



Organization for Security and Co-operation in Europe

ANNOTATED AGENDA

“ALLIANCE AGAINST TRAFFICKING IN PERSONS”

**Human Trafficking for Labour Exploitation/Forced and Bonded Labour
Prosecution of Offenders, Justice for Victims**

Vienna, Hofburg, Neuer Saal, 16–17 November 2006

Background

Since the Ministerial Council endorsement of the OSCE Action Plan to Combat Trafficking in Human Beings in December of 2003 (MC.DEC/2/03), the participating States have made efforts to accomplish many of the recommended actions at the national level. Many States have developed national action plans, established national co-ordinating structures and ratified the relevant international conventions. They have also begun to harmonize their national legislation to reflect the provisions of these conventions. Discrepancies remain, however, at the level of both policy and practice; in the OSCE region as well as in most countries of the world, trafficking in human beings (THB) remains primarily addressed as an issue of sexual exploitation.

To address this discrepancy, in 2005 the OSCE Special Representative on Combating Trafficking in Human Beings hosted a high-level conference under the auspices of the Alliance against Trafficking in Persons “Human Trafficking for Labour Exploitation / Forced and Bonded Labour: Identification – Prevention – Prosecution”, which highlighted manifestations of human trafficking for labour exploitation in the OSCE region. The conference featured prosecutors and judges who had prosecuted cases of trafficking for labour exploitation, as well as representatives from NGOs working with victims of trafficking for labour exploitation in a variety of economic sectors. Participants discussed initial efforts and challenges encountered by participating States in recognizing THB for labour exploitation and developing adequate countermeasures for victim identification, appropriate assistance and prosecution.

In addition to specific recommendations focused in the areas of victim identification, victim protection and assistance, and the prosecution of perpetrators, the conference concluded with several key recommendations to be highlighted and moved along to the stage of implementation. These recommendations included:

- 1) Broadening the circle of actors for combating trafficking for labour exploitation to include employment services and job placement agencies, labour inspectorates, labour courts, employers’ and workers’ organizations;
- 2) Closer collaboration between law enforcement and human rights agencies in order to provide an integrated approach to the problem which would include the establishment of standards in labour markets. This would involve a combination of enforcement, self-regulation and training, and the proactive regulation and monitoring of economic sectors prone to exploitation;
- 3) Proactive collaboration between countries of origin and destination including stakeholders responsible for migration and development issues with a view to improving the living conditions of potential migrants;
- 4) Encouraging the ratification and implementation of relevant international conventions including the UN Transnational Organised Crime Convention and supplementing Protocols, the Council of Europe Convention on Action against Trafficking in Human Beings, where appropriate, and the relevant ILO Conventions¹, as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

¹ Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Worst Forms of Child Labour Convention, 1999 (No. 182).

In recognition of the importance of the issue, and building upon the contributions from last year’s event in assisting to identify key challenges, this conference will focus on one very important aspect of combating trafficking for labour exploitation: the implementation of international commitments and national legislation relevant to bringing perpetrators to justice and ensuring legal redress for victims of this crime.

The conference will provide a practical and targeted forum for exchanging information and networking among practitioners from the OSCE participating States, including NGOs and international organizations working in this field. The event will also be used to formulate concrete recommendations to advance the implementation of commitments to address this form of human trafficking. To this end the goals of the conference are:

- Raising political will to eradicate human trafficking for labour exploitation;
- Providing a forum to exchange concrete experiences in addressing human trafficking for labour exploitation as a tool to advance the implementation of anti-trafficking commitments;
- Increasing understanding of the need to involve numerous stakeholders in the design and implementation of responses to human trafficking for labour exploitation.

Thursday 16 November

15:00-18:00	From the UN Convention against Transnational Organized Crime to National Legislation
--------------------	---

Overview of International Instruments on Human Trafficking for Labour Exploitation/Forced and Bonded Labour

This plenary session will provide an overview of international legal instruments relevant to addressing trafficking in persons for the purpose of forced labour, slavery or practices similar to slavery, and servitude (e.g. the UN Convention against Transnational Organized Crime and its supplementing Protocols, the ILO Forced Labour Convention and - where appropriate - regional instruments such as the EC Council Framework Decision on Combating Trafficking in Human Beings, the Council of Europe Convention on Action against Trafficking in Human Beings etc.). The session will provide insight into these instruments and the current state of affairs in translating these standards into national legislation and putting them into practice.

Implementation at National Level: Translating Legal Instruments into Practice

The ratification of the UN Convention against Transnational Organized Crime and its Trafficking Protocol requires States parties to take the necessary measures to implement their obligations. These include measures to establish trafficking in persons as a criminal offence, as well as procedural mechanisms to ensure that perpetrators can be brought to justice and victims are assisted and compensated for harm suffered. This legislation is relatively new in a significant number of countries, thus experience in effectively implementing these new provisions is limited.

Recent research demonstrates that some States have criminalized THB by adopting the definition as provided in the Trafficking Protocol. However, the definition often remains lacking. Notably absent, for example, is sufficient clarity on the concept of “abuse of a position of vulnerability”. Additionally, in some instances States have adopted a legislative approach which focuses on the movement and the process of coercing a person into exploitation rather than on the situation of forced labour and slavery-like practices to which trafficked persons are subjected. These approaches hinder the detection and the prosecution of trafficking in persons as well as assistance to and protection of victims’ rights. The session will highlight issues relating to the criminalization requirements of THB for forced labour and will explore the specific challenges that relate to the definition of THB for the purpose of forced labour exploitation.

