



## Organization for Security and Co-operation in Europe

### Special Representative and Co-ordinator for Combating Trafficking in Human Beings

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#### Foreword

In June 2015, I had the pleasure to pay an official country visit to the Republic of Tajikistan and hold consultations with high-level Government officials, including with the Deputy Ministers of Labour, Migration and Employment, Foreign Affairs, Internal Affairs, the Deputy General Prosecutor, the Head of the Inter-Agency Commission on Combating Trafficking in Human Beings under the Executive Apparatus of the Presidential Office, the Deputy Head of the Supreme Court, the Office of the Ombudsperson, as well as with civil society experts.

The objective of the country visit was to promote full implementation of the OSCE commitments in the field of anti-trafficking and to propose action-oriented recommendations to better prevent and respond to human trafficking.

During my country visit, I appreciated the constructive discussions with the Government of Tajikistan and I would like to acknowledge, in particular, the importance of the dedicated Inter-Agency Commission to co-ordinate domestic counter-trafficking action, as well as the adoption of the 2015-2020 national programme on the elimination of the worst forms of child labour in the Republic of Tajikistan.

The report on the visit was finalized and presented to the Delegation of the Republic of Tajikistan for comments on 6 November 2015. The Delegation agreed to publish the report without comment as communicated to the Office on 1 July 2016.

I look forward to further co-operation on the implementation of the recommendations presented in the Report.

A handwritten signature in blue ink, appearing to read 'Madina Jarbussynova'. The signature is stylized and cursive.

Madina Jarbussynova

**Report by OSCE Special Representative and Co-ordinator for Combating Trafficking  
in Human Beings, Madina Jarbussynova, following her visit to the  
Republic of Tajikistan from 8 to 11 June 2015<sup>1</sup>**

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## **Introduction**

1. The present Report is based on the country visit to Tajikistan by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova (hereinafter referred to as **the Special Representative**), from 8 to 11 June 2015<sup>2</sup>. The purpose of the visit was to hold consultations with government officials and experts from state institutions, civil society and international organizations on human trafficking issues. More specifically, the objectives of this visit to Tajikistan were to discuss ways to support on-going efforts to prevent trafficking, assist trafficked persons and protect their rights, as well as to improve the criminal justice response in line with OSCE commitments and relevant international standards.
2. In the course of the visit, the Special Representative engaged in direct consultations with high-level government officials, in particular with Mahmadulloev Nurullo, Deputy Minister of Labour, Migration and Employment, Alamshozoda Abdurakhmon, Deputy Minister of Internal Affairs, Davlatzoda Parviz, Deputy Minister of Foreign Affairs, Nazarzoda Hotam, Deputy General Prosecutor, Fayzullozoda Sharaf, Head of the Inter-Agency Commission on Combating Trafficking in Human Beings under the Executive Apparatus of the Presidential Office, Kholova Basbi, Deputy Head of the Supreme Court, Supreme Judge, Soliev Karim, Deputy Head of the Academy of MIA, Batridinova Radjambo, Head of the Department of State Protection, Civil and Political Rights of the Ombudsman Office.
3. During her country visit, the Special Representative also visited the shelter for assistance and protection to the victims of human trafficking in Dushanbe. She also held a meeting with representatives of NGOs coming from various regions of Tajikistan<sup>3</sup> and with representatives from international organizations<sup>4</sup>.
4. The Special Representative wishes to thank the Tajik authorities, and in particular the Permanent Representation of Tajikistan to the OSCE as well as the OSCE Office in Tajikistan for their kind assistance in organizing and facilitating the visit. She also wishes to thank all the people with whom she met, from the national authorities to civil society and international organizations, who shared their knowledge and expertise, contributing to valuable information on the ground.
5. Consultations during the visit focused on the situation of trafficking in human beings in the country and the on-going policy, legislative and practical responses to it. More specifically, discussions focused on identification and assistance provided to victims of

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<sup>1</sup> The Report was finalized on 6 November 2015

<sup>2</sup> The Special Representative was accompanied by her Country Visit Officer Ms. Muriel Ethvignot and Ms. Elmira Esenamanova, intern.

<sup>3</sup> Dushanbe - Center "Femida", NGO "Equal to Equal" and NGO "Caravan of Hope"; Khujand - PO "Chashmai Hayot" and PO "Association women and society"; Penjikent - NGO "Women of Orient"; Tajikabad - PO "Surkhob", Kulyab - PO "Mairam", Khorog - NGO "Madina".

<sup>4</sup> Representatives from IOM, UNHCR, Tajikistan Red Crescent, Danish Refugee Council, UNICEF, ILO and USAID.

all forms of trafficking, protection of victims' rights, efforts in the area of prevention, co-operation with NGOs as well as prosecutions and convictions of traffickers.

6. In the course of the visit, the Special Representative noted with appreciation that Government officials and civil society organizations demonstrated significant awareness and readiness to continue to co-operate with the OSCE to fight human trafficking as a serious violation of fundamental rights. However, the Special Representative stressed the importance of maintaining the prevention and combating trafficking in human beings as one of the main priorities for the Government and noted that a decline in political attention to the problem could threaten the important results achieved, especially taking into account the increased migration flows. In response, the Government recognised the importance of the adoption of the new Action Plan to combat trafficking in human beings. They planned to adopt it by the end of this year.

