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**Western European advocacy campaign  
promoting the rights of trafficked persons**

**Report of the  
NGO ASSESSMENT MEETING**

**18-19 May 2003**

**OSCE/ODIHR and Anti-Slavery International  
Warsaw, Poland**

## **I. Executive Summary**

On 18-19 May 2003, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (ODIHR), in co-operation with Anti-Slavery International, organized an assessment meeting with anti-trafficking experts from Germany (KOK), Greece (STOP NOW), Italy (On the Road), The Netherlands (STV) and United Kingdom (Eaves Housing). Ms. Alice Miller, an external expert from Columbia University, facilitated the discussions, which aimed to assess:

- Current responses to trafficking in human beings in Western Europe, with a particular focus on victim assistance and protection issues, based on NGO country reports;
- NGO priorities for future advocacy efforts, as well as challenges to such initiatives;
- Necessary components for more effective advocacy and assistance work.

After comparing developments at the national level and assessing the level of human rights protection provided in each country, the NGOs identified the following issues as priorities for future NGO advocacy efforts:

- Provision of residency permits
- Public awareness work
- Identification of trafficked persons
- Adoption of UN Trafficking Protocol definition into national legislation and practice
- Strengthening co-operation between NGOs and governmental agencies
- Provision of the right to work along with residency permits

In addition to the needs assessment and exchange of good practice at the national level, ODIHR and Anti-Slavery International provided an update on regional developments and possibilities for linking national and regional efforts.

All participants agreed, however, that some vehicle for work could be evolved from the five national NGOs as focal points in a loose core group, communicating with Anti-Slavery International in their international NGO capacity and the staff of the ODIHR as a supportive international organization. The group concluded and agreed on the following next steps:

- Co-organize a side meeting during the annual OSCE Human Dimension Implementation Meeting in Warsaw and launch the advocacy materials there;
- Identify further steps in implementation of national and regional advocacy campaigns;
- Co-ordinate the implementation of a regional lobbying strategy, including:
  - Participation in and submission of advocacy materials to appropriate for a, in order to pursue agreed upon objectives of the group;
  - Discuss and liaise with other organizations outside the group in order to co-ordinate and gain support for lobbying positions;
- Explore possibilities for expansion of the advocacy group to other Western European countries.

## II. NGO Country Assessments

The NGO expert participants came prepared to present and discuss existing national anti-trafficking policies and legislation in their countries, as well as the existing infrastructure for victim identification, referral and support. In comparison, strikingly different levels of promotion and realization of the rights of trafficked persons emerged in these presentations.

In the presentation on *Italy*, the NGO expert focused on Article 18, a pivotal element of the 1998 reform of Italian legislation on immigration that defined trafficked persons as both men and women subject to violence and exploitation (including both psychological and physical coercion in its elements). This law explicitly provides for two options for securing residency and services for a trafficked person: a humanitarian “social path” (by which the trafficked person is not obliged to press charges against the trafficker, but is expected to give extensive information to the police through social intervention organizations), and a “judicial path” including cooperation with the prosecution. Trafficked persons are asked to participate in social assistance and integration programmes funded by Art. 18 and run by accredited NGOs and/or social public services. In the first three years of its implementation, the system funded 222 projects throughout the country and a national toll-free hotline. More than 3000 trafficked persons obtained residence permits during this period and were helped in their inclusion into Italian society.

In the Italian case, the restrictive aspect limiting the duration of residence permits was addressed through the possibility for all trafficked persons to convert a 6-month permit (renewable for one year) into a permanent residency permit for study or work reasons. Also notable in the presentation were the specific relationships between NGOs, local authorities, law enforcement agencies and the judicial system. The NGO expert carefully delineated the different roles NGOs have played in developing research and advocacy with the governmental commissions that assisted in developing the new law and oversight of its implementation, and the particular challenges that new administration brings.

The Italian expert also noted that his NGO and others were concerned about the impact of a proposed bill outlawing street prostitution, particularly in light of the already-changed nature of prostitution (from the visible to the invisible, i.e. from streets to apartments, night clubs etc., in order to escape police controls). Additionally, Italian NGOs are concerned about the effect this reform could have on the ability of NGOs to intervene and provide services. Another current challenge to ensuring protection of the rights of trafficked persons includes a 2001 immigration law reform, which makes it easier to expel and deport foreigners without NGOs having the opportunity to intervene.

