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*Special Representative
on Combating Trafficking in Human Beings*

Part 1

ALLIANCE

AGAINST TRAFFICKING IN PERSONS

STATEMENTS AT THE FIRST MEETING

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WELCOMING ADDRESSES

Ambassador Ivo Petrov
Chairman of the OSCE Permanent Council

Ladies and Gentlemen,

It is an honour and a privilege to address the first meeting organized by the OSCE Special Representative on Combating Trafficking in Human Beings, Dr. Helga Konrad, which aims at consolidating existing partnerships with main international organizations into an alliance against trafficking in human beings.

Trafficking in Human Beings is currently one of the most urgent and complex human rights issue which demands a more appropriate and co-ordinated response from the international community. The response to this multifaceted, ever increasing problem, must be interdisciplinary and international. We are faced with a transnational crime and combating this global problem will require concerted action at national, regional and international levels. Countries of origin, transit and destination must work together in order to achieve significant progress.

Therefore, in December 2003, the OSCE in its Ministerial Council in Maastricht has adopted a comprehensive Action Plan to Combat Trafficking in Human Beings, which addresses the problem comprehensively, covering protection of victims, the prevention of trafficking in human beings and the prosecution of those who facilitate or commit the crimes. To assist participating States in the implementation of this Plan, the comprehensiveness of which has been developed in cooperation with other international organizations, the position of a Special Representative has been created, which is now filled by Dr. Helga Konrad. She will be assisted by an Anti-Trafficking Assistance Unit in the Secretariat, consisting of 4 Professionals. The Unit will promote coordination between individual participating States, both within the OSCE structures and with other international organizations. Other OSCE structures, such as the Office for Democratic Institutions and Human Rights, the Strategic Police Matters Unit, the Office of the Coordinator of Economic and Environmental Affairs, and other relevant staff will continue to assist these efforts through a multidisciplinary approach.

Various OSCE Declarations and Commitments reaffirm that trafficking in human beings is an abhorrent human rights abuse and a serious crime that demands a more comprehensive and coordinated response from participating States and the international community.

From a practical point of view, we can already look back on a number of substantial achievements in the implementation of anti-trafficking measures within the OSCE. Please allow me to point out some examples:

During the last years, numerous OSCE Field Missions established focal points that are solely committed to anti-trafficking measures. They assist hosting governments and civil society in designing and implementing National Plans of Action, National Referral Mechanisms as well as supporting legislative reviews.

A practical handbook on how to design and implement National Referral Mechanisms (NRM) has been published recently by the OSCE/ODIHR. It takes into consideration the necessity to develop a multidisciplinary and cross-sectoral approach to establish human rights protection mechanisms for victims while ensuring successful prosecution of the perpetrators.

An Anti-Trafficking Programme on the Public-Private Co-operation in the Prevention of Trafficking in Human Beings has been developed by the Office of the OSCE Co-ordinator of Economic and Environmental Activities (OCEEA). In three sub programmes it (1) promotes self-regulation of the private sector to join counter-trafficking efforts, (2) will help improve awareness raising in countries of destination and (3) create economic empowerment opportunities for potential victims. The implementation of this Programme has now started.

Finally, the OSCE has created strict standards of behaviour to ensure that its staff acts in compliance with international human rights standards precluding in any way affiliation with persons involved in trafficking in human beings.

In conclusion I would like one more time to stress that only strong international coordination and cooperation of our efforts will allow us to more effectively combat trafficking in human beings.

I wish all participants every success.

Thank you for your attention.

Ambassador Ján Kubiš
OSCE Secretary General

Trafficking operates in destabilized areas and destabilizes them further. When government structures and institutions are weak, organized crime moves in to fill the void. Criminal networks also deploy their activities within and across the borders of other States in the OSCE region and pose a serious threat to our common security. Trafficking in human beings, as one of the areas of transnational organized crime, is a problem which affects all our countries. It is a problem that no country can solve on its own. In the OSCE it has been recognized as a common concern, for which a common response is needed.

Since 1999 the OSCE has developed strong commitments to fight against trafficking. These were summarized in the **Action Plan to Combat Trafficking in Human Beings** which was endorsed in the Ministerial Council at Maastricht last December. Most recently, a Special Representative to the Chairmanship on Combating Trafficking in Human Beings has been appointed and an Anti-Trafficking Assistance Unit will be operational in the Secretariat in September.

This builds on the existing cross-dimensional approach involving field missions, the ODIHR and specialized units in the Secretariat.

Several **field missions** assist host States in legal reforms in order to enable ratification and compliance with the Palermo Protocol. They also support governmental representatives, civil society actors and law-enforcement structures to develop national referral mechanisms as a co-operative framework focussing on respecting the human rights of trafficked persons and on effective ways to give the victims the necessary assistance and services. The aim is to cope with the supply side of this problem, and to assist the victims of this modern form of slavery.

The Strategic Police Matters Unit is tasked with the enhancement of community policing, facilitating police training and the development of relevant materials. As a result of the first OSCE Meeting of Police Experts in 2003, a workshop will be held next week here in Vienna on investigating sexual crimes.

The Office of the Coordinator for Economic and Environmental Affairs has developed several projects aimed at groups at risk, such as young women in countries of transition, giving them the possibility to receive training on the development of Small and Medium size Enterprises, in order to increase their job opportunities. The Co-ordinator is also working on self-regulatory mechanisms, such as codes of conduct, in order to stem exploitation in various economic fields including in the tourist and entertainment industry.

The Secretariat is developing and implementing training for all staff members on the issue of trafficking. A strong emphasis is made on the importance of an exemplary behaviour of our staff. As I said during the EU STOP conference in Brussels in September 2002, it is of utmost importance that our staff (particularly in field missions) reflect the values which we promote through their own behaviour, on the job and in their private time. We have to practice what we preach. We can not, even unwittingly, contribute to human trafficking. Acceptable standards of behaviour have been outlined in a Code of Conduct and a general

staff instruction. I note that a similar approach is being taken by other international organizations and I think that it is useful to compare notes in this regard.

Work ethics is just one of the areas where a continuous exchange of information and co-operation can be fruitful. The OSCE remains committed to co-operate with other international organizations and co-ordinate efforts to address all areas of combating trafficking. In the **Edinburgh Declaration of the OSCE Parliamentary Assembly**, issued on 9 July of this year, the OSCE is encouraged "to take a leading role in the OSCE region in co-ordinating, at the level of headquarters and in the field, all regional efforts to combat human trafficking, in co-operation with the United Nations and other international organizations, so as to ensure a greater level of effectiveness."

Co-operation and co-ordination among different institutions and NGOs is indispensable in order to avoid duplications and to create synergies among different programmes which will help to enhance effectiveness of these planned actions. Positive lessons on the benefits of sharing information and expertise can be learned by the role played by the **Anti-Trafficking Task Force of the Stability Pact for South Eastern Europe**. I am glad that its leader, Helga Konrad, will be bringing her rich experience to the OSCE.

A word of caution. As in other aspects of the OSCE's work, we have to make sure that there is a link between commitments and resources. Much of the OSCE's anti-trafficking work depends on extra-budgetary contributions. That is welcome, but in order to have a co-ordinated and sustainable strategy we need to have sufficient core funding. It will also be important to ensure internal co-ordination of the OSCE's multi-faceted approach, especially because anti-trafficking has some many dimensions: the human aspect, legal, policing, borders, socio-economic. New programmes should be developed taking into account existing structures and linking them to ongoing activities, in order to create an interaction that produces a combined effect which is greater than the sum of separate parts.

In conclusion, I fully support the efforts of the Special Representative to strengthen and consolidate our existing partnership with other organizations, to promote a common strategy in the fight against trafficking, building on the anti-trafficking activities that have been developed in the last years. Each of our organizations has its specialized field of operations. But we are allies in a common cause. Working together we can take effective action against trafficking in human beings.

Helga Konrad
OSCE Special Representative on Combating Trafficking in Human Beings

Let me warmly welcome you again to this meeting right before the summer break – a few of those invited may already be on holiday – so I appreciate it all the more that such an august group has gathered here today in support of the *Alliance Against Trafficking in Persons*.

Bearing in mind that the key to sustainable solutions in the fight against trafficking in human beings is cooperation and coordination, I am happy to have this opportunity to consolidate the existing partnership with other international, intergovernmental and non-governmental organisations, which was the outcome of our joint anti-trafficking work in South-Eastern Europe, and to extend it to the entire OSCE region.

If trafficking in human beings is to be counteracted effectively, and the fight against it is to be taken forward, then we shall have to pool all our forces and resources. In order to provide guidance on anti-trafficking management to those responsible on the spot – namely the governments and governmental authorities – the various players and stakeholders have to interact. What is in demand here, is our cooperation – the close cooperation of all major international organisations and NGOs – on this intricate problem of human trafficking. What is needed is your, is our profound expertise, our international know-how – to put it in a nutshell – our joint and common vital input.