### **International and national legal framework**

7. The Special Representative commends Tajikistan for having become a party to major international instruments providing high standards in the fight against trafficking in human beings, such as the United Nations Convention against Transnational Organized Crime ratified in 2002<sup>5</sup> and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The country also ratified a number of Conventions addressing slavery and forced labour such as the ILO Forced Labour Convention (n.29) ratified in 1992, the ILO Convention on the Abolition of Forced Labour (n.105) in 1999 and the ILO Convention on Worst Forms of Child Labour (n.182) that was ratified in 2005<sup>6</sup>. The Special Representative also commends Tajikistan for having signed and ratified several regional agreements in particular to fight trafficking in human beings. However, the Special Representative regrets that the country has not yet ratified the ILO Domestic Workers Convention 189<sup>7</sup>, which serves a powerful instrument to protect domestic workers' rights and the ILO Protocol of 2014 to the Forced Labour Convention, 1930<sup>8</sup>.
8. Likewise, as a participating State to the OSCE, Tajikistan has pledged to implement the commitments it has undertaken in the OSCE framework, in particular the 2003 Action Plan to Combat Trafficking in Human Beings as well as its 2013 Addendum<sup>9</sup>. The Special Representative commends Tajikistan for its strong co-operation with the OSCE Office in Tajikistan. She wishes to highlight, as an example, the series of workshops organized in 2013 and 2014 on "Identification and Assistance to victims of human trafficking within the framework of the National Referral Mechanism"<sup>10</sup>.
9. The Special Representative notes that a multi-agency approach is at the core of the OSCE-ODIHR concept of a National Referral Mechanism (NRM) which is endorsed in

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<sup>5</sup> Source: UN web-site, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12&chapter=18&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en) accessed July 2015.

<sup>6</sup> Source: ILO web-site, [http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200\\_COUNTRY\\_ID:103547](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103547) accessed July 2015.

<sup>7</sup> Source: ILO web-site,

[http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:2551460](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:2551460), accessed July 2015.

<sup>8</sup> Source: ILO web-site, ILO web-site. Countries that have not ratified this Convention

[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11310:0::NO:11310:P11310\\_INSTRUMENT\\_ID:3174672:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11310:0::NO:11310:P11310_INSTRUMENT_ID:3174672:NO)

<sup>9</sup> OSCE Permanent Council, *Decision No. 1107 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later*, PC.DEC/1107 (6 December 2013).

<sup>10</sup> Source: OSCE Office in Tajikistan.

OSCE commitments, and recalls that a comprehensive NRM should provide a clear framework for the co-operation between all relevant actors from state and civil society, on the basis of a clear definition of respective roles and responsibilities. In this regard, the role of experienced NGOs and other service providers should be formally recognized in the identification process. It should also define procedures to identify victims and assist them to claim their rights as well as how to bring the offenders to justice<sup>11</sup>. During her visit, the Special Representative was informed that a National Referral Mechanism was in process of being drafted and possibly adopted this year<sup>12</sup>.

10. The Special Representative notes with appreciation that in recent years, the Government of Tajikistan has improved its institutional and legislative national framework to prevent and counter human trafficking, in particular by adopting a new Law on Combating Human Trafficking in 2014. Several Presidential Decrees were signed in the previous years to improve the national framework such as the ones related to establishing an Inter-Agency Commission on Combating Trafficking in Persons and Centres for Assistance and Support to Victims of Trafficking as well as one setting up a Complex Program to Combat Trafficking in Persons for 2011-2013.<sup>13</sup> The Special Representative, however, encourages the authorities to evaluate the results and outcomes of the Complex Program so as to serve as a basis for a new one, and regrets that this important Commission has not met for a long time.
11. The Special Representative praises the Tajik Government for having chosen a model for this Commission that places the central structure for combating trafficking<sup>14</sup> at the highest level, which has been proven to be an effective model in the OSCE region. This model could be shared with other OSCE participating States as a best practice to be followed. After the adoption of the new Law on Combating Trafficking, the Inter-Agency Commission's role has been extended as being the entity that can legally grant the status of victims of trafficking<sup>15</sup>. It is therefore of the utmost importance that the Commission ensures continuity in its work so that THB victims can obtain official status as trafficking victim and receive adequate protection and assistance within the shortest timeframe possible.
12. The Special Representative notes that concerns were raised by several NGOs during her visit regarding co-operation between civil society and the Commission. In this regard, she recalls that a good co-ordination mechanism has to be multidisciplinary and should involve all relevant Ministries and other stakeholders on an equal basis.

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<sup>11</sup> For NRMs, see: OSCE Permanent Council, *Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking Action Plan to Combat Trafficking in Human Being* (Vienna, 7 July 2005) and OSCE ODIHR, *National Referral Mechanisms: Joining Efforts To Protect the Rights of Trafficked Persons: A Practical Handbook* (Warsaw, 2004).

<sup>12</sup> Source: Inter-Agency Commission on combating trafficking in Persons.

