



## Office for Democratic Institutions and Human Rights

### The OSCE/ODIHR's Strategic Approach to Concerted Action to Prevent and to Combat Trafficking in Human Beings

*Background note*

*prepared by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR)  
for the Target Orient Meeting between the Council of Europe,  
the Organization for Security and Co-operation in Europe and the United Nations,  
as well as the Council of the European Union, the European Commission, the International Committee of  
the Red Cross and the International Organization for Migration.*

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#### **I. Call to Action: The Need for Better Human Rights Protection**

Analyzing the situation throughout the OSCE region, it is clear that much more needs to be done to prevent trafficking in human beings, in particular by addressing the socio-economic root causes including factors on the demand side in countries of destination. How we can best address these long-term economic issues will in part be the focus of the OSCE's annual Economic Forum<sup>1</sup>, which will take place in May 2003, and the ODIHR/ILO conference on unprotected labour markets in countries of destination, which will take place later in 2003. There are a variety of other preventative measures, which require a long-term strategy such as working to eliminate inequality, poverty and corruption.

In the short-term, however, the area that demands our most urgent and effective response is the need for better human rights protection for victims and at-risk groups (i.e. women, youth and migrant workers). The joint UNICEF/UNOHCHR/ODIHR report *Trafficking in Human Beings in South Eastern Europe*<sup>2</sup> estimates that 65% of trafficked women and girls are not identified and therefore receive no assistance. This is one key area where we must focus our work—on how relevant actors can best identify who is a victim and on how these actors can best co-operate to fulfill the related aims of victim protection and successful prosecution.

In this regard, we are fortunate to have a common starting point—the definition of trafficking as found in the UN Anti-Trafficking Protocol. Yet, in practice, a common definition is not enough to clarify the responsibilities and competencies of law enforcement personnel, non-governmental organizations (NGOs) and others, who may come into contact with a trafficked victim. There is a compelling need for clearer guidance on how to identify a trafficked victim, how to investigate related crimes and how to co-ordinate assistance. In order to respond to human rights violations and break the cycle of abuse, a mechanism must be developed through which state actors can fulfill their obligations to protect and promote the human rights of trafficked persons in co-ordination and strategic partnership with civil society and other actors dealing with trafficked victims.

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<sup>1</sup> For more information please visit: <http://www.osce.org/eea>

<sup>2</sup> Available on-line at: [http://www.osce.org/odihr/documents/at\\_traffse.php3](http://www.osce.org/odihr/documents/at_traffse.php3)

During the internal OSCE regional co-ordination meeting (Sarajevo, June 2002)<sup>3</sup>, it was agreed upon that the establishment of such national referral mechanisms is a key priority for on-going OSCE anti-trafficking efforts. Therefore, the ODIHR is currently developing a handbook on the establishment of effective and inclusive national referral mechanisms<sup>4</sup> (including identification, referral and assistance) addressing all target groups as defined in the UN Protocol, which the OSCE participating States have committed themselves to ratify<sup>5</sup>. It was also noted as a priority at the Sarajevo meeting that measures to develop, implement and monitor national referral mechanisms should include capacity building of all relevant agencies and strengthening of the legal framework.

## **II. Framework for Action: OSCE Commitments**

The OSCE's anti-trafficking efforts in the past several years have resulted in an increase in awareness among OSCE participating States and a strengthening of commitments in this field. OSCE participating States have recognized their primary responsibility to prevent and to combat trafficking, as well as to assist its victims, and have made strong commitments in this field.

The OSCE's first commitments in this area can be found in the Moscow Document of 1991 and have subsequently been further affirmed and progressively developed in the Charter for European Security adopted in Istanbul in 1999, Ministerial Council Decision No. 1 adopted in Vienna in 2000, Permanent Council Decision 426, Ministerial Council Decision No. 6 adopted in Bucharest in 2001 and the Ministerial Council Declaration on Trafficking in Human Beings adopted in Porto in 2002.<sup>6</sup>

Building on these existing commitments, the OSCE, through the informal Working Group on Gender Equality and Anti-Trafficking in Human Beings, is currently elaborating a detailed OSCE Action Plan. This Action Plan will not only recommend specific action for OSCE participating States in the fields of prevention, protection and prosecution, but will also build on existing commitments targeting internal organizational issues such as the recruitment of experts, implementation of the Code of Conduct<sup>7</sup> and appropriate training of personnel.