As we all know, trafficking in persons is a very complex problem and cannot be captured in single-snapshot. It is better characterised as a series of actions unfolding like a movie. This is to say that it does not happen within a given moment in time, and then it is over, nor does it happen in one place. It is not perpetrated only in the country where the victim or the criminal is discovered, it is much rather a chain or series of criminal offences and of human rights violations starting in the country of origin and extending over time and across countries of transit into countries of destination. Even internal trafficking – which is on the rise – involves a series of crimes and human rights violations that extend over time. And the different links/parts of this chain require different responses.

I have tried to make today's agenda reflect the diverse dimensions of this continuum. And my thanks go to all those who are going to share their specialised experience and knowledge with us today and to throw light on this complex/intricate puzzle and on the appropriate and necessary responses.

I would hope that as one of the outcomes of this meeting we could help decision-makers, practitioners and donors to make the right choices in their approaches to human trafficking and to find the right path to effectively combating this horrible crime.

If we use the UN Protocol against Trafficking in Persons as the starting point of the modern era of confronting human trafficking, then this world-wide problem has now received concerted international attention for at least four years. This was when governments started to put this issue on their political agenda, the broad enactment of anti-trafficking laws began, funding for anti-trafficking projects and programmes began to flow, and more and more governments, organisations and individuals devoted increasing attention to this problem.

Many good things – ranging from structural and institutional measures and collaborative initiatives to the development of comprehensive action plans at national levels - have been done and continue to be done. Yet, in spite of all these activities there does not seem to be evidence of a substantial reduction of human trafficking. But this is what all our activities are supposed and meant to be about.

We must be aware that when we got to the starting line the traffickers were already far ahead in this race and notwithstanding the progress we have made, we are still lagging behind, struggling to catch up. So we cannot rest on our laurels, just as a marathon runner cannot celebrate finishing the first mile.

So, the question is no longer what can be done about human trafficking but rather how we can do more and do it better and how to fit the various pieces of the puzzle together in order to achieve maximum effectiveness and sustainability.

And it is clear: There is no time to lose or wait.

We must no longer accept that traffickers collaborate more efficiently than democratic bodies and authorities do. We must ultimately accept that trafficking in persons is multi-dimensional and cannot be reduced to a simplistic, one-dimensional issue.

The eminent representatives of international, intergovernmental and non-governmental organisations who are meeting here today mirror the multi-dimensionality of the subject at issue. With your support and assistance I shall – in my new capacity as OSCE Special Representative on Combating Trafficking in Human Beings – try to contribute to making the unacceptable impracticable, to paraphrase the Armenian Ambassador to the OSCE.

I would like to call meetings such as this once or twice a year, in order to strengthen this ALLIANCE AGAINST TRAFFICKING IN PERSONS and to discuss developments and trends, to see where we stand and whether we are moving in the right direction.

A COUNCIL OF EUROPE CONVENTION FOR VICTIMS OF TRAFFICKING – THE VICTIM-CENTRED APPROACH

Maud de Boer Buquicchio
Deputy Secretary General, Council of Europe

I. No crime without victim

In Europe today, we accept the existence of dealers and supermarkets that sell people against their will. You can help yourself from a selection of "cleaners", "sex objects", "babies", "children and disabled persons ready for anything", "sundry organs", etc. You can even consult specialised catalogues or agencies which help you to find the person, or rather the "object", that you want.

It is happening on our doorsteps, in our industries and our fields, in our embassies and our homes, our fitness centres and our hotels. All kinds of customers use the services on offer: sick people, low-income households, diplomats, executives, lonely men, infertile women...

Against all logic, our society seems to tolerate this new form of slavery.

Trafficking in human beings **is obviously a crime**. This "business" is believed to be growing fastest in Central and Eastern Europe and the former Soviet Union. Europol estimates that the industry is now worth several billion dollars a year. This is also alarming because illicit profits are frequently used for corruption and other criminal activities. It is therefore urgent that this crime is properly prosecuted and that preventive measures are taken to avoid it spreading any further.

Of course, the political speech denounces trafficking in human beings as a crime. But this is not enough. We have to put it plainly: **trafficking in human beings is an affront to human dignity and therefore a violation of the most fundamental human rights**.

Trafficked persons are **victims** of violations of their fundamental rights. They are therefore entitled to adequate protection. To guarantee effective protection we first need to ensure that trafficked persons are recognised and treated as VICTIMS. This is a first, obvious – but oh so essential - step. However, in place of that missing step, there is very often an abyss into which victims fall and where traffickers hide to continue their trade in all impunity. Some may even think that the victims are also partly responsible for their fate. Even worse, some seem to think that trafficked persons are not victims at all. The persons who are the object of these transactions do not even have the consolation of being considered as victims. They are vulnerable people trying to survive or to improve their situations, far from their countries and their families, deceived by intermediaries, trapped by their "users", abandoned by a legal and social system which fails to protect them and is incapable of opening the gates of their imprisonment.

Compensation for the suffering and effective protection of the victim from any future harm constitute additional and important steps which are, unfortunately, far from being granted by most of our systems.

II. Both the crime and its victims are our concern

By its very nature, trafficking nearly always implies several states. To address the question effectively, **international co-operation** is a must. The international community feels concerned and this is very good news. Many initiatives have been taken to fight trafficking. The ultimate aim is to protect the social order. All international organisations around this table have addressed this issue. We have elaborated recommendations and action plans (both at international and national levels), reviewed national legislations, implemented assistance programmes, launched awareness raising campaigns and monitored progress. In this meeting room, we are all convinced that fighting trafficking means prevention, prosecution, awareness raising and last, but not least, protection of the victims.

And yet, so far, international **legal** co-operation has concentrated mainly in the measures needed to identify and prosecute the criminals, seize their gains, break their networks and eradicate the problem. These measures are indeed important but are they enough? The answer is no. Our social order cannot be effectively protected if we fail to protect and assist the direct victims of trafficking.

The 45 member states of the Council of Europe have of course ratified the European Convention on Human Rights, as well as numerous other texts which prohibit slavery, torture and inhuman and degrading treatment. It is then only natural that they are determined today to address the question of the victims of trafficking, by means of a legally binding instrument: a European Convention on action against trafficking in human beings.

The text of the Convention is currently going through its second reading. I have been observing the negotiations and I want to share with you my **mixed feelings** about the way our concerns are addressed.

1. Satisfaction

I obviously see with satisfaction the many measures foreseen to protect and assist the victims.

You will be pleased to hear that the current draft Convention includes a Chapter (III) entirely devoted to the measures **to protect and promote the rights of victims**, including gender equality issues. Very briefly, these measures cover:

- Identification of the victims: the authorities dealing with trafficking should co-operate with each other and be assisted by trained and qualified experts that will help them to identify the victims and to issue residence permits when appropriate. In those cases where there are reasonable grounds to believe that a person has been a victim of trafficking, states are asked to refrain from expelling that person from their territory until the identification process is completed.
- Assistance for the victims: the objective is to ensure their physical, psychological and social recovery, and the provision of appropriate and secure housing, medical and material assistance, counselling and information (in particular legal advice) in a language they understand; financial support, employment and training opportunities (including the possibility of obtaining work permits).
- Compensation and legal redress: the Convention guarantees legal advice and compensation for victims of trafficking. Such a compensation could be financed, for

instance, through the establishment of a fund for victim compensation, which could be funded, *inter alia*, by the assets confiscated from traffickers.

- Protection of private life (through appropriate management of data by the authorities and through the promotion of responsible behaviour of the media).
- Recovery and reflection period. Countries of destination and transit are requested to allow a victim to stay on their territory over a period of time which will have to be sufficient to allow the victim to recover, escape from the influence of traffickers and to be in a position to take an informed decision on co-operating with the competent authorities.
- Residence permits: an important provision tackles this controversial and difficult question. It would request states to provide, in conformity with their national laws, for the possibility of delivering a renewable residence permit to victims. I am particularly glad that the drafters of the Convention are not limiting the delivery of a residence permit to the victims' co-operation with law enforcement authorities. Indeed, the draft Convention will enable countries to deliver residence permits to victims of trafficking also when their stay is necessary owing to their personal situations.
- Repatriation of victims: a specific provision aims to cover those cases in which the victim returns to his/her country of origin. Some of the issues at stake are: the victim's safety, documentation, re-integration on the labour market and prevention of re-victimisation. Particular attention is paid to the cases in which the victims are children and to the need to co-operate with NGOs, law enforcement structures and social welfare agencies.

2. Relief

There is an important point that was missed by existing international instruments: the need to prosecute not only the traffickers but also the consumers of the "services" that victims of trafficking are forced to provide to. I am relieved to note that the draft Convention contains a provision asking the states to criminalise the use of services of a victim when the "consumer" knows that the person in question is a victim of trafficking. As obvious as this may seem, we still hear voices being raised against such a measure. I am relieved to see that our member states have decided not to hide behind wrong arguments such as respect of privacy or procedural difficulties.

3. Optimism

The establishment of a monitoring mechanism continues to be one of the main added values of the future Convention. The possibility for an independent body to examine the situation in the states party and to draw conclusions likely to help them to make the necessary progress is an enormous asset.

Another reason to be optimistic is that civil society is closely following the drafting process. We consider the participation of civil society both in the negotiation process of the Convention and in the implementation of its provisions as crucial in the success of any policy and legislation aimed at fighting trafficking.