<sup>13</sup> Governmental Decree on establishment of Interagency Commission on combating trafficking in Persons (№ 5 as of January 4, 2005); Regulation on Interagency Commission on combating trafficking in Persons approved by the Government Decree (№ 123 as of April 2, 2005); Rules on establishing of Centers for assistance and Support to Victims of Trafficking approved by the Government Decree (№100 as of March 3, 2007); Standard Regulation on the Centers for assistance and Support to Victims of Trafficking approved by the Government Decree (№ 504 as of October 1, 2007); Governmental Decree on Complex Program to Combat Trafficking in Persons in the Republic of Tajikistan for 2011-2013 (№113 as of March 3, 2011).

<sup>14</sup> Namely the Inter-Agency Commission on Combating Trafficking in Human Beings under the Executive Apparatus of Presidential Office, created in 2005 by the Governmental Decree № 5 of January 4, 2005.

<sup>15</sup> See Article 21.2 of the 2014 Law on Combating Human Trafficking.

### **Trends on trafficking in human beings**

13. According to national stakeholders and NGOs, trafficking for sexual exploitation remains one of the most common forms of exploitation. Women and girls are mostly trafficked to the Persian Gulf states but also to Russia, Turkey and Afghanistan. The most vulnerable ones are abandoned wives and girls who have been sexually abused. IOM also mentioned internal recruitment of girls for sexual exploitation in particular in Khujand and Dushanbe. During the consultations<sup>16</sup>, stakeholders mentioned other forms of trafficking-related crimes they are coming across: domestic servitude, forced begging, forced criminality (including drug mules) child trafficking, child forced labour (especially in rural areas), selling of newborn babies and debt bondage related to the drug business in trans-border regions. Some also recalled that many victims are now recruited through the internet, especially via social media.
14. Children are among the most vulnerable persons: according to the ILO survey<sup>17</sup>, there are 2.2 million children between the ages of 5 -17 in Tajikistan. Out of this total 23.4 per cent, or 522,000, are working children. According to the IOM report<sup>18</sup>, in some cases schoolchildren were found to have missed classes in order to pick cotton. In at least one case they were coerced into doing so by their teacher. Moreover, larger groups of schoolchildren were determined to have been “mobilized” to participate in the harvest by their schools, as a result of which fines were levied against the farms on which they were working and the schools at which they ought to have been studying. In 2014, the Tajik authorities identified 399 children working in the agriculture sector<sup>19</sup>. Data from the 2013 Cotton Monitoring and Research Campaign<sup>20</sup> show that child labour remained in use in many of Tajikistan’s cotton fields. However, as a result of the efforts made by the Government of Tajikistan over the past few years with support from the international community, the volume and frequency of forced child labour was much lower this year than during previous cotton harvests. Researchers estimate that less than 7 per cent of all cotton picking is done by children in Tajikistan.
15. The Special Representative noted with appreciation that Tajikistan had approved the list of hazardous work that children under 18 years of age are prohibited from performing within the ILO’s International Programme on the Elimination of Child Labour in May 2014 (ILO-IPEC)<sup>21</sup>. In addition, in October 2014, the Tajik President signed a decree to implement the national programme on the elimination of the worst forms of child labour in the Republic of Tajikistan for 2015-2020<sup>22</sup>. The Special Representative supports efforts made by the Government in this area.

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<sup>16</sup> Source: national institutions, NGOs and international organizations met during the visit.

<sup>17</sup> Results of the child labour survey presented in Tajikistan, 2014. [http://www.ilo.org/moscow/news/WCMS\\_342981/lang-en/index.htm](http://www.ilo.org/moscow/news/WCMS_342981/lang-en/index.htm)

<sup>18</sup> Source: Children and student in Tajikistan’s cotton harvest, 2012. <http://www.iom.tj/index.php/research/186-children-and-student-participation-in-tajikistan-s-cotton-harvest-annual-assessment-2012>

<sup>19</sup> 399 cases of child labour found in the agricultural sector in 2014 according to the Ministry of Labour, Migration and Employment met during the visit.

<sup>20</sup> IOM Cotton Monitoring and Research Campaign, Annual Assessment 2013 [http://publications.iom.int/bookstore/free/Tajikistan\\_Cotton\\_2013AnnualAssessment\\_FINAL.pdf](http://publications.iom.int/bookstore/free/Tajikistan_Cotton_2013AnnualAssessment_FINAL.pdf) accessed on July 2015.

<sup>21</sup> Tajikistan approves list of hazardous work prohibited to children under 18 years old [http://www.ilo.org/moscow/news/WCMS\\_244853/lang-en/index.htm](http://www.ilo.org/moscow/news/WCMS_244853/lang-en/index.htm)

<sup>22</sup> Tajikistan approves national programme to eliminate worst forms of child labour in 2015-2020 [http://www.ilo.org/moscow/news/WCMS\\_326952/lang-en/index.htm](http://www.ilo.org/moscow/news/WCMS_326952/lang-en/index.htm)