## **III. Responsible Action: A Co-ordinated Human Rights Based Approach**

Preventing and combating trafficking in human beings is a complex endeavor, which demands a comprehensive, multi-disciplinary response. As outlined in the *OSCE Anti-Trafficking Guidelines*<sup>8</sup>, the OSCE considers this challenge as a priority because trafficking cuts across all dimensions of the OSCE's work:

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<sup>3</sup> Report of the internal OSCE regional co-ordination meeting is available upon request

<sup>4</sup> Please see attached ODIHR definition of National Referral Mechanism, as well as "8 Good Reasons for National Referral Mechanisms."

<sup>5</sup> Ministerial Council Decision No. 6 adopted in Bucharest in 2001

<sup>6</sup> Full text of all documents is available on-line at: <http://www.osce.org/docs/>

<sup>7</sup> Code of Conduct for OSCE Mission Members is available on-line at:

<http://www.osce.org/secretariat/gender/documents/code-conduct.pdf>

<sup>8</sup> OSCE Anti-Trafficking Guidelines, [http://www.osce.org/odihr/documents/guidelines/at\\_guidelines.pdf](http://www.osce.org/odihr/documents/guidelines/at_guidelines.pdf)

- It is a *human dimension* issue of major proportions. Trafficking in the first instance strips the victims of their rights to liberty, dignity, security of person, the right not to be held in slavery, the right to be free from cruel and inhuman treatment, and – for the many trafficked minors – the other rights they are entitled to as children.
- It affects the *politico-military dimension* of security – transnational organised criminal groups thrive on the proceeds of trafficking, illicit profits are used to corrupt government officials, and the costs and risks to law enforcement agencies are greatly increased. The international nature of many cases calls for increased cross-border co-operation. In addition, trafficking can be a particular problem in post-conflict areas as a result of social dislocations, while a large international presence can actually contribute to the incidence of trafficking.
- As an element of the *economic dimension*, trafficking exists largely because of economic and social inequalities between, and within, countries. High rates of poverty, unemployment, low pay, and discriminatory labour practices all contribute to its spread. Increased trafficking is associated also with the dislocations resulting from economic transition, particularly the increased feminisation of poverty.

The current Dutch Chairmanship of the OSCE continues to stress the need to have a balanced, cross-sectoral approach in efforts to prevent and combat trafficking, as well as in assisting at-risk groups and victims.

OSCE field missions play a crucial role in ensuring and facilitating a cross-sectoral approach. In particular, the ODIHR supports these initiatives through its Anti-Trafficking Project Fund,<sup>9</sup> as well as with materials and expert guidance. Throughout the OSCE region, the OSCE field missions and the ODIHR have organized round table events bringing together relevant experts from governmental agencies, NGOs and international organizations to raise awareness about trafficking in human beings and to initiate co-ordinated plans of action to address it. A variety of resources and strategic partnerships have assisted in the elaboration and implementation of national action plans. Most notably, the *Guidelines for National Plans of Action to Combat Trafficking in Human Beings* proposed by the Stability Pact Task Force on Trafficking in Human Beings, relevant recommendations from the Council of Europe including *Recommendation No. R (2000) 11*, as well as more recent advocacy materials such as the UN High Commissioner for Human Rights' *Recommended Principles and Guidelines on Human rights and Human Trafficking*, are used as tools to develop nation action plans.

Increased awareness and strengthened commitments have also resulted in more capacity for the OSCE to assist its participating States in preventing trafficking, prosecuting perpetrators and protecting the rights of victims. All OSCE field missions have an anti-trafficking focal point<sup>10</sup> and in several field missions this expert is solely dedicated to work on trafficking issues. Furthermore, successful efforts have been made to fulfill the recommendation from the ODIHR's *Proposed Action Plan 2000 for Activities to Combat Trafficking in Human Beings*<sup>11</sup> that anti-trafficking aims should be integrated into all relevant project activities and there is increased internal co-ordination within the OSCE on anti-trafficking issues. This internal OSCE exchange is increasingly important and beneficial especially to co-ordinate on-going activities with newer

<sup>9</sup> Overview of activities supported by the ODIHR's Anti-Trafficking Project Fund is available on-line at: <http://www.osce.org/odihr/democratization/trafficking/atpf.php3>

<sup>10</sup> Please see attached list of contact information for anti-trafficking focal points in OSCE field missions

<sup>11</sup> Available on-line at <http://www.osce.org/odihr/documents/ap-traffic.pdf>

resources, which may enhance specific areas of expertise, such as the future contribution of the OSCE's Strategic Police Matters Unit.