I was extremely pleased to see that the last negotiation round started with the hearing of three major international NGOs: Amnesty International, Anti-Slavery International and *Terre des Hommes*. Their contributions, both oral and written, were instrumental, during the negotiations which followed, in developing provisions which addressed the core needs of victims. We look forward to continuing this dialogue with interested NGOs, which may have access to the latest version of the draft Convention at any time.

As regards the implementation of the provisions of the Convention, the text requires states to take measures to involve non-governmental organisations, other relevant organisations or other components of civil society. The vital role played by NGOs both in the prevention of trafficking and in the effective protection of victims is fully recognised and encouraged.

4. Worry

I am worried about the confusion that underlies the position of some of our member countries. Indeed, some authorities still mix the question of illegal migration with the issue of trafficking.

But illegal migrants are NOT victims of trafficking. Illegal migration and trafficking are different issues that need to be addressed separately. Of course, as any other vulnerable person, an illegal migrant may become a victim of trafficking. Some countries fear, however, that illegal migrants **voluntarily** become victims of trafficking to benefit from the protection granted to those victims. To this argument, I would oppose two remarks:

1. Firstly, one cannot voluntarily become a victim of trafficking. The definition of trafficking implies the absence of free consent of the victim. Traffickers use means such as threat, force or other forms of coercion, abduction, fraud, deception, abuse of power, etc... In the case of children (under the age of 18), the absence of those means of coercion and the existence of consent are irrelevant because the victims are minors.
2. Secondly, the event of an abuse of a right is not a reason to ignore that right. Just take the example of a man who kills his wife to cash in on the money from a life insurance. Would a case such as this justify that we decide not to protect all widows in the world? Do we really think that many people are ready to risk going through torture, ill-treatment, and deprivation of liberty, etc... just to move abroad? Aren't these persons supposed to migrate because they wish to improve their standard of living?

I am also worried because this confusion has a threefold effect:

1. victims of trafficking are denied their rights;
2. victims are treated as guilty people (illegal migrants): they are re-victimised;
3. one important (if not the most important) element of the policy against trafficking is neglected with the consequent risk of failing to address the issue in its complexity.

The conclusion is that such confusion will make us fail in our ultimate goal: to restore and protect social order.

5. Confidence

Despite the difficulty of the negotiations, I am confident in the outcome. For the first time, countries of origin, transit and destination have decided to use a binding instrument to develop a common policy against trafficking with due regard to the victims and which includes a monitoring mechanism.

Individual countries address the question from different angles, use different tools and achieve different results. International co-operation means re-thinking the whole national system and the necessary changes may sometimes be faced with major obstacles (ranging from social perception to legal traditions and economic reality).

Despite all of this, the Council of Europe's member states are drafting provisions which are both more far-reaching and precise than any other existing international binding instrument. I am confident in their ability to reach the highest possible level of commitment. This Convention should go beyond existing international texts, but should also reflect much more than the minimum common denominator of the different national policies.

III. A common concern deserves joint action

Ladies and Gentlemen,

I was very pleased to accept Mrs Konrad's invitation to this meeting. I was invited to speak about our draft Convention and the victim-centred approach. I deliberately omitted mentioning the many other efforts that we deploy in the fight against trafficking. Allow me just to draw your attention to the last reports of our Human Rights Commissioner as they are highly relevant to our discussions. I trust that my very personal and frank assessment of the draft Convention will contribute to feed a discussion to which I attach the utmost importance. Our discussion should indeed help us to find the answers to a very simple but crucial question:

How do we – international organisations, bodies and actors- make sure that our resources are used in the best possible way to protect the values and achieve the goals that justify our very existence?

I see enormous potential around this table. We bring together here a variety of expertise, political and legal tools, social support, financial backing, commitment and motivation. We have the unique opportunity to combine all these resources and attitudes to achieve a common goal: eradicate trafficking.

In my presentation I outlined a few difficulties that we have encountered in our negotiation process. I am convinced that if all the international organisations present here today agree on how to tackle each single issue and to combine their efforts to remove the obstacles, we will have all fulfilled our mandate.

Dear Helga,

I like the heading you gave to this meeting: "Alliance against trafficking". It makes me think of the story of the Lord of the Rings and the "Fellowship of the Ring" that was created to

defeat Evil. Every single member of that Fellowship had a different background and specific abilities. In the past, some of them had ignored or even fought each other. One day, they realised that they had a common goal. Fighting together, side by side, they discovered the interest of combining their efforts and trusting each other. They then achieved the noblest of aims.

Ladies and Gentlemen,

We should not care about who bears the ring. We should remember our common concern and remain loyal to our common goal. We just need to make sure that the ring is destroyed and that Evil is defeated. We have therefore to concentrate in what can be done, how, when and by whom.

I am at your disposal.

Gerda Theuermann

Director Consultancy Services, International Centre for Migration Policy Development

First of all, I would like to congratulate you, Madame Chair, on your appointment as the OSCE Special Representative on Combating Trafficking in Human Beings, which will allow you to spread out your knowledge and energy in this field of expertise, acquired in your tireless efforts in and with South Eastern Europe, to the whole OSCE region.

It is a pleasure to be here today and to address this important forum bringing together the main international organisations and agencies active in the combat of human trafficking as well as the OSCE participating states in order to form an alliance against the scourge of human trafficking. This alliance is a logical extension of the excellent and exemplary co-operation and co-ordination mechanism that you have managed to establish for the anti-trafficking response in South Eastern Europe. My organisation is proud to have been actively contributing by way of being part of the Expert Co-ordination Team of the Stability Pact Task Force on Human Trafficking (SPTF), together with other organisations present here and through implementing a range of regional training and capacity building measures. The experiences gained in South Eastern Europe have been unique in many ways and have actually established benchmarks and minimum standards for the entire OSCE region, both in terms of anti-trafficking policies and also as regards the fostering of a co-ordinated approach, seeking to avoid duplication and bringing scarce resources to an optimum use.

ICMPD therefore very much welcomes the idea of forming an anti-trafficking alliance for the OSCE region, and herewith pledges its full support to you, Special Representative, as well as to the OSCE bodies and its participating countries.

Madam Chair,

ICMPD would also like to express its appreciation of the work carried out in the context of the Council of Europe Ad Hoc Committee on Action Against Trafficking in Human Beings (CAHTEH), drafting a Convention on action against trafficking in human beings. The draft convention puts its main emphasis on the victims of trafficking crime, in order to ensure that anti-trafficking measures are responsive to their needs and thus offer the victims a fair chance to recover from the atrocities they have suffered. This victim-centred approach constitutes the main value of this draft Convention and offers an important complement to the United Nations Convention against Transnational Organised Crime and its protocol on human trafficking.

Trafficking in persons, while being a form of organized crime, constitutes first and foremost a human rights violation. A response to this crime therefore necessitates a human rights based, victim-centered approach, as amply laid out in the guidelines issued by the United Nations Office of the High Commissioner for Human Rights (UNHCHR), which is also represented here today. Accordingly, “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”. As is known, such an approach does not only fulfill the basic duty of governments vis-à-vis victims of crime, but it also furthers the combat of organized crime in that it renders investigation, prosecution and court procedures more efficient.

Madam Chair,

Trafficked persons are entitled to protection, assistance and redress in their own right and regardless of their willingness or capacity to press charges and/or give testimony against their traffickers. In this regard, the draft Convention is of crucial importance, as it proposes a definition of minimum standards for the basic social protection and assistance that should be afforded to victims. We would hope that the minimum standards eventually agreed upon by state parties will include safe and appropriate housing, medical and psychological care, counselling and information in a language the victims can understand, legal assistance, material and financial support, education, training and employment opportunities. All services must be provided on a voluntary and confidential basis and in a non-discriminatory and non-judgmental manner. The services must offer a real opportunity for trafficked persons to fully recover from the exploitation and trauma they have gone through, and to acquire their self-reliance in order to restart lives of their own choice.

It is important for official bodies to remember not only that trafficked persons are victims of crime and as such entitled to assistance, protection and redress, but also that their confidence in the State and its ability to protect the victims' interests are essential factors in influencing the victims' decision to co-operate with authorities in the prosecution of traffickers.

The draft Convention contains many indispensable elements that have so far been left to national discretion. These include the provisions relating to compensation and legal redress for victims; the identification of victims (especially the preparedness by state parties not to remove presumed trafficking victims from their territories prior to the conclusion of the identification procedure); as well as the provisions on a minimum recovery and reflection period for victims. Such a stabilisation period, irrespective of the victims' co-operation with the authorities, constitutes a crucial component in the anti-trafficking response. It allows victims to recuperate and to take informed decisions about their future options and whether or not to co-operate with the authorities in the prosecution of traffickers. The granting of such a stabilisation period is not only in compliance with states' obligations to protect the human rights of victims, it also serves to better prepare the victims' repatriation or their (re-) integration in the same or a third country and thus avoiding further re-trafficking. Victims must not be seen as instruments for prosecution. Experience has shown that taking the rights of victims seriously has in fact encouraged victims to participate in judicial proceedings, and thus is a crucial factor for enhancing effective criminal investigations and prosecutions.