16. Unregistered births are particularly worrying phenomena as they increase vulnerability to trafficking: many cases have been mentioned in particular among children of Tajik migrants in Russia born out of hospitals or abandoned by their parents<sup>23</sup>. An increasing number of Tajik couples in Russia only have a religious marriage “Nikah”<sup>24</sup>. Women living in unregistered marriage and their children are in an especially vulnerable situation in accessing their rights. Women who try to obtain child maintenance through the courts face obstacles, as the law only recognises officially registered civil marriages. During the visit, the Ombudsman representative confirmed the possible trafficking of unaccompanied minors, child begging or children being sold to night clubs. The Special Representative welcomed a proposal to create a specific child protection unit/service and suggested that the Ombudsman should be more involved in fighting trafficking in human beings<sup>25</sup>. In addition, the Special Representative encourages the Government to support and co-operate with the 18 OSCE-supported Women’s Resource Centres working closely with families, schools, communities and religious leaders in order to encourage and assist the population with birth, marriage, divorce, alimony, housing and other types of documentation.
17. A particularly worrying trend has been revealed during the visit which concerns the recruitment, including the alleged recruitment by deceptive means or force, of young people to join armed conflicts and extremist groups in Tajikistan and abroad<sup>26</sup>. Some raised concerns that young men may have been trafficked as foreign terrorist fighters. Terrorist groups recruit their victims from among the most vulnerable layers of the population, including would be migrants. Then, they indoctrinate them into becoming foreign fighters. What is also alarming is that it is increasingly acknowledged that funds from trafficking in human beings are potential sources of income for terrorism. In a recent report, the International Crisis Group stated that in the last three years, between 2,000 and 4,000 people have travelled to Syria from Tajikistan<sup>27</sup>. Addressing officials in September 2014, President Emomali Rahmon confirmed that two hundred Tajik nationals were fighting in Syria<sup>28</sup>. Migrants banned from re-entering Russia are particularly at-risk of being recruited to fight in conflict zones, including being trafficked through the abuse of a position of vulnerability, deceptive means and force.<sup>29</sup>
18. NGOs have reported that the debt bondage cases experienced by people living in trans-border regions often lead to exploitative Afghan-Tajik situations involving kidnapping (women, children and men) to use them as slaves, including in drug related cases<sup>30</sup>. In the event that their relatives are not able to repay their debts, these people can be traded to human traffickers. In spite of the efforts of the Government of Tajikistan to establish work relations with competent law enforcement authorities in Afghanistan, currently

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<sup>23</sup> Source: Ministry of Foreign Affairs met during the visit.

<sup>24</sup> Source: FIDH/ADC “Memorial” – From Tajikistan to Russia: Vulnerability and abuse of migrant workers and their families, 2014. <https://www.fidh.org/IMG/pdf/russie641uk2014hd.pdf>

<sup>25</sup> The Ombudsman Office mentioned that so far they only received 1 complaint related to a trafficking case.

<sup>26</sup> Information confirmed by various sources: national authorities, NGOs and international organizations.

<sup>27</sup> International Crisis Group. Syria Calling: Radicalization in Central Asia

[http://www.crisisgroup.org/~media/Files/asia/central-asia/b072-syria-calling-radicalisation-in-central-asia.pdf](http://www.crisisgroup.org/~/media/Files/asia/central-asia/b072-syria-calling-radicalisation-in-central-asia.pdf)

<sup>28</sup> “TASS” news agency of Russia <http://tass.ru/mezhdunarodnaya-panorama/1644748>

<sup>29</sup> Source: IOM met during the visit.

<sup>30</sup> See also IOM study Drug Trafficking Economic Opportunity and Trafficking in Persons along the Tajik-Afghan border.

there are no effective instruments or mechanisms in place to address these trans-border crimes or identify victims<sup>31</sup>.

19. Trafficking for labour exploitation has also increased in recent years. According to the World Bank, migrants contribute the equivalent of 52 per cent of Tajikistan's GDP, making the country the most remittance-dependent in the world<sup>32</sup>. The number of Tajik workers in the Russian Federation, with which the Republic of Tajikistan has a visa-free regime, has decreased since the adoption of new restrictive migration laws. However, the Russian Federation remains the main destination country for Tajik workers. The laws introduced limitations on the re-entry or length of stay of migrants in the country and introduced bans on re-entry for migrants who might have violated the law<sup>33</sup>. The number of Tajik migrants deported from the Russian Federation reached up to 3,927 citizens in 2012<sup>34</sup>. In 2013, the Federal Migration Service of Russia stated that it had identified around 400,000 Tajik citizens whose status in the Russian Federation was irregular, and were thus potentially subject to re-entry bans<sup>35</sup>. The Special Representative was informed that 270,000 Tajik citizens were subject to re-entry bans<sup>36</sup>.
20. During the Special Representative's visit, authorities and international organizations raised concerns about the consequences for migrants forbidden from going back to Russia who constitute a vulnerable group for traffickers, including for possible recruitment into foreign fighting by deceptive means or force. In this regard, the Special Representative noted with satisfaction that a hotline was set-up in the Informational and Resource Centre run in the past by IOM in co-operation with the State Migration Agency of Tajikistan in consultation with the Federal Security Service of Russia to monitor the status of migrants that might be banned.
21. Tajikistan is also a destination country for trafficking. The Special Representative was informed for instance about a case involving Bangladeshis on construction sites, in which 22 victims complained and traffickers were sentenced to 9 years in prison<sup>37</sup>.

