

Organization for Security and Co-operation in Europe

Special Representative and Co-ordinator for Combating Trafficking in Human Beings in co-operation with the Finnish OSCE Chairmanship

ANNOTATED AGENDA

“SUCCESSFUL PROSECUTION OF HUMAN TRAFFICKING – CHALLENGES AND GOOD PRACTICES”

Helsinki, 10-11 September 2008

Background

The 2003 OSCE Action Plan to Combat Trafficking in Human Beings (MC.DEC/2/03) draws upon the international recognition of human trafficking as a fundamental violation of the dignity and rights of human beings. It affects all 56 OSCE participating States, undermining democratic values and the rule of law. The International Labour Organisation (ILO) estimates the total illicit profit of human trafficking at \$32 billion and that over 12 million persons across the globe have become victims of labour and other forms of exploitation or live in slavery-like conditions, often – as a result of trafficking in human beings. Despite increased measures to fight human trafficking taken in the past decade, the challenge of trafficking in human beings (THB) remains high, and the data obtained to date provides no indications of a decline in THB.

Human trafficking constitutes a multi-dimensional threat to international (and national) security and encompasses a wide variety of issues: protection of human rights and fundamental freedoms, strengthening of the rule of law, elimination of discrimination, overcoming of economic deprivation, fighting against corruption and organized crime, and development of adequate migration policies. It cuts across all the dimensions of OSCE's work and therefore requires a resolute, multi-faceted approach.

OSCE participating States remain seriously concerned that human trafficking is widespread in the OSCE region and beyond (MC.DEC/8/07). Because of its links to trans-national organized crime participating States have recognized that fighting trafficking in human beings successfully requires close co-operation at the international and regional levels through concerted efforts by Governments, law enforcement agencies, local authorities, civil society, the private sector and the media. It requires addressing the problem in its entirety, by paying equal and due attention to preventive measures, adequate protection of and assistance to the victims, and prosecution of the criminals involved. Since the Ministerial Council endorsement of the 2003 Action Plan to Combat Trafficking in Human Beings participating States have implemented many of the recommended actions at the national level. To date, however, only a very limited number of victims, in comparison with estimates, have been identified and assisted, and few traffickers have been brought to justice and received appropriate sentences. This is why participating States have underlined the importance of effective law enforcement measures and efforts to prosecute

perpetrators, and to provide effective access to justice for victims of human trafficking (MC.DEC/14/06).

Drawing from the experience gained in the course of the last decade, international experts stress that successful prosecution of trafficking for both sexual and labour related exploitation requires a variety of measures, including: i) adequate national legislation with definitional clarity in conformity with international instruments; ii) effective identification of victims of all forms of trafficking; iii) appropriate victim protection and assistance programmes; iv) institutionalized co-operation between law enforcement officers, prosecutors, migration authorities, labour market actors, health service providers, and NGOs engaged in outreach work and rendering assistance to victims; and v) effective co-operation and mutual legal assistance between national law-enforcement agencies, the judiciary, and prosecution services, as well as with international bodies such as Europol, Interpol and Eurojust.

In order to address some of these challenges facing participating States, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in co-operation with the Finnish OSCE Chairmanship, organizes this conference aiming, in particular, at enhancing the participating States capacity to prosecute cases of all forms of human trafficking more successfully, taking due regard to the needs of trafficking victims for adequate protection and assistance.

The aim of the conference is to: i) further catalyze political will of participating States and Partners for Co-operation to combat all forms of trafficking in human beings; ii) advance the implementation of OSCE anti-trafficking commitments; and iii) increase the understanding of the need to involve all relevant anti-trafficking stakeholders to achieve sustainable results. In order to achieve these aims the conference will provide a forum for exchange of experiences and best practices, and help to identify challenges. It will serve also as a forum for networking among practitioners.

The first day of the conference consists of high-level keynote addresses and an opening session with speakers from countries with significant experience in investigating and prosecuting cases of trafficking in human beings, presenting their respective national responses, best practices and lessons learned. The second day includes panels on co-operation between law enforcement and NGOs, mechanisms of victim/witness co-ordination, trans-national co-operation, and case studies of both sex and labour related human trafficking.

The conference brings together senior government officials, law enforcement experts, prosecutors, judges, representatives from academia, international organizations, NGOs as well as diplomats from a vast majority of the 56 OSCE participating States and Partners for Co-operation.

