

**Upholding the Rule of Law and Due Process in Criminal Justice Systems
Human Dimension Seminar, Warsaw**

Side Event: Criminal Justice and the trafficking victim

10th May 2006

Trafficking reports continue to indicate large disparities between the numbers of presumed trafficking victims and prosecutions of traffickers. Experience shows that the prosecution of traffickers is still largely dependent on the adequacy of the trafficking victim's testimony. Victims of trafficking however remain reluctant, and in some cases may be increasingly reluctant, to seek criminal justice : criminal justice professionals are seen to be insensitive to issues of gender- based violence; trafficking victims fear reprisals from traffickers and cannot rely on the protection from the State; criminal justice systems are perceived as corrupt and interpretations of trafficking law inconsistent, victims of trafficking risk prosecution or penalties for illegal border crossing, illegal work and prostitution; appropriate social, psychological and financial support during proceedings, or permission to work or continue with education when proceedings may drag on for years, is not available and concrete remedies in terms of compensation are a rarity. In addition legal representation for victims of trafficking is in short supply, compared to the expert defence frequently secured by traffickers.

Finally victims are often subject to removal from destination countries after their 'usefulness' to the prosecution is exhausted and returned to countries where their safety cannot be guaranteed.

At the same time where effective cooperation has been established between law enforcement and social service providers, fundamental to the proper functioning of a national referral mechanism (NRM), the trafficking victim becomes a stabilised victim-witness. Experiences in Western European countries have shown that the rate of successful criminal prosecution of perpetrators rises in countries where comprehensive NRM's have been set up.¹ Progress has also been made in sensitising investigators, prosecutors, judiciary and lawyers to the relevant issues with respect to trafficking victims and the crime of trafficking. Has this in turn made the victim more willing to trust the system and led to an increase in successful prosecutions? For instance the number of criminal cases in Moldova has increased considerably in the past few years. Has this State therefore developed a good model of access to criminal justice for trafficked persons?

This meeting will provide a forum for debating how the trafficking victim experiences the criminal justice system and provide an opportunity for the exchange of practices. It will bring together a panel of practitioners from Moldova, Romania, Albania and Germany to highlight issues from their experience and present ways forward.

¹ See 'National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook.' *OSCE/ODIHR*, 2004 at 26.