the Swedish Penal Code—for the purchase of a sexual service to a fine or imprisonment for at most six months Attempt to purchase a sexual service is punishable under Chapter 23 of the Swedish Penal Code.