WEDNESDAY 10 SEPTEMBER

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| 09:00 - onwards | Registration |
| 12:00 - 13:30 | Lunch hosted by the Finnish OSCE Chairmanship |
| 13:30 - 14:00 | Welcome and Opening Remarks |

Ms. Eva Biaudet, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Ms. Tuija Brax, Minister of Justice, Finland

14:00 - 15:00	Keynote addresses - followed by possible statements by delegations
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Chairperson: *Ms. Eva Biaudet, OSCE Special Representative for Combating THB*

Speakers: *Ms. Päivi Hirvelä, Judge at the European Court of Human Rights*

Mr. Pietro Grasso, Chief Prosecutor of the National Anti-mafia Bureau, Italy

The OSCE sees human trafficking foremost as a serious violation of the human rights of the trafficked person. The implementation of comprehensive right-based and victim-centred anti-trafficking policies in all OSCE countries is of vital importance if we want to achieve results in our efforts to eradicate human trafficking from the OSCE region. The human rights based approach should be seen as a key element of democratic governance, and respecting the rule of law. It is the core principle of the OSCE Action Plan to Combat Trafficking in Human Beings, to which all participating States have committed themselves.

European Court of Human Rights (ECHR) Judge Päivi Hirvelä will speak about the positive obligations for States to identify and protect victims of human trafficking in the light of ECHR judgments. Although only a few cases so far have dealt directly with human trafficking, many existing judgments have potential significance for future cases. She will point out the relevance of several rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms for human trafficking cases – e.g. the right to life, the prohibition of torture, inhuman and degrading treatment, the prohibition of slavery and forced labour, the right to respect for private and family life, and the right to a fair trial.

Chief Anti-mafia Prosecutor Pietro Grasso will present the Italian anti-trafficking responses, including effectiveness of legislative provisions and key findings from investigating and prosecuting, in particular cases relating to organised crime. In recent years Italian law enforcement agencies have conducted several large operations relating to sexual exploitation of both children and adults, children trafficked for committing crimes, as well as cases of labour exploitation. Mr. Grasso will highlight the specific challenges resulting from involvement of sophisticated and complex organised crime networks.

15:00 - 15:45 **Coffee break / Press conference**

15:45 - 17:00	Opening Plenary Session: National Criminal Justice Responses to Combating Human Trafficking - Challenges and Best Practices
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Moderator: *Ms. Riikka Puttonen, Officer-in-Charge, Anti-Human Trafficking and Migrant Smuggling Unit, UNODC*

Speakers: *Ms. Lisa Krigsten, Principal Deputy Assistant Attorney General, Civil Rights Division, US Department of Justice*

Mr. David Mancini, Public Prosecutor, Tribunal of Teramo, Italy

The opening plenary session will function as a continuum to the keynote addresses, presenting concrete national experiences – both successes and challenges – in investigation, prosecution, and judgement of cases of human trafficking.

The speakers in the panel are prosecutors from the United States and Italy with significant experience working with human trafficking cases. They will point out *inter alia* the importance of building a national criminal response to human trafficking that is based on the understanding that the needs and interests of trafficking victims are quite different from the needs and interests of investigators and prosecutors focused on convicting the traffickers – only when reconciling these interests do criminal justice responses result in increased successful prosecutions.

An interesting Italian pilot experience will be presented showing co-operation between police, judiciary, NGOs and other public services in the handling of a THB case, from identification to the court proceedings. This model of cooperation has been institutionalised in a formal MoU among the various parties and has been used as an example for implementation in other Italian regions.

In addition to highlighting the importance of a multi-disciplinary approach to the handling of cases, the importance of co-ordination among different law enforcement bodies will be stressed – experience from the US, for example, has shown that a trafficking case can involve more than a handful of different agencies. A further challenge is that the investigation and prosecution of trafficking cases usually demands extensive planning and are very time and resource intensive.

Topics that could be raised during the discussion:

- Have States used different strategies to investigate and prosecute human trafficking? What are the lessons learned – which strategies have been more effective than others?
- What is the relevance of capacity building of law enforcement, prosecutors and judges? Should specific THB training be included in the curricula of basic police courses?
- What is the importance of definitional clarity of legislative criminal provisions? Is it common practice to apply other criminal provisions in the prosecution of THB?
- What are the specific challenges in the gathering of evidence?
- Which are the specific challenges when sophisticated criminal networks are involved – often involving several jurisdictions?
- How important a role do financial investigations play for successful prosecution?
- What are the jurisdictional problems encountered when several national law enforcement agencies are involved?
- How to ensure that the whole chain of traffickers is prosecuted and sentenced?