It goes without saying that civil society is the key to a successful anti-trafficking response, and that they should be fully involved in all aspects, from prevention, to victim identification, assistance and support, including supporting the victims in their contact with the criminal justice system, and lastly, the repatriation of victims. Mention should be made of the fact that the OSCE ODIHR has recently issued a handbook containing guidelines on the co-operation of NGOs, law enforcement and the judiciary in the context of National Referral Mechanisms. NGOs should also be given an adequate role in the design and implementation of national anti-trafficking strategies and action plans.

Madam Chair,

The human rights based, victim-centred approach has been the basis of ICMPD's previous and current anti-trafficking programmes and projects in South-eastern Europe. The

experiences gained can provide some useful best practices on the actual implementation of these guidelines also for other parts of the OSCE region.

In the framework of the Stability Pact Task Force on Trafficking in Human Beings (SPTF), ICMPD has contributed to the development of a three-pronged training programme, which is human rights based and victim-centred and targets the key law enforcement and criminal justice agents, namely:

- (1) General police,
- (2) Special anti-trafficking investigators, as well as
- (3) Prosecutors and judges.

Well-trained law enforcement officers as well as prosecutors and judges knowledgeable about the special issues of trafficking in human beings are an indispensable part of an effective strategy to counter this horrible crime and human rights violation. The resulting training modules were validated, tested and adopted as regional standards by the countries of the South Eastern European region, and are now being included in the regular training curricula of police and judicial training institutes throughout the region.

Concerning the general police, ICMPD and the Austrian Ministry of the Interior have supported the countries in the SEE region to develop a regional best practice guide for anti-trafficking training of the general police, which was the first of its kind. Targeting non-specialist police this training module aims at enhancing the potential of these police officers to provide the initial response to trafficked victims, from better identification of victims to adequate treatment and protection, as well as the referral to shelters; moreover, front line police can contribute to anti-trafficking investigations by way of low-level counter trafficking intelligence gathering; lastly, the better co-operation between the police and NGOs is being promoted. To this end, the training is framed as awareness training, and to be delivered with input from NGOs, social workers, trauma specialists etc. The training standard promotes a new understanding of law enforcement as servant to society, as well as a balance between the objective of prosecuting perpetrators with the rights and needs of victims.

The second prong, the training module for special investigators, was developed under the leadership of UNDP Romania. Targeting specialised counter-trafficking investigators that hold specific responsibility for the crime, the module seeks to develop the capacity and investigative skills of specialist anti-trafficking investigators as well as enhance co-operation of specialised investigators in the region according to a regional investigative standard. ICMPD and UNDP Romania have agreed with the countries concerned to jointly follow up on generalist and specialist police training, thus promoting a comprehensive law enforcement training strategy.

The third component, a regional training standard developed for judges and prosecutors in 13 participating SEE countries/territories also subscribes to a multi-disciplinary, human rights based and victim centred approach. The module seeks to enhance a new understanding of the criminal justice system where the state recognizes its dual responsibility to both prosecute and convict the perpetrators, while also protecting the victims of crime, restoring their human rights and avoiding any further damage to the victim. In addition to a general awareness raising part and a description of the trafficking crime, and its impact on the victims, the module contains best practices for victim-sensitive prosecution and court proceedings.

Madam Chair,

ICMPD has also initiated a new regional project funded by the EU CARDS programme, which seeks to contribute to a more effective and sustainable national and regional anti-trafficking response in participating Western Balkans countries in a spirit of national ownership and in particular with the full involvement of civil society (NGOs). The project is implemented in close cooperation with the SAp countries, in partnership with the NGO Women's Room from Croatia and the NGO Victimology Society from Serbia working closely with the SPTF and its supporting organisations, especially the OSCE anti-trafficking focal points in the region.

Targeting the national anti-trafficking co-ordinators and national co-ordination teams, the project seeks to strengthen the capacities of these teams to develop and implement comprehensive national strategies and operational action plans, including in-built mechanisms for co-ordination, information management, ongoing assessments, monitoring and evaluation of anti-trafficking measures as well as review of strategies and action plans at regular intervals. As is known, governments in the region have established basic national structures and have also endorsed comprehensive national strategies and action plans to counter trafficking in human beings. Based on the actual experiences in their implementation in the past years, participating countries will consolidate their best practices into a comprehensive set of regional minimum standards, and guidelines for national strategies, action plans and monitoring schemes, for all areas of the national response (including coordination and supporting framework, prevention, protection and assistance as well as prosecution). A first set of regional minimum standards and guidelines should be ready by October 2004, and will be available also for other OSCE participating countries that are in the process of developing national strategies.

As for other activities, ICMPD also supports the International Labour Organisation (ILO) in capacity building and training to tackle the issue of trafficking for forced labour exploitation, and UNICEF in capacity building for child sensitive referral and protection schemes.

The work carried out in the context of the Stability Pact Task Force on Human Trafficking has brought about very sophisticated policy approaches and operational tools and best practice guides which can be of great use to the entire OSCE region.

As an example, ICMPD will, in partnership with some of the governments involved in the development of the regional anti-trafficking training standards for police and the judiciary, embark on projects to develop European (EU) curricula for police, border police, and the judiciary in the EU member and candidate states. Equally, contacts have been initiated to develop training and capacity building activities also in Central Asia, the Caucasus region and other CIS countries.

Madam Chair, Ladies and Gentlemen,

I wish us all a fruitful and successful cooperation in the framework of the Alliance against Trafficking in Persons. Allow me to reiterate the full commitment of ICMPD to work closely with the Special Representative, the OSCE bodies and the OSCE participating countries.

THE HUMAN RIGHTS COMPONENTS IN THE FIGHT AGAINST HUMAN TRAFFICKING

Zdislaw Kedzia

Chief of Research and Right to Development, UNOHCHR

Mr/Ms Chairperson

Fellow panellists, Ladies and Gentlemen

I would like to begin by thanking OSCE and its recently appointed Special Representative on Combating Trafficking in Human Beings, Ms. Helga Konrad, for organising this event and for providing an opportunity to debate on this very crucial issue. May I also congratulate OSCE for taking the initiative in setting up a potential alliance against trafficking in persons. There is no doubt that this problem has a global expanse and ramification and can be countered only by partnership of diverse players. In this context, I would also like to thank OSCE for close cooperation offered to our Office in different places, as e.g. in South-East Europe.

The crime of human trafficking means large numbers of victims, especially women and minors, tricked, sold, or otherwise coerced into situations of exploitation, forced labour or slavery-like-practices. Trafficking represents the denial of the right to liberty and security of the person, the right to freedom from torture, violence, cruelty or degrading treatment, the right to freedom of movement, the right to domicile and family, the right to education and health – everything that makes for a life in dignity. By its very definition, trafficking in human beings constitutes one of the grossest human rights violations.

Yet, despite its undeniable human rights dimensions, trafficking continues to be addressed as a mainly “law and order” problem and located primarily within the crime prevention framework. This is understandable as long as we speak about trafficking as a crime. This approach is, however, highly inadequate if applied to trafficked persons – victims of trafficking. As a consequence, victims of cross-border trafficking are criminalized and prosecuted as illegal aliens, undocumented workers or irregular migrants, rather than seen as victims of a crime. Women and young girls who are trafficked into the sex industry are rather charged with the crime of prostitution than receive assistance as victims. Trafficking as a crime needs to be prevented, the perpetrators prosecuted, and the rule of law strengthened. However, it is crucial that in all anti-trafficking interventions the human rights of the victim remain paramount and at the centre. It is, indeed, a challenge for the entire human rights community and I am very pleased to note that this approach is shared in this room, as previous speakers pointed it out.

Last year marks a critical phase in the area of anti-trafficking work, as crucial standards have been set. The UN Convention Against Transnational Organized Crime and the two Palermo Protocols became vital instruments addressing the issue of human trafficking and related aspects. In addition, the International UN Convention for the Protection of Migrant Workers and their Families also entered into force last year. The 60th session of the Human Rights Commission has established a new mandate – the SR on Trafficking in Human Beings, Especially Women and Children. The mandate holder is expected to be in office by the Fall

of 2004. The coming months will witness the implementation of these standards, and the aim of the OHCHR will be to provide policy and legal coordination to help integrating human rights at all levels of their implementation.

Against this backdrop of recent encouraging developments at the international, regional and national levels, the questions we need to ask ourselves are : Are the human rights of victims and potential victims of trafficking better protected? Is there a reduction in the magnitude of human trafficking after ten years of anti-trafficking interventions? Can we respond to any of these questions with a loud and clear ‘yes’?

From the reports and assessments coming in from various quarters we learn that the lives of those caught up in the sordid web of trafficking has not improved in any significant way. Attempts to reduce human trafficking and set up protective mechanisms for the victims and potential victims have not been particularly effective. This is not a very uplifting reflection but it is, I believe, an honest one.

Reports coming in attest to the fact that more people are being trafficked than ever before. The pool of potential victims in most parts of the world is growing on account of widespread inequalities, insecurity of food and livelihoods, violence, conflict, discrimination, and a general uprootment of populations resulting in unprecedented migrations. Increasingly restrictive immigration policies compel those desperate for work to turn to unscrupulous traders in human beings. Traffickers are able to operate with impunity because of inadequate law enforcement and protective measures for migrants, and in some instances, due to corruption. The global sex industry which claims a large number of victims in some regions, flourishes without any checks and constraints.

