



Organization for Security and Co-operation in Europe

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on Combating Trafficking in Human Beings*

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**Combating Trafficking in Human Beings, Especially Women and Children:
Prevention-Protection-Prosecution
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Let me now introduce you to the topic of our conference, which is combating trafficking in human beings, especially women and children, and let me, together with you, take a closer look at what we consider **effective responses to combating this crime in terms of prevention, protection and prosecution.**

If we take the unveiling of the UN Protocol against Trafficking in Persons as the starting point of the modern era of confronting human trafficking, trafficking has now received concerted international attention for more than five years.

So, the work of this conference will not have to start from scratch.

A number of countries have either adopted new anti-trafficking laws or amended their Criminal Codes in order to cover the various dimensions of human trafficking. More and more countries have already ratified the UN Protocol on Trafficking in Persons and many have also already signed the new Council of Europe Convention on Action against Trafficking in Human Beings. The EU has developed an Action Plan to Combat Trafficking in Persons. Regional and national coordination mechanisms and frameworks have been put in place. National plans of action have been set up. The funding for anti-trafficking projects and programmes began to flow, and more and more governments, organizations and individuals have dedicated increasing attention to this problem.

But, on the other hand, we have also come to realize that the key challenge for countries around the world is to craft and implement sounder and more effective responses that produce meaningful results. We also know that a more sophisticated understanding of human trafficking is needed to improve the operational effectiveness of appropriate anti-trafficking laws, policies and practices. The complexity of the problem demands that we draw special

attention to individual aspects – in the given case the traumatising of trafficked children and adults and how to take account of it and to properly respond to it.

In this context I should like to single out three main points:

1. **the need for institutionalised coordination structures**
2. **the importance of a victim-centred approach**
3. **the need to tackle the entire chain of criminal networks**

From experience we know that no single ministry or agency is capable on its own of dealing with this multi-faceted problem. Therefore, distinct **coordinating structures at operational and decision-making levels** are indispensable, if we wish to respond to the multi-dimensionality and intricacy of human trafficking. In this regard multi-disciplinary working groups or task forces, headed by a **national coordinator**, are instrumental in effectively dealing with the problem's complexity.

National plans of action have proven to be a valuable tool in assigning responsibility to and dividing tasks between government bodies and authorities, on the one hand, and non-governmental organizations and agencies, on the other hand. National plans of action must be comprehensive and need to address all the dimensions of human trafficking – certainly trafficking for sexual exploitation, but also trafficking for labor exploitation, domestic servitude, forced marriages, trafficking in organs, etc. – and in particular they need to take account of the **special assistance and protection needs of child victims of trafficking**. In the course of this conference a resource book, generated under the AGIS 2005 program, will be presented, which contains recommendations for the proper treatment of child victims of trafficking and for concrete action, including ways of identification and investigation. I am convinced that for the law enforcement officers from 43 countries who took part in this training it will make a difference in their daily work.

National plans of action should also take account of the relatively new phenomenon of **internal trafficking**, which is on the rise, and must provide for **clear-cut timeframes, division of responsibilities and budgeting**, lest action plans remain mere paper tigers. The timeframes are indispensable to self-monitoring and budgeting is essential to implementation and, moreover, facilitates the placement of funding from donors, in case the country itself cannot provide all the financial means required.

Instituting **national rapporteurs** is an effective means in sounding out the scope and the true nature of human trafficking in a given country, in identifying new trends and developments and in getting below the surface of the problem by collecting quantitative and qualitative data and information as the basis for concerted counter measures and strategies.

Structured and systematic cooperation between law enforcement and NGOs who run victim protection centers has proven most effective in the fight against human trafficking. So we encourage the implementation of **comprehensive referral mechanisms** which will allow for better and institutionalized cooperation of all relevant agencies and bodies at national level, but also for cross-border cooperation, so as to guarantee appropriate treatment of trafficking victims.

This takes me to my second point, namely that in the fight against human trafficking **the status and protection of the victims** deserve particular attention. It must be understood that human trafficking is about the plight and suffering of people and not simply about criminal transactions in soulless goods. When dealing with human trafficking, we are dealing with people and not in stolen cars.

As traffickers ruthlessly exploit the total lack of social and legal protection for victims of trafficking, the legalisation of the status of victims of trafficking is a must.

A central issue in this context is the right of an extended stay for victims of trafficking in transit and destination countries. After a **reflection period** of at least 30 days – as laid down in the new Council of Europe Convention on Action against Trafficking in Human Beings – which would give the (potential) victims time to stabilise their situation, which would give them breathing space to recover physically, medically and psychologically and would allow them to re-orientate themselves and to secure the means to support themselves – the authorities should grant a **temporary residence permit** for at least six months. This temporary residence permit should be renewable, with the possibility that victims – if required – may be allowed to remain permanently.