17:00 - 17:30 **Speech by the President of the Republic of Finland Ms. Tarja Halonen**

18:30 - 20:00 **Reception hosted by the City of Helsinki**
Venue: Helsinki City Hall, Pohjoisesplanadi 11-13

THURSDAY 11 SEPTEMBER

9:00 - 10:30

**Panel 1: Co-operation between law enforcement and NGOs –
Victim Advocacy and Mechanisms of Victim/Witness Co-ordination**

Moderator: *Ms. Ruth Pojman, Deputy Co-ordinator, Office of the OSCE Special Representative and Co-ordinator for Combating THB*

Speakers: *Mr. Florinel-Stelian Ionescu, Vice-President of the National Agency against Trafficking in Persons, Romania*

Ms. Nedzmiya Kukricar, Manager for asylum issues, Vasa Prava (NGO), Bosnia and Herzegovina

Building trust and well functioning co-operation between law enforcement agencies and civil society actors providing protection and assistance to victims of trafficking has proved to be one of the most crucial pre-requisites to effectively detect, investigate and prosecute human trafficking both for sexual and labour exploitation. Experience gained throughout the years in all parts of the OSCE region has, however, made it clear that due to the very different approaches these actors have, this can be very hard to achieve even if good will in principle exists on both sides. In order to overcome these challenges, many OSCE countries have already implemented the OSCE recommendation of establishing formalised and systemic partnerships between law-enforcement and civil society actors. Such partnerships usually aim at creating common guidelines for enhanced identification of victims and establishing joint working groups for concrete ground work and for developing policies.

One concrete result of these partnerships is that victims who initially are afraid of participating in prosecutions because they fear reprisals against themselves or family members, with the support of an NGO who they perceive as neutral, can be convinced to co-operate with law enforcement and eventually even testify in court against their traffickers. Unless victim's fears are addressed and options are appropriately explained by a victim friendly person immediately after identification the chances of successful prosecution are low. It is also important to note that victims and their families can be at risk both before and after a trial has taken place.

Panellists from Romania and Bosnia and Herzegovina will stress the importance of ensuring access to justice for victims, the importance of victim assistance and victim protection, and including all stakeholders in the early stages of criminal proceedings. Mr. Ionescu will introduce a Romanian victim witness co-ordination project aiming, *inter alia*, to increase the number of victims of trafficking who institute civil action, increase the level of participation of victims in the prosecutorial stages and the criminal trial, monitor the observance of the victim's rights throughout all phases of the trial, and improving the information provided to trafficked victims coming into contact with law enforcement about the assistance they can apply for. Ms. Kukricar will highlight the importance, *inter alia*, of formal co-operation agreements between authorities at ministerial level and NGOs, victim advocacy, and the necessity of appropriately protecting victims before, during and after court proceedings.

Topics that could be raised during the discussion:

- What are the key elements when building trust between law enforcement agencies and civil society actors?

- Why is it important to sign formal agreements (MoUs) between the authorities and NGOs?
- How can NGOs help law enforcement in investigations?
- Are victims who work with victim witness coordinators or NGO victim advocates more reliable witnesses in criminal proceedings?
- What is the concrete role of a victim/witness co-ordinator? Should this function be integrated or separated from the investigating law enforcement agency? How has the introduction of this role affected the percentage of victims who go through the trial process?
- Which are the specific challenges of interviewing victims and witnesses? How to deal with traumatized victims and victims who are reluctant to co-operate with authorities?
- What measures are needed to protect victims and their families during criminal proceedings? What can be done to ensure the protection of victims when they return to their home countries? Who has the responsibility for this?

10:30 - 11:00 **Coffee break**

11:00 - 12:30	Panel 2: Trans-national co-operation on human trafficking cases
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Moderator: *Mr. Vladimir Ovchinski, Advisor to the Chairman of the Constitutional Court, Russian Federation*

Speakers: *Mr. Steve Harvey, Leader of Trafficking in Human Beings Group, EUROPOL*

Ms. Barbara Carlin, US Embassy in Sarajevo, in co-operation with Mr. Petar Anevski, Public Prosecutor, FYRO Macedonia

Discussants: *Mr. David Dolidze, Administrator, Gender Equality and Anti-trafficking Division, Council of Europe*

Mr. Kalen Akkulakov, Deputy Director of Department for Co-operation in the field of security and Combating New Challenges, CIS Executive Committee

Human trafficking does not always involve trans-national elements and in recent years also internal trafficking has received due increased attention. However, in very many cases involving two or more countries, information exchange, mutual legal assistance and concrete co-operation between law enforcement, prosecutorial, judicial and central authorities is crucial to a successful investigation and prosecution.