If we would like to claim to have been rather active in countering trafficking we should ask ourselves: What more can we do? What is it that we are not doing right? How do we assess the impact of our own anti-trafficking work and through which lens?

It seems that two fundamental principles should be referred to in this context:

- First: that human rights must be at the core of any credible anti-trafficking strategy; and
- Second: that we must work from the perspective of those who most need their human rights protected and promoted, i.e. from the perspective of victims of trafficking and those vulnerable to it.

These two principles are of course, interrelated. By placing human rights at the centre of our analysis and interventions, we are compelled to consider the needs of trafficked persons – and thereby confront poverty, inequality and discrimination which are the root causes of the phenomenon in the first place. Such an understanding then drives us to address prevention issues at the same time as providing assistance to the victims of trafficking and setting up protective measures so that their human rights are not further violated. By resorting to a genuine human rights approach which enables us to boldly declare “in the best interest of the trafficked person” we will find ourselves relying on integrated and comprehensive anti-trafficking strategies which address prevention, prosecution and protection in a holistic manner.

What does it mean to make human rights the core of anti-trafficking work? It means first and foremost, acknowledging that trafficking and related practices such as debt bondage, forced

labour, forced prostitution and forced marriage are themselves a violation of the basic human rights to which all persons are entitled.

A human rights approach also demands that we acknowledge the responsibility of governments to protect and promote the rights of all persons within their jurisdiction. This responsibility translates into legal obligations on governments towards eliminating trafficking and related exploitation.

Since the trafficked person is a victim of trafficking mostly upon being harboured in situations of forced labour and exploitation in the country of destination, a human rights approach places added responsibility on governments of destination countries. This translates into major concerns such as: proper victim identification, efficient prosecution of traffickers and above all, extending support and assistance to trafficked persons needed for victims to recover, including in the context of residence, repatriation and resettlement, as well as special measures to address the needs of child-victims.

The additional obligations on countries of destination are therefore crucial for these entail dealing with the entire complexity of anti-trafficking interventions, from prevention to prosecution and to protection. No longer can countries of destination simply assert that human trafficking is a ‘problem of those poor countries out there’ because the demand for trafficked persons and their confinement into sites of forced labour occurs within their own borders. Countries of destination need not only to refrain from policies which might inadvertently contribute to the human rights violations of trafficked persons but they also need to put in place special provisions which will enable the victims of trafficking to recover and reclaim their lives as human beings.

A human rights approach to trafficking also means enhanced bilateral and multilateral cooperation between countries of origin and destination in order to address the root causes of trafficking from the standpoint of prevention and to affect sustainable reintegration of the trafficked person into society, be it in the country of origin or destination, from the perspective of assistance and protection.

Finally, for the OHCHR, a human rights approach to trafficking implies that all parts of the international system should integrate human rights into their analysis of the problem and into their responses. This is the only way to retain a focus on the trafficked person, to ensure that trafficking is not simply reduced to a problem of migration, a problem of public order, a problem of law enforcement, or a problem of transnational crime

In developing detailed human rights based responses to each stage of the trafficking cycle our Office issued the **Recommended Principles and Guidelines on Human Rights and Human Trafficking** in July of 2002. We see it as a tool which aims to integrate the human rights of victims of trafficking is at all levels of anti-trafficking interventions. Taken together, we hope that the Recommended Principles and Guidelines will continue to contribute to the development of the human rights approach to trafficking.

Ambassador Christian Strohal
Director, ODIHR

First of all, I would like to join those who have thanked the new OSCE Special Representative on Combating Trafficking in Human Beings for organizing this conference. You provide us with an open and inclusive forum to discuss how to create a viable partnership between OSCE and all other international organizations to help in the fight against trafficking in human beings.

The OSCE Office for Democratic Institutions and Human Rights has been actively involved in combating trafficking in human beings for some years now, co-operating closely with OSCE field missions and other international organizations.

Based on the experience my Office has, I would like to present to you the following five points for action:

1. Protect the human rights of victims

Effective protection of the victim must be at the core of our fight against trafficking. To ensure victim protection, every anti-trafficking strategy must be based on a human rights approach.

Trafficked victims should not be treated as criminals or as illegal migrants, but as victims of serious human rights violations with the right to effective legal remedies, to legal protection, to non-discriminatory treatment and to rehabilitation.

ODIHR has, from the outset, taken a comprehensive approach in its anti- trafficking work. Our priority has been, and continues to be, to ensure that the protection of the human rights of any victim of trafficking is taken into account in all three areas of combating trafficking in human beings: prevention, protection and prosecution.

2. Act on the Action Plan

The **OSCE Action Plan to Combat Trafficking in Human Beings** is a major step forward in fighting trafficking. But it is only a promise. Promises have to be realized if they are to become anything more.

First of all, it must be realized by the governments of all the 55 OSCE participating States who have adopted the Plan.

Secondly, it must be realized by all of us and we should monitor the status and the progress of its implementation. At the same time, we must take note of any shortcomings, and provide a comprehensive assistance framework so that this promise can be realized without delay.

The Action Plan recognizes the importance of the ODIHR's work in all 3 dimensions of anti-trafficking work: prevention, protection, and prosecution.

With the implementation of the Action Plan, the ODIHR will increase its efforts in a number of areas, namely:

- **AWARENESS RAISING**: Promoting and carrying out awareness raising initiatives throughout the OSCE region, enhancing training activities with regard to the responsibility of the media for dealing with the topic of trafficking in a sensitive manner and without reinforcing negative stereotypes;
- **LEGISLATIVE REVIEW AND REFORM** – assisting the OSCE participating states in reforming domestic legislation and bringing it into compliance with international standards;
- **CAPACITY BUILDING**:
 - of national institutions and civil society (training of NGOs working in the anti-trafficking field and of national authorities), professional exchanges and provision of materials and publications;
 - intensify anti-trafficking training for OSCE field personnel in order to enhance their capacity to monitor, report and respond to the problem of trafficking - such trainings currently take place through the Human Dimension Induction Course carried out by the ODIHR on a regular basis;
- **NATIONAL REFERRAL MECHANISMS**: to design and establish NRMs closely with OSCE field missions and SPMU, develop materials and guidelines on the identification and interrogation of presumed trafficked persons, as well as for their social inclusion;
- Continuing to develop its **CLEARINGHOUSE FUNCTION** for collection and dissemination of information on measures, training programmes, and materials already in place, exchange contacts and good practice, thus to build institutional memory and capacity;
- Rendering **TECHNICAL ASSISTANCE** to participating states in developing National Action Plans and policies to combat trafficking in human beings;
- to continue supporting the OSCE field missions and their local partners in fulfilling OSCE commitments through the **ODIHR Anti- Trafficking Project Fund**.

3. Strengthen comprehensive national referral mechanisms

A significant achievement in implementing the OSCE Action Plan to Combat Trafficking in Human Beings is the development of comprehensive national systems, so-called **National Referral Mechanisms**.

They are a practical tool for countries, both governments and NGOs to meet challenges connected to trafficking in human beings, most importantly protecting the human rights of the victims.

Key aspects of National Referral Mechanisms, such as co-operation between police and non-governmental service providers, have been developed and implemented in several countries. They are based on the experience that a major precondition for effective anti-trafficking measures is the strengthening of relevant local and national institutions.

Earlier this year, ODIHR published a handbook on this issue, as a practical guide. Our next priority is to develop further guidelines and training materials for the design, implementation and monitoring of National Referral Mechanisms.

The handbook will also soon be published in the Russian version, enabling the governmental officials and NGOs in a number of the OSCE participating States to get familiar with the NRM approach.

4. Strengthen comprehensive international cooperation

At the international level, a special effort has to be made to ensure close and effective cooperation, in order to protect and assist victims of trafficking. They remain extremely vulnerable, even in the few cases when identified.

The provision of medical and psychological treatment remains scarce and problematic. The victims are rarely permitted to stay, even temporarily, in the destination country, but are usually sent back to their countries of origin. Without any assistance there, when repatriated, they are all too often simply re-trafficked.

These issues will be discussed at the conference "**Ensuring Human Rights Protection in countries of Destination: Breaking the Cycle of Trafficking**" organized by thee ODIHR and the Finnish Ministry for Foreign Affairs on **23 -24 September in Helsinki**.

The conference will build on recommendations from the 2001 Berlin Conference "Europe against Trafficking in Persons".

It will address the gaps in the human rights protection of trafficked persons in countries of destination.

It will aim to identify effective strategies to ensure human rights protection.

It also seeks to exchange good practices and identify practical measures to implement the OSCE Action Plan in countries of destination.

And I am particularly glad that the Special Representative has accepted an invitation to open the Conference, together with the Foreign Minister of Finland.

5. Support the new Special Representative

Finally, let me say once again: ODIHR welcomes the appointment of **Minister Helga Konrad as the OSCE Special Representative on Combating Trafficking in Human Beings**. We stand ready to support the work of the SR and her unit and to coordinate all related activities with her. Thank you.