### **Prevention activities**

22. Several NGOs mentioned that more awareness campaigns should be conducted since the various forms of the "trafficking phenomenon" are still not well known, and that it should be included in the national school curriculum and other institutions. In this regard, the Special Representative is pleased to note that the Police Academy is currently integrating a 20-hour training course on trafficking with the support of the OSCE field Office in Tajikistan into the curriculum of law enforcement officers at the Academy<sup>38</sup>. More information on trafficking should be disseminated in Tajik and minority languages<sup>39</sup>, more specifically awareness on the new legislation should also be raised.

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<sup>31</sup> Source: NGOs and OSCE Office in Tajikistan. Mapping of Services and activities in counter-trafficking field in the Republic of Tajikistan, 2012.

<sup>32</sup> World Bank, Migration and Remittances: Recent Developments and Outlook, <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/MigrationandDevelopmentBrief22.pdf>

<sup>33</sup> FIDH/ADC "Memorial" – From Tajikistan to Russia: Vulnerability and abuse of migrant workers and their families, 2014.

<sup>34</sup> FIDH/ADC "Memorial" – From Tajikistan to Russia: Vulnerability and abuse of migrant workers and their families, 2014.

<sup>35</sup> IOM "Tajik Migrants with Re-entry Bans to the Russian Federation", 2014.

<sup>36</sup> Source: Ministry of Labour.

<sup>37</sup> Source: NGOs and Ministry of Labour.

<sup>38</sup> Source: meeting with the Deputy Chief of the Police Academy.

<sup>39</sup> Different ethnic groups speak Uzbek, Kyrgyz, and Pashto, <https://www.cia.gov/library/publications/the-world-factbook/geos/mk.html>

23. The Special Representative praised the authorities for paying special attention to the prevention of THB among children, in particular to encourage mobile operators and providers of mobile and internet connections to sign internal and interstate agreements requiring them to provide for children's safe use of mobile and other telecommunication services and to envisage special measures addressed to mobile and internet providers as mentioned in the Law.<sup>40</sup>
24. The Special Representative recommended that specific awareness must be further developed among the most at-risk population, such as migrants banned from re-entering Russia, with special attention to possible recruitment of those migrants for conflict related-purposes.

### **Identification of victims**

25. Victim identification is still a challenge in Tajikistan, as in many other countries, since many victims fear stigmatization (especially when they are victims of trafficking for sexual exploitation) or because victims have little faith in the ability of law enforcement to protect them. In 2013, 30 victims of trafficking were identified and 27 were identified in 2014<sup>41</sup>. According to legislation enacted in 2014, law enforcement, NGOs and international organizations can identify victims at first, but the official status as a victim of trafficking is granted by the Inter-Agency Commission<sup>42</sup>. In this regard, the Special Representative recommends that the authorities of Tajikistan improve identification procedures to reduce double victimization.
26. The Special Representative recalled the importance of involving as many stakeholders as possible in order to improve the identification of victims. In this regard, she stated that social workers and labour inspectors are key actors in this field, and that their capacity should be built through appropriate trainings. During her visit, the Special Representative was informed that 60 labour inspectors in the country monitored 530 entities in 2014 and that 435 violations were noted<sup>43</sup>. However, she regretted in particular that labour inspectors are not sufficiently involved in proactively identifying potential victims in at-risk sectors conducting on-site inspections without prior notice.
27. During her visit, the Special Representative was informed about law enforcement agencies' continuing inability to distinguish between prostitution and trafficking for sexual exploitation, causing them to fail in identifying potential victims of trafficking in prostitution cases. She therefore recommended additional training to be delivered to increase law enforcement's capacity in this field.
28. The Special Representative stressed the importance of the role of consular staff in identifying and assisting presumed victims abroad<sup>44</sup> and encouraged the authorities to continue to provide them with specific trainings as has been organized in the past<sup>45</sup>.

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<sup>40</sup> Article 11.4 of the 2014 Law.

<sup>41</sup> Source: Prosecutor General Office. At the time of the visit in June 2015, so far 7 cases had been identified.

<sup>42</sup> See article 21 of the law.

<sup>43</sup> Source: Ministry of Labour. Planned and extra-planned inspections are organized within the whole country. Extra-planned inspections are carried out after receiving complaints.

<sup>44</sup> As also mentioned in article 40.4 of the Law.

<sup>45</sup> According to the MFA, training have been organized in 2009 for the heads of consular departments.