Especially within Europe, increased trans-national co-operation is needed because of decreasing border controls and increased freedom of movement and travel, resulting in difficulties for law

enforcement agencies to identify trafficking victims and apprehend traffickers. For example Europol points out that human traffickers due to these reasons are operating in a relatively “risk free or low risk area of operations”.

The importance of building mutual trust between criminal justice practitioners and developing concrete international co-operation is very important, especially in human trafficking cases because of the frequent involvement of organised criminal groups operating or co-operating trans-nationally. The fact that corrupt officials are too often complicit in human trafficking can, however, poses challenges for co-operation.

In this panel experienced criminal justice experts will present concrete cases where international co-operation has been instrumental (e.g. the use of joint investigation teams, video testimony, and tracking money flows), describe the involvement of organised crime, present some current threats and risks, and identify challenges.

Representatives of the Council of Europe and the CIS (Commonwealth of Independent States) Executive Committee will point out the significance of international and regional co-operation from the perspectives of their organisations.

Topics that could be raised during the discussion:

- Does exchange of information and evidence between countries function well in practice? Which are the main obstacles to effective co-operation – a lack of agreements or of any response, slow procedures, corruption, low political will, language and translation issues?
- What are the lessons learned from joint investigation teams – practical examples?
- How effective is extradition? What have been the grounds for refusal of Mutual Legal Assistance (MLA) requests?
- Are there particular problems between EU/non-EU countries?
- Does lacking co-operation result in failures to prosecute the whole chain/network of traffickers? Any concrete recommendations in this regard?
- What are States experiences from working with Interpol, Europol, Eurojust or similar bodies?

12:30 - 14:00 **Lunch hosted by the Finnish OSCE Chairmanship**

14:00 - 15:45	Panel 3: Case Studies - Challenges and Best Practices from Prosecuting Trafficking for Labour Exploitation
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Moderator: *Ms. Vera Gracheva, Senior Adviser, Office of the OSCE Special Representative and Co-ordinator for Combating THB*

Speakers: *Ms. Katerina Badikova, Association of Central Asian NGOs against Trafficking in Persons*

Mr. Tudor Popovici, Head of the Association of Judges of the Republic of Moldova, Judge of the Supreme Court of Justice of the Republic of Moldova

Mr. Nodir Kurbanov, Interagency National Commission of the Republic of Uzbekistan

In a survey conducted in 2005 by the OSCE Special Representative for Combating Trafficking in Human Beings, only half of the responding countries recognised trafficking for labour exploitation as one of the main forms of trafficking in their jurisdictions. Until very recently criminal investigations of trafficking for other than sexual exploitation were also rare in most OSCE countries. Labour trafficking remains an invisible problem and it is generally believed that only very few of the existing victims are identified.

Trafficking for labour exploitation is a complex phenomenon made up of different coercive and exploitative elements over a period of time. A key challenge is to understand the difference between sub-standard working conditions and forced labour? ILO expert guidance from 2005 highlights six different elements which can point to a forced labour situation: i) physical or sexual violence and/or threats; ii) restriction of movement of the worker, iii) debt bondage/bonded labour: iv) withholding wages or refusing to pay wages; v) retention of passports and identity documents; and vi) threat of denunciation to authorities.

Reasons why the number of prosecutions for labour trafficking remains low in the OSCE region are many, including that: i) all states not yet have criminalised labour trafficking; ii) cases are not identified because victims are staying “underground” due to their irregular status; iii) law enforcement agencies and labour inspectors are not familiar with relevant indicators of exploitation; iv) authorities focus on the immigration status of the individual rather than on conditions of exploitation; v) there is a clear lack of resources dedicated to the identification of cases; and, vi) there are evidential difficulties in establishing the standard of proof required.

Experts in the panel will discuss the challenges of investigating and prosecuting trafficking for labour exploitation, including identifying problems in the application of legal provisions and emphasising the importance of specialized training programs for law enforcement, prosecutors and the judiciary. They will present the latest measures taken by authorities to enhance the anti trafficking response in their respective countries.