TRAFFICKING IN CHILDREN AND MINORS

Helena Eversole

UNICEF Representative for Bosnia and Herzegovina

Good morning, Madame Chair, Ambassador Petrov, Secretary General Kubiš, Dr. Konrad, Distinguished Guests, Ladies and Gentlemen. I am delighted today to be representing the UNICEF Regional Director of UNICEF's office for Central and Eastern Europe, the Commonwealth of Independent States and the Baltic States.

First of all, I would like to congratulate Dr. Helga Konrad on her new position as OSCE's Special Representative on Combating Trafficking in Human Beings and thank her for her tireless work over the past 5 years as the Chair of the Stability Pact Task Force – in particular, for the efforts made on behalf of child victims of trafficking. She deserves recognition not only for raising awareness about child trafficking but especially for ensuring that concrete steps are being taken by governments in South Eastern Europe to address this problem.

Madame Chair, UNICEF's mandate is to advocate for the protection of children's rights and to support governments and other social actors in the fulfilment of these rights. We are guided by the Convention on the Rights of the Child and we work towards integration of children's rights into policies and strategies and promote them as enduring ethical principles of behaviour towards children.

UNICEF's human rights based approach to programming focuses on strengthening the capacities of **child protection systems** and of those **individuals** who are responsible for protecting children from harm – within the government as well as in the family and the community. In other words, UNICEF supports the strengthening of protective structures and capacities in the environment around the child.

When we examine the capacity gaps of both systems and individuals charged with protecting children, we clearly see that long term commitment and systematic work are required to achieve ultimate goal of eliminating trafficking in children. This **work must address root causes** of trafficking, such as poverty, discrimination, family violence, and social exclusion that make children and women especially vulnerable, or at high risk, to many forms of violence and exploitation, including trafficking. We also must take action to address the demand for sex and labour from children.

With these opening remarks, let me focus now on two areas: firstly on the trends in the trafficking of children that we now know. Secondly a few words on what UNICEF is doing to address these trends.

UNICEF, OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the UN Office for the High Commissioner of Human Rights have co-sponsored a **research for policy development** project for the past 3 years. This project has produced **two** comprehensive reports on the trends and responses to trafficking in South Eastern Europe. While you are all aware of these general trends, allow me to highlight some of the specific trends in relation to children.

The first Report gathered information from organisations working on trafficking in the region in 2002. A key finding indicated that **teenage girls under the age of 18 were being trafficked for the purposes of sexual exploitation, and children under the age of 12 – both boys and girls – were being trafficked for labour exploitation.** It was documented that young children were being trafficked from Albania to Greece and Italy for the purposes of begging and selling small items on the street.

This information was re-confirmed in 2003, with additional reports of trafficking of children not only from Albania to Greece and Italy, but also from Moldova and Romania for labour and sexual exploitation to the Russian Federation, Poland, the Czech Republic, and other EU countries. The majority of trafficked children were reportedly coming from the poorest, most disadvantaged and, often, dysfunctional families. Many of them were perceived to be from the Roma community.

In the 2003 Report, it noted that fewer trafficking victims were being identified in general. The analysis of this finding showed that the decrease in number of victims did not indicate a reduction in the number of people being trafficked but, rather, was an indication of the relative ineffectiveness of existing identification and assistance measures. The report estimated that approximately 90% of the foreign women working in the sex industry in the Balkan countries were victims of trafficking. Of this, between 10 and 15% were thought to be children, with an increase of up to 30% among trafficking victims from Moldova or Albania.

The horrors faced by children as a result of trafficking continue. Governments of South Eastern Europe have increased their anti-trafficking responses, especially through policy development and legislation reform, and have now acknowledged the issue of child trafficking. However, there continues to be considerable confusion about the definition of a ‘child’ and of a ‘child victim of trafficking’, and the largest share of support to anti-trafficking work still goes to law enforcement rather than victim support. Police throughout Europe regularly mistake trafficked children for adult victims. There is very little proactive identification of potential child victims, nor do police work on the assumption that a potential victim is a child pending verification of their age.

Many countries of South Eastern Europe have recently established bilateral cooperation agreements with countries in Western Europe to govern the repatriation of children. Children who may be illegal migrants, unaccompanied minors or victims of trafficking are rounded up off the streets of Western European countries and returned to their country of origin with little attention paid to their personal circumstances or victim status. Children are being repatriated without having had a Guardian appointed at any stage of the process, with no risk or security assessment carried out prior to their return and with very few services available upon their arrival in their country of origin. They are, quite simply, “dumped” back home and left to fend for themselves with little in the way of protective services and with no attention to what might be in their best interests.

Other trends that deeply concern UNICEF are:

- the level of internal trafficking of children – both for the purposes of labour and sexual exploitation,
- the trafficking of Roma children and involvement of certain Roma communities in trafficking, and

- the support required for women victims of trafficking who either left children when they were trafficked and/or are returning home with children born in the country of her victimization

So, based on these trends in child trafficking or child protection related to trafficking, UNICEF has taken serious steps at both policy and community or service delivery levels to address them.

At the policy level, UNICEF's work to strengthen the protective environment in the countries of SEE includes:

- the development of protection standards and supporting governments in their implementation. Building upon OHCHR's 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (2002), UNICEF developed, '**Guidelines for the Protection of the Rights of Child Victims of Trafficking**', in May 2003. Members of the Stability Pact Task Force on Human Trafficking committed themselves to implementing these Guidelines at their annual regional meeting in December 2003 and UNICEF is supporting governments to fulfil this commitment.
- UNICEF Child Protection staff in all SEE countries are cooperating with National Anti-trafficking Coordinators and participating in the child trafficking working groups to ensure that **National Plans of Action against Child Trafficking are developed and implemented** in accordance with a child rights approach.
- In the countries of South Eastern Europe, we are developing a **training manual** to facilitate the implementation of the UNICEF Guidelines within the framework of the National Plans of Action for Children and developing Standard Operating Procedures relating to different services for child victims.

At the local level, then, and within this context of strengthening legislative and policy frameworks, UNICEF is working with its international and local partner organisations and NGOs to enhance the capacities of child protection systems: professionals and service providers to protect and fulfil children's rights. Specifically, we have been:

- strengthening **referral mechanisms** for child protection, relevant for child victims of trafficking or other violations
- **training different professionals** to be able to identify and assist children at risk as well as to teach children skills to protect themselves;
- strengthening the child rights components of **training courses for police, judges and prosecutors;**
- **creating networks** of institutions and professionals that take an active role in child protection;
- **strengthening the capacities of local NGOs** and promote collaboration between them and other actors in this field;
- **ensuring that shelters** for victims of trafficking include appropriate forms of assistance for returned child victims;

UNICEF is also participating as an Observer in the Council of Europe's process to negotiate a new **European Convention on Action against Trafficking in Human Beings**. The first draft of this very important Convention had no specific references to children other than defining a child as any person under the age of 18. We are working collaboratively with members of the Convention Secretariat and Council of Europe member States to ensure that

Parties to the Convention do more than refrain from harmful actions and are obliged to undertake positive actions on behalf of children.

While the Palermo Protocol was the first UN Convention to directly respond to and regulate the issue of trafficking, the language in the Protocol is non-binding, and it does not contain specific provisions regarding the right of children to special protection measures. The Council of Europe and its member states gave Convention Secretariat the unique mandate to improve upon Palermo Protocols through developing this new European Convention. The drafting process so far has made good progress in expanding the scope to demarcate both trans-national and national trafficking, and in developing a detailed monitoring mechanism. However, to ensure that child victims of trafficking are assured of their right to be protected, the European Convention will need to go even further in meeting its mandate.

As the negotiations are still on going, UNICEF is actively promoting inclusion of child protection provisions in this Convention. **Since all member states of the CoE have ratified the Convention on the Rights of the Child, UNICEF is suggesting that the CRC be systematically integrated into this new European Convention.** As such, the language of the “child rights approach” would be more appropriate than the current “child-sensitive approach” being used in the Convention Preamble.

UNICEF is also advocating with the Convention Secretariat and the Council of Europe member states that the following elements be included in the Convention in order to ensure a minimum level of protection for child victims:

- i. **Irrelevance of consent** in the case of a child victim of trafficking;
- ii. **Presumption that the victim is a child**, when the age of the victim is uncertain and there are reasons to believe that the victim is a child
- iii. **Assistance to a child victims not being conditional** on their willingness to act as a witness;
- iv. **Use of child-sensitive interview techniques** and video-taped testimony for criminal proceedings;
- v. **Appointment of an appropriate adult immediately** upon identification of a child victim to act in the best interest of the child and ensure a durable solution; and,
- vi. **Risk and security assessment** of the context in the country of origin of the child prior to repatriation.

Let me conclude, that as an active participant in the Expert Task Force established in the context of the Stability Pact Task Force against Trafficking in Human Beings, UNICEF is hoping that, this Alliance Against Trafficking in Persons will continue to build upon the solid results and professionalism of the Expert Task Force, and be a forum where information is openly shared, issues are frankly discussed, organisational roles are clearly defined, and commitments are acted upon.

It will take no less to ensure strong cooperation at all levels in the fight against trafficking in human beings and to ensure a strengthened protective environment for all children.