In its commitments and through its targeted action, the OSCE recognizes trafficking in human beings as a serious crime and will continue to develop training and measures to investigate and to prosecute cases of trafficking. However, as the ODIHR's *8 Good Reasons for National Referral Mechanisms* clearly states:

Criminal investigations and prosecution of perpetrators is rarely successfully conducted without the statement of the trafficked persons. Guaranteed safety, shelter, access to independent advice and counseling, an opportunity for reflection delay as well as effective witness protection are a prerequisite to enabling trafficked persons to report the crime and to consider co-operation with authorities. Only a stabilized victim will be able to contribute to successful prosecution efforts as a reliable witness.

By developing the Handbook for National Referral Mechanisms, the ODIHR seeks to provide an essential tool, which will promote awareness, training, enhanced co-ordination and, most importantly, an effective human rights based response to trafficking in human beings.

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# National Referral Mechanism

## Definition

A National Referral Mechanism (NRM) creates a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons in coordination and strategic partnership with civil society and other actors dealing with trafficked victims.<sup>1</sup>

Such mechanisms should be established in countries of destination, transit and or<sup>2</sup>igin in order to ensure a comprehensive and inclusive system of support targeted at and accessible to all trafficked persons.

A NRM should include:

- Guidance enabling the accurate identification and appropriate treatment of trafficked persons, which incorporates respect for the views and autonomy of the people themselves.
- The referral of trafficked persons to specialized agencies offering shelter and maximum protection from physical and psychological harm, including medical, social, and psychological support, legal services, and assistance in acquiring identification documents, as well as the facilitation of voluntary repatriation or resettlement.
- The establishment of appropriate formally binding mechanisms designed to harmonize victim assistance with investigative and prosecutorial efforts.

Responsibilities and competencies of all actors involved in the NRM should be defined in such a way as to ensure protection and promotion of the human rights of all trafficked persons regardless of their willingness to co-operation with law-enforcement authorities.

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<sup>1</sup> These actors include, in the first place, non-governmental organizations, voluntary groups, relevant state authorities and structures, and, in specific cases, appropriate international actors.

## 8 Good Reasons to Implement National Referral Mechanisms

- Trafficked persons are victims of serious crimes. Protecting their rights and providing them with universal, unimpeded access to assistance should be the top priority of all anti-trafficking measures.
- Trafficking in human beings has many different faces. A structure to combat the crime and to ensure access to protection mechanisms for all trafficked persons has to be flexible in rapidly identifying and addressing all trafficking cases.
- Trafficked persons include women, men and children who may have been exploited in forced labor conditions within formal and informal work sectors such as begging, construction work, the sex-industry, agricultural work and domestic work across and within national borders. A protection mechanism must be accessible and provide support to all categories of victim.
- Trafficked persons do not share the same characteristics although they are all victims of the same crime. A support and protection mechanism should include a wide range of different specialized services, including shelter, psychological, medical and legal consultations along with education, which address the specific needs of each individual.
- Criminal investigations and prosecution of perpetrators is rarely successfully conducted without the statement of the trafficked persons. Guaranteed safety, shelter, access to independent advice and counseling, an opportunity for reflection delay as well as effective witness protection are a prerequisite to enabling trafficked persons to report the crime and to consider co-operation with authorities. Only a stabilized victim will be able to contribute to successful prosecution efforts as a reliable witness.
- Trafficking in human beings is a complex phenomenon, which requires a variety of responses in many different policy areas. These include migration measures, anti-corruption, organized crime, forced labor, informal work, as well as security. A multi disciplinary and cross sectoral approach involving all relevant actors of government and civil society and in specific cases international organizations is a precondition for effective tackling of this phenomenon.
- As the extent and nature of trafficking in human beings differs from country to country, each national response must be fine tuned to these variations. The implementation of a protection mechanism based on international human rights standards should take into account the respective national legislation, constitutional structure, commitments and obligations, and the infrastructure of governmental and non-governmental sectors. Assessing and building on existing national capacities and following up with capacity building and training will create ownership and sustainability within the national framework.
- National Referral Mechanisms are the building blocks of effective regional and international co-operation to combat trafficking and to assist its victims.