Topics that could be raised during the discussion:

- What are the main reasons why victims of labour trafficking are not identified and prosecutions remain low?
- What is the role of labour inspectors in identifying victims?
- To what extent are victims still being deported as illegal migrants and not identified as possible victims? Do speedy deportations lead to the absence of primary witnesses resulting in failures to present vital evidence in court?
- Are incentives for victims to co-operate lacking – e.g. legalising their status, provision of health services and housing, genuine protection of their security and rights, appropriate and adequate assistance, and the possibility of compensation?
- Are there organisational/competency problems at the national level?

15:45 - 16:15 **Coffee break**

16:15 - 17:30	Panel 4: Case Studies - Challenges and Best Practices from Prosecuting Trafficking for Sexual Exploitation
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Moderator: *Ms. Jelena Kaminska, Prosecutor of the Prosecution Office for Combating Organized Crime, Latvia*

Speakers: *Ms. Kaia Strandjord, Public Prosecutor, Trøndelag Public Prosecutors Office, Norway in co-operation Ms. Erviola Stoja, Prosecutor, Prosecution of Serious Crimes, Albania*

Mr. Yury Alekseev, General-Major of Justice, Deputy Head of Investigation Committee, Ministry of Interior, Russian Federation

Investigations and prosecutions of cases of trafficking for sexual exploitation are especially challenging, not least because victims often are severely traumatised. The exploitation in the prostitution business is usually very well organised - victims are systematically isolated and disorientated and trafficking operations are carefully planned in order to make victims vulnerable and dependant of the traffickers. Studies from many countries show that only a minority of victims are identified by law enforcement – in fact victims often have been in some kind of contact with law enforcement representatives, but because of lack of specialised training they have failed to understand the situation and take appropriate action.

The methods used by traffickers to control victims of sexual exploitation are to a large extent the same as for labour trafficking, including confiscating travel and identity documents, isolation and debt bondage, and convincing victims that local law enforcement will arrest and maltreat them if they are identified. However, sexual abuse, other physical violence, and threats of violence and death are even more frequent and brutal when comparing with other forms of trafficking. With this in mind, the magnitude of challenges confronted by investigators and prosecutors is easy to understand and one of the key lessons learned is that to be successful criminal proceedings have to be victim centred already at the outset and focus on long term rehabilitation and the re-integration of victims.

Other pre-requisites for having increased investigations, prosecutions and convictions of trafficking for sexual exploitation are that: i) the frequent practise of stigmatizing and penalising victims for crimes (e.g. immigration offences) committed as a result of them being trafficked has to stop; ii) there is a need for specialized training of all law enforcement personnel at the local level where victims are most likely to be identified; iii) knowledge of culturally relevant factors (e.g. Voodoo practiced on victims of Nigerian origin) has to be increased; iv) since many victims that are exploited within the EU are residents of their own or another EU-country, increased attention has to be given to other factors than immigration status, and v) not relying solely on the evidence given by victims.

Panellists will discuss the above challenges. Norwegian and Albanian experts will present a case where extensive co-operation between investigators, prosecutors and courts of the two countries

was vital. One of the lessons learned from this case was the usefulness of involving the Nordic Liaison Officer based in Tirana.

Panellist from Russia will provide a broad picture of current anti-trafficking activities in the Russian Federation, describe cases of successful investigation and prosecution, as well as methods used by the law enforcement to identify cases of THB for sexual exploitation. His presentation will contain concrete recommendations targeted at raising the efficiency of prosecution of THB at the national level.

Topics that could be raised during the discussion:

- How can trafficked victims exploited in prostitution best be identified?
- Are law enforcement agencies aware of the exploitation taking place in prostitution? Is a certain amount of violence and coercion tolerated?
- What investigation techniques are needed to successfully prosecute organised criminal prostitution rings?
- In addition to victim testimony, what constitutes key evidence? How can one diversify the evidence used so not to put the onus only on the victim`s testimony? How important is it for example to obtain “tax or already at the outset commercial records”?
- How can a victim best be prepared to go through an investigation and a trial and be a reliable witness?

17:30 - 18:00

Closing Remarks

Ms. Eva Biaudet, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Mr. Pertti Torstila, State Secretary, Ministry for Foreign Affairs, Finland