While we must encourage law enforcement and train the officers to better identify and refer trafficking victims, we must at the same time create or **significantly strengthen networks of support services** so that victims can turn to and access an immediately supportive

environment that will permit the victim a needed initial period of recovery prior to a decision to help the mechanisms of law and order. Ultimately this approach will serve victims' needs and the requirements of law enforcement better than the current one. In other words, **governments need to institutionalize their cooperation with specialized NGOs in** order to ensure that (potential) victims are properly identified and treated from the very beginning.

Child victims of trafficking ought to be automatically granted an extended stay in the country of destination, pending a durable solution. Children, in particular, must never be criminalized for acts arising from a trafficking situation, they must not be sent back to their home countries without a careful, **individualized risk assessment**.

The legal status of residence for victims of trafficking should also imply **access to the labour market** as well as the right to **state welfare benefits and to crime victims' compensation**. In fact reparation for the crimes that have been committed against the victims is a vital and defining element in their rehabilitation.

Best practice would be to grant **legal status of residence irrespective of the victims' ability or willingness to testify in criminal proceedings**.

Even if victims decide not to testify against the traffickers, they are still a source of vital information on traffickers' strategies, practice and networks for the authorities.

Once trafficking victims and their closest relatives are safe and secure, they will be more inclined to support the prosecution of traffickers and to help dismantle their networks.

The temporary residence permit would also serve as an instrument against organised crime and enhance the prosecution of traffickers, because it offers trafficked persons time to decide on making a complaint to the police, on cooperating with the investigation authorities and eventually on testifying in proceedings.

Furthermore, the **status of victims of trafficking in criminal proceedings** deserves particular attention.

This conference was convened to take a close look at the fact that victims and particularly children frequently suffer from severe **trauma** which may be further aggravated by lack of understanding and inappropriate response. This is something that will be taken up in the presentations of our eminent speakers.

To expose trafficking victims or to force them too early to confront the traumatising experience may exacerbate traumatisation. **Victims must never be forced to testify.** If they agree to do so, they should be provided with **a non-confrontational environment.**

In any case, the **process of testifying against the traffickers must not re-victimise victims,** but should be an empowering, positive experience through which victims' rights are protected and promoted.

Whether victims are prepared to appear as witnesses will depend to a large extent on the capacity and willingness of states to protect and support them – which is something that should not be seen as an act of good will but as an obligation and duty under international law. Hence, **specific victim/witness protection programmes are an absolute must.**

Experience has shown that prosecution that builds exclusively on testimonial evidence by victim/witnesses is less successful, unless other evidence is secured. Often the credibility of victim/witnesses depends on the investigator's and prosecutor's insight derived from other sources of information.

Nor should victims be excluded from criminal proceedings which would mean to negate the serious injustice they have suffered at the hands of the perpetrators. State authorities must not obstruct the participation of victims, thus making criminal proceedings exclusively their own business. Victims need to be given the opportunity to present and describe the injustice they have suffered and to witness that the perpetrators are taken to account for their deeds.

This takes me to my third point.

The need to tackle the entire trafficking chain – from its beginning in the countries of origin to its end in the countries of destination, **apprehending the perpetrators along the entire continuum and going after the financial assets of the networks,** the lifeblood, if I may say so, of organized criminal enterprises.

It is important to understand that human trafficking does not happen within a discrete moment in time and then it is over, nor does it happen in one place. It is not perpetrated only

in the country of destination, where the victim or a 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.

This explains why **law enforcement must cooperate across borders** and must **engage in proactive rather than reactive investigation**. It explains also why a strategy based upon lining up deterrence at the borders is not adequate.

Relatively few arrests for the crime of human trafficking result from pro-active investigations. Fewer still result from long-term multi-jurisdictional, intelligence-based investigations, even though these are standard strategies in the prosecution of organized crime. This gap is readily addressed by **moving from reactive law enforcement to proactive intelligence-based law enforcement** against traffickers and their criminal networks. This would mean to employ tools and strategies that are well-recognized as effective in fighting organized crime, such as wire-tapping, tracking the financial assets of the criminals, addressing the crime from beginning to end, long-term under-cover investigations and surveillance, etc., in the context of human trafficking.

A critical component in achieving stronger and more sophisticated law enforcement against human trafficking is to **create and/or strengthen special investigative units** using state-of-the-art tools in the comprehensive investigation of the full scope of the crime of human trafficking, including money laundering and corruption. In order to be successful the fight against organised crime must be based on shared knowledge and cooperation amongst all the relevant law enforcement agencies. One of the tasks of **the Alliance Expert Coordination Team**, which includes such agencies as Interpol, Europol, Eurojust, UNODC, is to collate relevant information and provide pertinent expertise.

In summing up, let me reiterate that to be effective in our fight against human trafficking, we should not content ourselves with island solutions. What we need is a profound understanding of all that human trafficking involves and of all that is required to counteract it – **from the proper identification of trafficking situations via the proper protection of victims, the proper investigation of the criminal networks to the proper prosecution and conviction of the perpetrators.**