This session will also explore why the application and enforcement of this legislation is lacking. It will discuss measures that can be included in criminal codes and procedures to facilitate the detection and prosecution of the crime, as well as schemes to ensure victims' assistance and legal redress. It will examine concrete national experiences and challenges that emerge in the prosecution of this crime, and in the smooth functioning of mechanisms for international police and judicial co-operation.

Issues that could be raised in the discussion:

- Which steps have been taken by the participating States to address THB for the purpose of forced labour, slavery or practices similar to slavery?
- Which measures can be taken to improve the implementation of relevant commitments?
- Which good practices can be shared with participating States on the criminalization of THB?

Friday 17 November

9:30-11:00	Roles, Responsibilities and Experiences of Primary Actors in Addressing Human Trafficking for Labour Exploitation/Forced and Bonded Labour
-------------------	---

Forging effective co-operation, good communication and trust between labour inspectorates, police, immigration, welfare services, judiciary and NGOs is crucial to effectively addressing human trafficking for forced labour. These actors often have different policies and approaches to the detection of cases of THB for forced labour and to finding solutions for victims; these discrepancies can generate inconsistencies in the application of law and may also hinder the effectiveness of the response to THB. Considering these differences, it becomes even more important to develop a common systemic approach and agree to common principles of work in order to adequately protect victims' rights as well as to investigate and prosecute the crime.

This panel will help to clarify the importance of numerous stakeholders within the criminal justice response to THB for the purpose of forced labour and slavery-like practices. Panellists will discuss their experiences in detecting situations of THB for forced labour, enabling proper victim identification and assistance, and ensuring access to justice for trafficked persons and prosecution of perpetrators. The panel will also explore advantages and disadvantages of addressing trafficking cases for forced labour exploitation through labour courts and the implications for bringing traffickers to justice, providing effective remedies for victims, and for ending exploitation altogether.

Issues that could be raised in the discussion:

- Which measures have been taken by participating States to establish mechanisms for co-operation among law enforcement bodies, migration, border and social welfare services, as well as NGOs and trade unions?
- How do labour inspectors and immigration officials in the OSCE participating States play a role in detecting situations of trafficking for forced labour?
- Which measures have been taken by participating States to ensure that trafficked persons who are victims of forced labour have access to assistance and benefit from the right to seek legal redress? Which are the main obstacles and gaps?
- Which concrete mechanisms are in place to monitor those sectors of the economy where exploitation is likely to occur with a view to prevent abuse and ensure early identification of potential victims of THB?

11:30-13:00 **Investigation, Prosecution and Access to Justice: National Experiences in the OSCE Region**

15:00-16:30 **Investigation, Prosecution and Access to Justice: National Experiences in the OSCE Region (Continuation)**

These two sessions aim at presenting national experiences and challenges in the investigation, prosecution and actual judgement of cases of trafficking in persons for the purpose of forced labour, slavery or practices similar to slavery, and servitude in the OSCE region.

Practitioners from the participating States will present examples of THB cases for forced labour in a variety of economic sectors (e.g. construction, domestic service, agriculture and the garment industry). They will share their experience and highlight challenges such as those that may emerge in the implementation of the law, in the gathering of evidence on the repressive and coercive means used to control and subjugate victims, and on the exploitative conditions in which victims are forced to work; challenges in dealing with traumatized victims who are reluctant to co-operate with the investigation; challenges and obstacles in international investigative and judicial co-operation. The sessions will also explore challenges in victims' ability to claim their rights and seek compensation for material loss as well as for harm suffered through civil claims or in criminal proceedings.

Issues that could be raised in the discussion:

- Are legislative provisions addressing trafficking in persons for the purpose of forced labour, slavery or practices similar to slavery, and servitude sufficiently clear to prosecute this crime? Or is it common practice to apply other criminal provisions in the prosecution of THB for forced labour? What are the advantages or disadvantages of one form of legislative practice over the other?
- Which strategies and methods have participating States developed to detect cases of THB for forced labour?
- Which concrete measures have been undertaken by participating States to ensure international co-operation to exchange information and evidence to prosecute the whole chain of traffickers from recruitment to exploitation in countries of origin, transit and destination? Which are the gaps and obstacles?
- Which measures have participating States adopted to ensure compensation for victims of crime?
- Which are the challenges to ensure legal assistance for and legal representation of victims in administrative and criminal proceedings?

15:00-18:00 **Lessons Learned, Ways Forward & Next Steps**

The aim of this session is to present viewpoints from international organizations and NGOs on challenges and lessons learned in addressing human trafficking for forced labour, and to put forward recommendations to the participating States. Experts will address issues relevant to legislative reform, capacity building of law enforcement, judiciary, NGOs and representatives of labour market institutions; development of outreach programmes to detect situations of abuse of vulnerability, prevent abuse and ensure early identification of potential victims of THB; establishment of schemes to ensure victims' access to legal redress; development of measures to protect victims during criminal proceedings while assisting in prosecution of the traffickers. This session will also touch upon relevant links to labour recruitment practices, and restrictive migration policies.