### **Victim assistance and protection**

29. There are currently three shelters in the country: two in Dushanbe and one in Khujand. The Special Representative had the opportunity to visit the 2 shelters in Dushanbe, one for women, created in 2006, and the other one which opened in 2009 for men. The Special Representative commends the opening of a shelter for men as a good practice, as there are few shelters for men in the OSCE region. The Special Representative positively notes Principle 2 of the Guiding Principles of the National Action Plan for Combating Trafficking in Human Beings and Illegal Migration that describes the participation of the civil society sector in combating human trafficking by conducting research and analysis, conducting preventive activities, providing assistance and support to victims in the shelter for trafficking victims and in the process of their reintegration in the social environment. She noted that the shelters are currently being run by the NGO Femida and mainly funded by IOM, USAID and Norwegian support.
30. During the visit, non-state actors alerted the Special Representative that the current funding of these shelters would be discontinued by the end of September 2015. Despite extensively contacting the Tajik authorities, no formal commitment was taken yet to ensure the continuity and functioning of the shelters by the authorities. The Special Representative positively welcomes the state initiative to cover the shelters' public utilities. However, the Special Representative called on the Government to fully support the two shelters in Dushanbe and one in Khujand to ensure that all victims can continue to be assisted, and to envisage the possibility to open other shelters in the country so that more assistance and protection should be available.
31. Although she had no opportunity to meet with the Ministry of Health, the Special Representative wishes to highlight the significance of this institution, as it plays a leading role in victim assistance and protection. Moreover, the Special Representative welcomes the Ministry's important role in developing and finalizing the NRM and Action Plan accordingly, as well as in finding a sustainable solution for running the shelters.
32. The Special Representative wishes to recall the importance of implementing the non-punishment clause for victims of trafficking, regardless of their legal status, for administrative and criminal offences committed in the course, or as a consequence of, being trafficked<sup>46</sup>.
33. In this regard, she praises the authorities for having included the non-punishment clause in State legislation<sup>47</sup> and has been informed of concrete cases when the non-punishment was effectively applied<sup>48</sup>. Since the limitation of the application of the non-punishment clause is to be granted with the official status of victim, the Special Representative encourages the Inter-Agency Commission to do its utmost in granting the official status of victim of trafficking with no delay. She would recommend that this clause continues to be explained to all stakeholders and interpreted in a broad way by judges and prosecutors, and therefore suggests that the authorities organize regular training, in particular to criminal justice stakeholders. She also offers her Office's assistance in this matter.

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<sup>46</sup> See "Policy and legislative recommendations towards an effective implementation of the non-punishment provision with regard to victims of trafficking" OSCE 2013.

<sup>47</sup> See article 20.4 of the Law.

<sup>48</sup> For instance in the case involving Bangladeshis in construction sites (source: NGOs).

34. The Special Representative would also like to thank the authorities for sending the Head of Department for the Preliminary Investigation from the General Prosecutor's Office to the training on the non-punishment clause jointly organized by the OSCE and the Council of Europe in Strasbourg in March 2015<sup>49</sup>.
35. According to the new Law<sup>50</sup>, diplomatic representatives and consulates of the Republic of Tajikistan will identify and in the appropriate manner protect the rights and interests of citizens of the Republic of Tajikistan who have become victims of trafficking in human beings. The Special Representative welcomes this provision and praises the authorities for having facilitated regular trainings for diplomatic staff, in co-operation with IOM, and for having signed bilateral agreements with several countries to facilitate the repatriation of victims of trafficking back to Tajikistan<sup>51</sup>. However, in the course of the visit, civil society interlocutors expressed their concern in actual practice as well as specific administrative issues, e.g. when victims are identified in Russia.
36. Victims' access to justice and remedies, including access to a compensation fund, has been a priority for the Special Representative, both as a preventive and protective measure as it empowers victims and deters exploitation. The Special Representative emphasized that making compensation a reality for every trafficked and exploited person is a crucial aspect of an empowerment strategy that enables trafficked persons to move forward with their lives and prevents re-trafficking.
37. During the visit, the Special Representative was informed of actual cases where victims had received compensation from assets seized from traffickers. However, she encourages the authorities to set up a State Compensation fund which could also allow victims to get compensation when seizing assets from perpetrators is not possible.
38. Marginalization and stigmatization of victims of sexual exploitation is a pressing problem which requires a serious approach on behalf of all organizations rendering assistance to the trafficked persons. Victims of trafficking are regarded as immoral when it is known that they were involved in prostitution and they are rarely seen as victims. The reaction of the community and family will therefore have serious repercussions on the re-integration process. If a woman is stigmatized she may feel isolated and rejected, leading her to leave her community and putting her at greater risk of being trafficked once again. The Special Representative wishes therefore that more efforts are made to facilitate the reintegration of victims into society and fight the stigma they usually face by raising awareness among the population at large.

### **Prosecution and convictions**

39. The Special Representative noticed that, as in many countries, the criminal justice response to trafficking cases in Tajikistan still needs to be strengthened. In this regard, she encouraged the authorities to continue to train all relevant officials in order to increase the criminal justice response. In 2013, 30 THB related cases were initiated involving 22 traffickers while in 2014, 27 cases were initiated involving 36 traffickers. During the first five months of 2015, 7 criminal cases were initiated<sup>52</sup>.

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<sup>49</sup> OSCE <http://www.osce.org/cthb/153661>

<sup>50</sup> See article 40.4 of the Law.

<sup>51</sup> Source: Ministry of Foreign Affairs.

<sup>52</sup> Information given during the visit by the Prosecutor General's Office.

