



ALLIANCE AGAINST TRAFFICKING IN PERSONS

**National Monitoring and Report Mechanism to Address THB:
The Role of National Rapporteurs
Vienna, 21 May 2007**

PANEL 3

National Rapporteurs and the Council of Europe Convention on Action against Trafficking in Human Beings

**by Hanno Hartig
Head of Department for Minorities, Media and Equality
Directorate General for Human Rights, Council of Europe**

- I have been asked to highlight some of the key aspects concerning the role and function of the national rapporteur in relation to the development of an effective anti-trafficking policy.
- The Council of Europe Convention on Action against Trafficking in Human Beings, the first European treaty in this field, is not a mere declaration of principles, but rather a practical tool specifically designed to prevent trafficking, protect and assist victims of trafficking, to bring traffickers to justice and to foster international co-operation. In addition, the Convention provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in it.
- By implementing the measures contained in the Council of Europe Convention, states will ensure an effective national anti-trafficking policy. My approach will therefore be to show how the national rapporteur or equivalent national mechanisms could be used to fulfil the states' obligations as laid down in the Convention.

1. As regards International co-operation and co-operation with civil society

- Article 29 of the Convention stresses the need to coordinate policy and action of public agencies responsible for combating trafficking in human beings and suggests that such coordination may be performed by specially established coordination bodies¹. The office of national rapporteur or an equivalent national mechanism could be an adequate answer to this treaty obligation.
- Furthermore, Article 29 obliges states to consider appointing national rapporteurs or other mechanisms for monitoring the anti-trafficking activities of state institutions and the implementation of national legislation requirements. The Explanatory Report expressly mentions that the institution of a national rapporteur has been established in the Netherlands, where it is an independent institution, with its own personnel, whose mission is to ensure the monitoring of anti-trafficking activities. It has the power to investigate and make recommendations to persons and institutions concerned and makes an annual report to the Parliament containing its findings and recommendations.
- Whereas Article 29 deals with national coordination, Article 32 contains the Convention's general principles and measures for international cooperation². This cooperation is not confined to judicial cooperation in criminal matters, but is also concerned with cooperation in trafficking

¹ **Article 29 – Specialised authorities and co-ordinating bodies**

- 1 Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against trafficking and the protection of victims. Such persons or entities shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. Such persons or the staffs of such entities shall have adequate training and financial resources for their tasks.
- 2 Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments' departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.
- 3 Each Party shall provide or strengthen training for relevant officials in the prevention of and fight against trafficking in human beings, including Human Rights training. The training may be agency-specific and shall, as appropriate, focus on: methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers.
- 4 Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.

² **Article 32 – General principles and measures for international co-operation**

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

- preventing and combating trafficking in human beings;
- protecting and providing assistance to victims;
- investigations or proceedings concerning criminal offences established in accordance with this Convention.

prevention and in victim protection and assistance. The states must cooperate with one another “to the widest extent possible. This includes providing extensive cooperation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally.

- As regards international cooperation to protect and assist victims, Article 33 provides for special measures relating to endangered persons³. Article 34 refers to transmission of any information necessary for providing the rights recovery and reflection period for victims, issue a renewable residence permit to victims and repatriation and return of victims⁴.
- It is of course up to the each state to decide which national body shall fulfil these obligations of international cooperation, but could it not be envisaged that the office of national rapporteur or an equivalent national mechanism carries out some of these duties?

2. As regards the monitoring mechanism

- Finally, I would like to see the office of national rapporteur or an equivalent national mechanism in context with the monitoring system which will be set up as soon as the Convention enters into force. The Council of Europe Convention contains provisions which aim at ensuring its effective

³ Article 33 - Measures relating to endangered or missing persons

- 1 When a Party, on the basis of the information at its disposal has reasonable grounds to believe that the life, the freedom or the physical integrity of a person referred to in Article 28, paragraph 1, is in immediate danger on the territory of another Party, the Party that has the information shall, in such a case of emergency, transmit it without delay to the latter so as to take the appropriate protection measures.
- 2 The Parties to this Convention may consider reinforcing their co-operation in the search for missing people, in particular for missing children, if the information available leads them to believe that she/he is a victim of trafficking in human beings. To this end, the Parties may conclude bilateral or multilateral treaties with each other.