Boris Scharlowski
Coordinator International Campaign against Child Trafficking, Terre des Hommes

Madam Chair,

Dear representatives of OSCE Member States,
Dear representatives from international and intergovernmental organisations,
Dear colleagues from non-governmental organisations,
Ladies and Gentlemen,

I would like to start by thanking the OSCE Special Representative on Combating Trafficking in Human Beings, Dr. Helga Konrad, for inviting the International Federation terre des hommes and its International Campaign against Child Trafficking to take part in this meeting of the Alliance against Trafficking in Persons. The fact that trafficking in children is put on the agenda of this gathering, gives a clear and strong positive signal.

As Co-ordinator of the International Campaign against Child Trafficking I would like to share with you some impressions of terre des hommes field experiences. Following this I will describe our main recommendations to the international community. In view of the time constraint I will only be able to offer you an overview of these issues.

From grass roots work to international campaigns: Terre des Hommes' experience

I represent the non-governmental organisation *terre des hommes*, a network of organisations based in eight different countries, all by two of them in Europe, which provide direct help to underprivileged children. We currently support development and humanitarian aid projects in 71 countries around the world. For the past three years we have been running a campaign on the topic of trafficking of children. This campaign follows an integrated approach including awareness raising activities, advocacy work towards relevant institutional actors and field programmes. Those focus on prevention, protection, voluntary assisted repatriation and rehabilitation of trafficked children. Campaign activities are being carried out in 36 different countries. Over 900 partner organisations throughout the world are contributing to the campaign's success and the achievement of its aims. In addition, personalities, such as the Nobel Prize Winners Nelson Mandela and Desmond Tutu as well as the internationally renowned child's rights expert Graça Machel, support these aims. Thus many of the remarks I will make today are based on the experience terre des hommes and its partners have gained during this campaign.

The case of trafficked children from Albania

According to estimations made by international organisations, at least one million children per year become victims of trafficking. As a global phenomenon, Europe does not escape from this crime; approximately 120,000 women and children per year, solely from the states of Southern and Eastern Europe, are brought into the former member states of the EU as estimated by the OSCE and the UNHCR. As stated by the Council of Europe, all 45 member states – without any exception – are affected by the phenomenon of child trafficking.

Taking into account this framework terre des hommes started running a broader range of field programmes in different countries of the world. One of them is focussing on the trafficking of Albanian children towards the EU, particularly to Greece and Italy. Sticking to the definition as presented by the 'United Nations Convention against Transnational Organised Crime', this

project is dedicated to prevent endangered children to be trafficked and to give support to the victims. In 2002 terre des hommes received the Human Rights Award of the French Republic for this programme. As an international development NGO specialised on the rights of the child, terre des hommes is interested in sharing its expertise with other actors. This is why, it seems appropriate and legitimate to present some key elements and some lessons drawn from this European field experience. Anyhow many lessons drawn from this programme may be transferable to other national and regional contexts. Thus the case of Albania shall serve as an example to illustrate the complexity of this severe violation of child's rights. Of course as trafficking in children is a crime which occurs in any country of the world, it is not intended to scandalise the situation in one specific country.

Lesson 1: Trafficking is a complex and evolving issue

Trafficking encompasses a high complexity and diversified nature. As my previous speaker pointed out, in Albania, like in many other countries, poverty and structural unemployment need to be considered as root factors. Specific social or cultural features of the Albanian societal context have to be considered as root causes as well, such as a high rate of familial structural indebtedness, dysfunctional family contexts, low educational backgrounds or the growing acceptance of children as potential income generators. Furthermore, the complexity of trafficking cannot be understood if the 'demand' factor is neglected. Better wages and working conditions abroad work as an important pull factor. But the fact to leave one's family and hometown increase the vulnerability of potential victims.

Lesson 2: Trafficked children suffer various forms of victimisation along the trafficking chain

Albanian children victims of trafficking suffer various kinds of harm. Besides others children are forced by traffickers and their parents to leave. The consent of the victim is irrelevant. The transportation and passing of the frontiers is highly hazardous. To ensure full dependency traffickers use generally physical or psychological violence. In the country of destination (mainly Greece and Italy) Albanian children are mainly exploited for begging, sale of small items, illicit activities, drug trafficking and sexual exploitation. Victims may also suffer violent treatments by police forces. Compulsory repatriation and deportation frequently leads to new exploitation. Albanian children simply dropped at the border by the authorities easily become newly victims of traffickers. Once rescued and repatriated, victims of trafficking often suffer social revictimisation, especially when victims have been sexually exploited.

Lesson 3: A complex issue needs a complex, progressive and non-standardised response

The complexity, flexibility and peculiarity of such a modus operandi request complex and specific responses. Through a multi-annual programme, terre des hommes and its partners in Albania, Greece and Italy try to build an adequate response based on the following two axes: *Primary prevention*, which does not consist simply in informing vulnerable groups about the risks of trafficking but includes as well such aspects as combating school truancy, realising information campaigns in schools and ensuring an institutional child protection policy. *Secondary prevention*: This form of prevention refers to the need to react in advance on foreseeable political and societal developments. One actual example may be the case of the Olympic Games in Athens in August 2004 which – according to terre des hommes and its partners - are supposed to cause a raise of trafficking in children in Greece and the neighbouring countries.

Lesson 4: The protection of victims needs a co-ordinated action

A full collaboration between authorities, police forces, custom services, lawyer and judicial institutions, social services and NGOs involved is a key element if a proper protection, voluntary assisted return and rehabilitation process shall be ensured. Such a co-ordination would create practice standards shared by all actors. A voluntary assisted return, seen as the best solution in order to start an adequate rehabilitation process of victims, has to be *quick, safe, legal, prepared* and *in full compliance with the requirements of the Child Right's Convention*. In order to secure such a best practice to be implemented, bilateral agreements between the involved governments have to be put into force.

Last and general lesson

The case of Albania shows that generic definitions, standard policies and declarations of commitments must be shared by all actors involved in combating trafficking. Nevertheless it is of primary importance to consider the phenomenon of child trafficking according to the specific context in which it happens. This includes the adaptation of initiatives to the different national and cultural contexts, to develop appropriate measures on what is happening in practice and to work in a co-ordinated frame between all actors involved, may that be state or non-state actors.

Recommendations

In view of this crime and the serious violations of human rights which accompany it and on the basis of its direct intervention in field programmes, the International Federation Terre des Hommes and the International Campaign against Child Trafficking make the following recommendations:

Application of international instruments in full compliance with the best interest of the child

- It is a fundamental necessity for the well-being of the child to be at the heart of all measures introduced by the Member States of the OSCE. In the context of combating trafficking in human beings and children, all OSCE-relevant political instruments as well as accompanying measures must be reviewed with regard to this fundamental principle.
- In this context the 'UN-CONVENTION ON THE RIGHTS OF THE CHILD', the 'HAGUE CONVENTION ON PROTECTION OF CHILDREN AND CO-OPERATION IN RESPECT OF INTERCOUNTRY ADOPTION' and the 'ILO-CONVENTION CONCERNING THE PROHIBITION AND IMMEDIATE ACTION FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOUR' have to be applied and implemented without any restrictions whatsoever as far as victims of child trafficking are concerned.
- Particularly in the implementation of the 'UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME' and its supplementary 'PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN' (Palermo Trafficking Protocol) by OSCE Member States, the best interest of the child has to be guaranteed.
- Trafficking in children should be clearly defined in all legal and other non-binding document of the OSCE Member States.

Increasing the victims' right to protection

- The struggle against child trafficking is not to be negotiated exclusively under the aspect of internal security purposes. In addition to the co-ordination of national laws and the optimisation of criminal prosecution, the specific need for protection of the victims has to be taken into particular account. Here the investigation authorities and security authorities responsible for foreign subjects as well as the institutions in charge of the implementation of the immigration policies must be especially sensitised and trained towards the reality of trafficking in human beings.
- The asylum legislations of OSCE Member States must be adapted to correspond to the provisions of the Convention on the Right's of the Child. Child-specific reasons for fleeing a country or applying for asylum must be recognised. Also children who are being persecuted by non-state organisations must be granted asylum. Hearing procedures and asylum procedures have to be conducted in a form which is suitable for children.
- Victims of child trafficking must be given a safe residence permit for the duration of their stay in the territory of a Member State of the OSCE.
- Children who have been victims of child trafficking must be able to benefit fully from the support measures for children and youth which are available in their country of residence, and also be able to live in accommodation which is suitable for children. A guardianship arrangement must be made immediately for all refugees who are unaccompanied minors.
- If trafficked children can not be guaranteed a safe future in their country of origin, they are to be granted suitable prospects in a Member State of the OSCE. In addition to the measures already mentioned, this should include in particular unlimited access to medical and therapeutic care, the right to attend school and, if applicable, the necessary work permit.

Fighting the causes is of primary importance

- The external aid policy of OSCE Member States needs an integrated approach especially in the field of the development co-operation, poverty eradication and migration policies. It has to be reviewed and implemented in full compliance with human rights standards in beneficiaries countries which are origin countries of trafficked children. In this context terre des hommes urges all governments to implement the '20/20 initiative' set-up at the 1995 World Social Summit in Copenhagen, according to which the donor countries should spend 20 percent of their means and the receiver countries 20 percent of their entire budget for fundamental social services. Equally the implementation of the fundamental 'Millennium Goal', according to which the proportion of absolute poverty in the world population is to be halved by 2015, is to be hurried along.