40. She praised the activities of the Police Academy to train police officers with a dedicated 20-hour course on counteracting trafficking in human beings. She also appreciated the support given by the OSCE Field Office in Tajikistan in providing experts to support the work of the Police Academy and to advise on the curriculum of the course, in particular with regard to the new legislation in this field<sup>53</sup>. The Special Representative positively assessed the continued co-operation between the Police Academy and the OSCE Office in Tajikistan to fight human trafficking, and encouraged them to continue engaging in the professional development of teachers.
41. The Special Representative recalled that, as stated in the OSCE Action Plan on CTHB, investigators and prosecutors are encouraged to carry out investigations and prosecutions without relying solely and exclusively on a witness testimony. It is recommended to explore alternative investigative strategies (including financial and forensic ones) to preclude the need for victims to be required to testify in court, or lessen the burden on those that do give evidence.
42. The Special Representative encouraged the use of proactive investigations and financial investigations in human trafficking cases, with the aim of ensuring the confiscation of criminal proceeds and assets, as a measure to ensure victim compensation, deterrence for the perpetrators and also funding for further state action on CTHB.
43. The Special Representative regretted the lack of the use of financial investigations in the country and offered her Office's further technical assistance in this field.
44. The Special Representative noted with satisfaction that the Ministry of Internal Affairs was keen on ensuring that female police officers could deal with female victims of crimes, including victims of trafficking<sup>54</sup>. She also praised the authorities for having set up victim-friendly interview rooms with the support of the OSCE<sup>55</sup>.
45. During the visit, some NGOs raised the issue of the lack of confidentiality during criminal proceedings. Although this information was not confirmed by Tajik authorities, the Special Representative wished to reintegrate the importance of respecting confidentiality of all victims before and during criminal proceedings, which is also a key factor that could end victims' complaints.

### **Co-operation with NGOs**

46. The Special Representative recalled the importance of the role of civil society as a crucial actor in the fight against trafficking in human beings as it has a complementary added value. NGOs are often very professional and reliable counterparts in conducting prevention activities, raising awareness and providing protection and assistance to victims.

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<sup>53</sup> Source: Police Academy met during the visit.

<sup>54</sup> In particular the special police unit n.4 within the Crime Investigation Department of the MIA (source: Ministry of Internal Affairs).

<sup>55</sup> Source: Ministry of Internal Affairs.

## **Recommendations**

### **1. Improve the legal and policy framework by:**

- Assessing the implementation of new legislation and identifying potential gaps;
- Analysing new trafficking trends in the country and the impact of past activities before drafting the new Action Plan accordingly;
- Finalizing the National Referral Mechanism providing a clear framework for the co-operation of all stakeholders from state agencies and civil society;
- Ratifying ILO Convention 189 on Domestic Workers;
- Ratifying ILO Protocol of 2014 to the Forced Labour Convention, 1930 - P029.

### **2. Enhance prevention activities encompassing all forms of trafficking by:**

- Raising awareness on all forms of trafficking, including on domestic servitude, forced labour, forced begging, internal trafficking of girls and the recruitment for armed conflicts;
- Strengthening child protection and undertaking specific prevention activities among children at-risk, i.e. unaccompanied and separated children, street children, children without birth registration, abandoned children, children in cotton fields, children in child institutions/orphanages, children in alternative care, runaway youth, children with disabilities, children belonging to national minorities, children without any citizenship, child asylum-seekers, refugees and IDPs, and children left behind by migrating parents;
- Undertaking awareness-raising activities among other vulnerable groups such as abandoned wives, victims of domestic violence, sex workers as well as migrants banned re-entry to the Russian Federation;
- Involving NGOs in awareness-raising activities in educational institutions, including schools and universities;
- Undertaking activities to prevent human trafficking for labour exploitation in supply chains, as relates to agriculture and construction, and also in the service sector, to ensure that goods and services are not produced by trafficked labour<sup>56</sup>.

### **3. Strengthen the identification of presumed victims by:**

- Strengthening the role and involvement of labour inspectors in pro-actively conducting on-site inspections without prior notice as well as in identifying presumed victims of trafficking;
- Continuing to train consular staff in identifying and assisting victims abroad;
- Identifying potential victims among migrants (especially towards Russia), and in particular those in detention centres;
- Identifying victims among children at-risk (street children, migrants...etc);
- Training law enforcement to distinguish between prostitution and trafficking for sexual exploitation.

### **4. Improve assistance to victims and protection of victim's rights, by:**

- Ensuring the functioning of the two shelters in Dushanbe and one in Khujand by urgently taking over the current financial support from international donors; victims' assistance is crucial and has to be sustainable - therefore it should be less donor-dependent; the Government might also consider opening other shelters in the regions in addition to the one in Khujand;

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<sup>56</sup> OSCE Permanent Council, *Decision No. 1107 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later*, PC.DEC/1107 (6 December 2013).

- Securing adequate funding to ensure victims’ access to full assistance services;
- Ensuring the continuity of the Inter-Agency’s work so that victims are granted an official status and receive adequate protection in the shortest possible timeframe;
- Signing bilateral agreements with destination countries to facilitate the assistance and repatriation of victims of trafficking;
- Continuing to train all relevant stakeholders, in particular law enforcement officers, prosecutors and judges on the non-punishment principle that should be applied to all victims of trafficking;
- Establishing a State compensation fund which could compensate victims when no assets are seized from perpetrators;
- Facilitating the reintegration of victims in their community and fighting any possible stigmatization they may face.

**5. Strengthen the criminal justice response by;**

- Training law enforcement officers on using financial investigations, with possible support from the OSR/CTHB office;
- Ensuring the confidentiality of victims during criminal proceedings, with special care when dealing with children in line with international conventions on the protection of children.