⁴ Article 34 – Information

- 1 The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.
- 2 A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.
- 3 Prior to providing such information, the providing Party may request that it be kept confidential or used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.
- 4 All information requested concerning Articles 13, 14 and 16, necessary to provide the rights conferred by these Articles, shall be transmitted at the request of the Party concerned without delay with due respect to Article 11 of the present Convention.

implementation by the states. This mechanism is undoubtedly one of the main strengths of the Convention. Experience has proved that, in areas where independent Council of Europe monitoring mechanisms exist, as is the case in the fields of torture and minorities for example, they have high credibility.

- This monitoring mechanism has two pillars:
 - The Group of Experts against trafficking in human beings (GRETA) is a technical body composed of independent and highly qualified experts in the area of human rights, assistance and protection to victims and the fight against trafficking in human beings. GRETA has the task of adopting a report and conclusions on each state's implementation of the Convention
 - The Committee of the Parties is a political body composed of government representatives of the states Parties to the Convention. They may adopt recommendations on the basis of the report and conclusions of GRETA concerning the measures to be taken by a state to follow up GRETA's conclusions.
- Article 38 of the Convention lays down the main elements of the evaluation procedure⁵. At the start of each monitoring round, GRETA constructs a questionnaire to gather information from governments. Governments construct their answers to the questionnaire and submit

⁵ Article 38 – Procedure

- 1 The evaluation procedure shall concern the Parties to the Convention and be divided in rounds, the length of which is determined by GRETA. At the beginning of each round GRETA shall select the specific provisions on which the evaluation procedure shall be based.
- 2 GRETA shall define the most appropriate means to carry out this evaluation. GRETA may in particular adopt a questionnaire for each evaluation round, which may serve as a basis for the evaluation of the implementation by the Parties of the present Convention. Such a questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GRETA.
- 3 GRETA may request information from civil society.
- 4 GRETA may subsidiarily organise, in co-operation with the national authorities and the "contact person" appointed by the latter, and, if necessary, with the assistance of independent national experts, country visits. During these visits, GRETA may be assisted by specialists in specific fields.
- 5 GRETA shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments are taken into account by GRETA when establishing its report.
- 6 On this basis, GRETA shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of the present Convention. This report and conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned.
- 7 Without prejudice to the procedure of paragraphs 1 to 6 of this article, the Committee of the Parties may adopt, on the basis of the report and conclusions of GRETA, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GRETA, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of the present Convention.

them to GRETA. GRETA may request additional information from the government, consult with NGOs and make country visits to complement the information initially provided by the governments. GRETA then creates a report and conclusions on each state's implementation of the Convention. Governments have the possibility to make comments which are published together with the report and conclusions.

- Could it not be envisaged that the office of national rapporteur or an equivalent national mechanism have a role in the fulfilment of the obligations with regard to this evaluation procedure? The national rapporteur could for example prepare the reply to GRETA's questionnaire. Furthermore, when GRETA decides to make country visits, this should be organised in co-operation with the national authorities and a "contact person" appointed by the authorities. Could not the national rapporteur act as this "contact person"? And in the same way as national rapporteur could prepare the reply to GRETA's questionnaire, this office could prepare the comments to be published together with GRETA's report and conclusions.
- The setting up the office of national rapporteur or an equivalent mechanism could in this way contribute to implementing the measures contained in the Council of Europe Convention on Action against Trafficking in Human Beings.

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- The Council of Europe Convention will enter into force with 10 ratifications. To date, it has been ratified by Albania, Austria, Bulgaria, Georgia, Moldova, Romania and Slovakia and signed by 29 other states.
- Earlier this year, we launched the Council of Europe Campaign on Action against Trafficking in Human Beings. The aim of this Campaign is to raise awareness of this new form of slavery among governments, parliamentarians, local and regional authorities, NGOs and civil society and at the same time to promote the signature and rapid ratification of the Convention.
- In order that the Convention may enter into force rapidly, I would like to close my intervention by urging you all to join us in our Campaign and work towards the signature and ratification of this Convention by your respective countries.