As the co-ordinator of the International Campaign against Child Trafficking I invite you to work with us to combat child trafficking. Let us stop this despicable crime from gaining further ground!

THE INSTITUTION OF NATIONAL RAPPORTEURS

Anna Korvinus

National Rapporteur on Trafficking in Human Beings, The Netherlands

Madame Chair,
Ladies and Gentlemen,

It is a pleasure to address you today at this conference.

I assume that the word ‘alliance’ is connected to the notion of being an ‘ally’.

And that’s why we are here today, to combine our experiences and views in the fight against trafficking in persons.

I was invited to contribute to this meeting by telling you about my task and role as the Dutch National Rapporteur on this issue, and about why it is important to have such an institute. I will do so, but perhaps I can not resist the temptation to seize this opportunity to also touch upon some of the recent recommendations, that are laid down in my 3rd report, that was presented to the Dutch Government just this week (on the 20th of July).

Trafficking in human beings is a topical subject to which attention should be paid in order to intensify the efforts to combat it, not only in my country but in other countries as well.

I therefore welcome the outcome of the OSCE ministerial conference of December last year in Maastricht: the launching of the OSCE action plan to combat trafficking in human beings.

Well, to start with my task as a national rapporteur: One of the key elements in a successful counter trafficking strategy is knowledge. Knowledge is power. Power not used in the sense of ‘high and mighty’, as a static condition, but as a dynamic concept to approach and tackle the problem efficiently, to improve the fight against it, in policy making and in the application of the law (or other regulations) in practice. Therefore, solid research and analysis is at the basis of effective anti-trafficking measures that a government should take. That is why I was appointed in 2000 by the Dutch government. I am assisted by a small bureau. It is our task to collect data and other information on the nature and scale of the trafficking problem, on the mechanisms playing a role in it and on the effects of the policy pursued. The scope of our activities includes all aspects of trafficking in human beings. It regards information on perpetrators, on modus operandi, on victims, but also on more general themes like prevention, legislation, governmental policy and important developments in these fields, on the national and international level. This information is gathered from all possible individuals, organs and organisations, both state and non-governmental, that deal with the trafficking issue. We report our findings to the Dutch government, for which the Minister of Justice is acting as the coordinating Minister. Our reports contain qualitative and quantitative information on criminal investigation and prosecution, information with regard to prevention and on victim support.

Next to reporting about our findings, it is also our task (- I referred to this by mentioning the third report - and I consider this rather important) to formulate recommendations to the

government in order to improve in any way the policy and practice in the fight against trafficking.

The reports are commented by the government and then discussed in a Parliamentary debate. The goal is of course that the recommendations are recognised as relevant and are followed up by government and parliament in its controlling role. Regular reports can make changes and trends visible. So far we have presented three reports, the first two also available in English.

For an effective approach of the trafficking problem on the *international* level, it would be a good idea to appoint national rapporteurs in more countries. Together they could aggregate national information to a higher, regional, or at least a European level. Thus forming the basis for a true international approach of this mainly transborder crime. At least to start with, this 'bottom-up strategy' is to be preferred to a system in which one uniform model of data gathering would be imposed from supranational level. In spite of the existence of a universal document as the Palermo protocol, countries still differ in many ways (trafficking laws, police organisations, NGO's, facilities for victim's etcetera). It is thus quite obvious that we should seek for and look at what we have in common, rather than at what we fundamentally disagree upon. I'm afraid that directly using a top-down international uniform model, without a national basis, will lead to merely general findings.

A call to appoint national rapporteurs or kind like bodies was done before, in the 1997 Hague Declaration, and was repeated in the 2002 Brussels Declaration and again in last years' OSCE Action Plan. These documents stress the importance of improved research and analysis, including on the character and scale of the trafficking and on the methods used by the traffickers. The OSCE Action Plan further recommends the exchange of available information.

I come to an essential point. In order to report and recommend on developments in an objective and non biased way, the preferable position of a rapporteur would be *independent*. No authoritative relation between the rapporteur and state or non-governmental organisations, yet having access to all existing information. The task of the rapporteur should further be kept separate from operational tasks and from functioning as a complaint body in concrete cases.

(The next information perhaps will be rather detailed, but I was asked to tell you also something about how my mandate is organised.).

My appointment and the reasons for opting for an independent position of the national rapporteur, was discussed in Dutch parliament. Furthermore, the government gave an explanation on the conditions under which and the way in which this task could be performed. These discussions and parliamentary debate are available in the form of official parliamentary records. Besides, the terms of reference and conditions of my appointment were of course discussed with me and are laid down in letters to me from the Minister of Justice, acting on behalf of the government. They include an appointment for 4 years, renewable after expiration, an independent position, establishment of the Bureau of the Dutch Rapporteur, comprised of 3 academic staff members and a secretary, an annual budget, the nomination of the ministry of justice as formal contact point to the government and for the logistic needs and support to the Bureau (in terms of housing, labour conditions and financial services). Although my mandate and terms of reference are thus clearly and formally described, there is not a separate document, available for distribution, in which the in's and out's of the national rapporteurs' 'contract' are laid down in particular. This is not uncommon

in Dutch tradition and in no way hampers my staff or me in functioning. Nevertheless it means that I can not hand out to you a special paper as a model describing the formalities around such an appointment.

To round off, I dwell a moment to some points, concerning the contents of the third report. (I already warned you that I would take advantage of this occasion.)

It stresses the relation between repression and prevention, it stresses also that the claim for respecting and protecting the human rights of the victim should be tied up with law enforcement. For, effective law enforcement is essential to uphold the rule of law, of which human rights standards form the basic. (I emphasize this. It is not that a human rights centred approach is contradictory to effective law enforcement, it is at the basis of it. But in the application - as always - the practical consequences might have competitive elements. Because in a trial, in the proceedings the judge must look for a balance between the human rights claim of the victim and the suspect). Repression is not only important to restore justice, but also for prevention reasons. If perpetrators are not brought to justice and are not stopped, (and their gains not seized, for which in most law systems a conviction is needed) they can and will go on with their profitable criminal activities, making new victims. It is important in this respect that more victims stand up against their exploiters and that the circumstances to do so will be reassuring enough to encourage them to cooperate with the authorities. Therefore countries should improve their level of protection and (other) assistance to the victims, according to the basic requirements in the Palermo Protocol (and - following this - in the EU Framework Decision).

Article 6 of this Protocol states for example that each state party shall endeavour to provide for the physical safety of the victims, *while they are within their territory*. But an adequate level of protection can only be achieved in a transnational way. The regulations of the single countries should be tuned, so that protection (and assistance) does not stop at the border, but is taken over by the neighbouring country when the victim enters that territory. This requires international cooperation and fine tuning. When progress can be made in this respect, that may enhance the willingness of victims to cooperate with the police and the prosecution, which will increase the chance of an effective law enforcement.

In dealing with victims of trafficking, there is a shared responsibility for countries of origin, transit and destination. But when it comes to the aspect of returning a victim (repatriation) as a consequence of the illegal status of a person, there is a special obligation to the returning state party, mostly the country of destination. This is laid down in art. 8 of the Protocol, which states that such return shall be with due regard to the safety of the person.

Of course - to be realistic - safe return cannot be 'guaranteed' to the full extent in an other country, but a state should demonstrate at least more efforts than simply returning a victim. So we recommended to the Dutch government that minimum standards for a safe return should be developed, next to an individual risk assessment of the victim before sending back such a person. Again this asks for international cooperation and fine tuning. When the government acts with more respect for the rights and interests of the victim, perhaps such an arrangement will also lower the barrier to cooperate with the authorities.

Speaking about 'returning', I return to the subject of the role of a national rapporteur. You may raise the question: What is the influence of such an official? Well, in fact it is restricted to the 'weapon' of the publicity of the reports and the possibility to convince the government, parliament and the general public that the recommendations made are necessary, reasonable

and based upon a lot of reliable information. In this way there is some kind of authority, but real progress depends on the activity of the policy makers and the people in practice. We try to supply them with enough munition to do so (and keep in contact with them).

Ladies and gentlemen, for a moment I bring you back to ancient times, when Montesquieu put into wordings: 'injustice committed to an individual is a threat to us all.' Within this lies a call for solidarity. And - I add - a lack of solidarity is a threat for society and democracy. As you are distinguished guests, I visit also Spinoza for you, who said: Everyone has as much rights as he has power. Of course this a quite cynical observation, but within this lies a call to change such a reality by showing - again- solidarity. Back to today, to end with something that may be you'll remember and in line with the current habit to use a simplification to carry the message: I know the Dutch behaviour is sometimes surprising and amazing, as is made clear in the English expression 'a Dutch concert', meaning making a lot of noise. But I hope in this matter more countries will follow the Dutch example, so that we can have a multi-tuned concert, making big noise to give a voice and face to what is the title of this conference: 'alliance against trafficking in persons'. Let's start to work on that.