**6. Strengthen co-operation with all stakeholders, in particular NGOs by;**

- Increasing the involvement of the Ombudsman’s office in the field of trafficking, including participating in the Inter-agency commission; fostering the inclusion in the Ombudsman’s report of progress made in the field of trafficking and in particular, monitoring the implementation of the non-punishment clause;
- Ensuring that co-ordination mechanisms are multidisciplinary and involve all relevant ministries and other stakeholders, in particular NGOs, on an equal basis;
- The Special Representative welcomes re-establishing the High-Level Quarterly Dialogue on anti-trafficking of human beings between state authorities, civil society and international organizations after a long break;
- The Special Representative encourages the authorities of Tajikistan to increase their efforts on co-operating with civil-society and commends NGOs for their valuable activities in combating trafficking in human beings.

## APPENDIX 1

### PROGRAMME OF THE VISIT OF THE OSCE SPECIAL REPRESENTATIVE AND COORDINATOR FOR COMBATTING TRAFFICKING IN HUMAN BEINGS TO THE REPUBLIC OF TAJIKISTAN

08–11 JUNE, 2015

<b>Day One - Monday, 08 June 2015</b>	
11:00 - 11:30	Welcome meeting at the Kazakh Embassy in Dushanbe, Tajikistan  Ambassador Agbay Smagulov  (Dushanbe, 31/1 Husein Zoda)
12:00 – 13:30	Meeting with Head of Mission OSCE in Tajikistan  Business Lunch – with Ambassador Markus Mueller and members of delegation ("Serena" Hotel, Restaurant "Kuhzor" (top floor, #8 Firdavsi str., Dushanbe - the cost of dinner may be around of 120 Somoni per person)
14:00 – 15:30	Meeting with civil society representatives working in anti-trafficking field  (Building #3; OSCE OiT, #18A, A.Donish str., Dushanbe)
16:00 –17:00	Meeting with Ombudsman of the Republic of Tajikistan  Mr Zarif Alizoda, Ombudsman, Office in Republic of Tajikistan  (#7, Ikromi str., Dushanbe)
<b>Day Two – Tuesday, 09 June 2015</b>	
08:35	OSCE car picks you up from hotel
09:00 – 09:30	Visiting shelter (operated by NGO "Femida" under support of IOM)
10:00 – 11:00	Meeting with Ministry of Labor, Migration and Employment of Republic of Tajikistan  (#5/2, Navoi str., Dushanbe)  Mr Mahmadulloev Nurullo, Deputy Minister
11:30 – 12:30	Meeting with the Ministry of Internal Affairs of Republic of Tajikistan  (#29, J.Ikromi str., Dushanbe)  Mr Aslamshozoda Abdurakhmon, Deputy Minister  Mr Amirshoev Jamshed, Deputy Head of Department for Combating Organized Crime,

	MIA
12:30 – 13:30	Lunch (“Segafredo”, Rudaki prospect)
13:45 – 14:45	Meeting with Ministry of Foreign Affairs of Republic of Tajikistan (#33, Sheroz str., Dushanbe) Mr Davlatzoda Parviz, Deputy Minister
15:00 – 16:00	Meeting with General Prosecutor’s Office of the Republic of Tajikistan (#14, Rahimi str., Dushanbe) Mr Nazarzoda Hotam, Deputy General Prosecutor
18:30	Business Dinner («Hyatt Regency» Hotel) The dinner is paid by OSCE OiT
<b>Day Three – Wednesday, 10 June 2015</b>	
09:00 – 10:00	Meeting with IOM Mission to Tajikistan (#22A, Second alley to Azizbekova str., Dushanbe) Mr. Zohir Navjavonov, Officer in Charge, IOM Mission to RT Mr. Bahrom Rahmatjonov Counter Trafficking Program Manager Ms. Nushofarin Noziri, Counter Trafficking Program Assistant Ms. Nodira Odinaeva, Counter Trafficking Program Assistant
10:30 – 11:30	Meeting with Inter-Agency Commission on Combating Trafficking in Human Beings under the Executive Apparatus of Presidential Office (The building of Executive Apparatus of Presidential Office, Rudaki prospect) Mr Fayzullozoda Sharaf, Head of Inter-Agency Commission
12:00 – 13:00	Meeting with Academy of MIA (#123, Vosse str., Dushanbe) Mr Sharifzoda Faizali, Head of Academy Mr Soliev Karim, Deputy Head of Academy Mr Nasurov Pulod, Chair of Department Ms Ubaydullaeva Firuza, Head of Post-Graduate Department Ms Karimova Lilia, Officer on international affairs

13:30 – 14:30	Business Lunch with international organizations operating in Tajikistan “Sheraton” Hotel (#48, Ayni str., Dushanbe) The lunch is paid by OSCE OiT
15:00 – 16:00	Meeting with Supreme Court of the Republic of Tajikistan Ms Kholova Basbi, Supreme Judge/Deputy Head of Supreme Court (#1, Karabaeva prospect, Dushanbe) Afterwards, driver will take you to OSCE office
16:30-17:30	Debriefing/discussion session with OSCE OiT staff members Interview with SR CTHB (OSCE OiT, #18A, A.Donish str., Dushanbe)
18:30	Dinner (“Zafar” National Restaurant, 26/1 Somoni str.)
<b>Day Four – Thursday, 11 June 2015</b>	
05:40am	Departure from Dushanbe