The presentation from the NGO expert from the *United Kingdom (UK)* was in marked contrast to the relatively more positive Italian experience of NGO-government cooperation, along a broad anti-exploitation mandate. Anti-trafficking work and direct assistance to victims in the UK is a relatively new sphere of activity. While NGOs began in 2001 to provide services to trafficked persons, the state only recently enacted its anti-trafficking law in March 2003. The current law narrowly defines ‘trafficking’ as a crime against women and men who have been forced into prostitution. The British NGO, which was operating under a pilot project found itself caught in the situation of changing asylum and immigration laws whereby only limited services could be made available to trafficked persons. Eaves House also described an important aspect of its work as beginning ‘costing assessments’— adding up realistic estimates of the earnings of trafficked persons, and calculating the profits taken by traffickers in order to stimulate discussion regarding the nature of just and adequate compensation for trafficked persons.

In the *Netherlands*, STV has been active for over 15 years in responding to trafficking. The current national legislation defines anti-trafficking as movement into forced prostitution or recruitment for prostitution abroad. The situation in the Netherlands may change if the Palermo definition is enacted. In the Netherlands, brothel-based prostitution is legal, but non-EU foreigners can not work legally in prostitution. Even within their established anti-trafficking work, STV has many concerns. Primary among them were the lack of notification by the police to NGOs, and regular failure by the police to inform trafficked persons of their rights. In illustration of the problem, a recent study demonstrated that out of 3,500 victims that reportedly were identified in police investigations, only 350 were referred to NGOs.

In addition, temporary residence permits for victims who act as a witness in the criminal proceedings did not allow the trafficked person to work or receive training. Provisions are contingent on co-operation with the investigation and trial of traffickers. Witness protection is also a key concern, as it has been rarely used, and only provided protection during trial, but not before or after. Many women understand they would not be adequately protected and therefore do not come forward. Other STV priorities include increasing shelter space and reforming the Dutch alien law, specifically the B9-regulation for more victim protection measures. In illustration, out of 147 persons pressing charges as trafficked persons, only 47 had been informed of their rights and given reflection delay.

The NGO representative from *Greece* described the new October 2002 anti-trafficking law, which makes trafficking a crime and prescribes punishments especially for abusers of trafficked children. A joint NGO/governmental commission coordinated by STOP NOW carried out a parliamentary assessment leading to the new law and a funded pilot project. In this project, five NGOs provide assistance through a system of shelters/'reception centers' (for screening and needs assessment). The NGOs work towards voluntary repatriation or social inclusion. A troubling aspect is the limbo regarding the victim's status in Greece – permits are given 'for as long as needed'. It is unclear if 'need' is contingent on the victim's co-operation in the investigation and trial. The Greek expert described a joint public education project between Albanian and Greek NGOs (currently a video on the danger of 'trafficking'), but the actual continuing modalities of that work and evaluation of its impact –especially in light of pervasive anti-immigrant sentiment –are not yet possible to know.

The KOK in *Germany* is a coalition of NGOs working to end trafficking in women and violence against women in the migration process. The work to protect trafficked persons is mainly addressed under the Foreigner's Law. Additionally, a federal regulation provides minimally for a four-week reflection period connected to co-operation with the authorities. However, the implementation of policies among the German Länder varies greatly. The shortness of time means that other protections – the possibility of restitution, victim/witness protection – remain mostly on paper, especially as trafficked persons are often deported. Trafficked persons may stay through the trial period with a restricted status under the Foreigner's Law. The Federal Government is considering ratification and implementation of the Palermo protocol.

The representative was also particularly concerned by the inequality of the regimes for social benefits, whereby trafficked persons receiving services were clearly, publicly marked as different and unequal to other kinds of persons receiving services. This is a major obstacle and counter-productive to general efforts of counseling and addressing the needs of victims to be included into society. The local grassroots NGOs, therefore, urge the German Government not to discriminate against victims of trafficking and rather to provide them with a residency permit with access to all rights and services. A pervasive racism drives many different migrants underground, making identification of trafficked persons more difficult.

### III. Priorities for NGO Advocacy Efforts in Western Europe

Identified Priority	Comments
Provision of residence permits	<b>Italy</b> , permits ok on paper but need better regulations to implement ; <b>Netherlands</b> campaigning to expand the permits; <b>Germany</b> needs to broaden the definition in legislation for permits and expand to include right to work
Public awareness	In <b>UK</b> looked to raise public awareness as part of law reform; in <b>Netherlands</b> , it was directed at clients as well as sex workers
Identification of trafficked persons	In May <b>Greece</b> highlighted the connection with corruption and identification; in <b>Italy</b> the connection between identification and informing trafficked persons of their rights was stressed
Expanding range of exploitation addressed	In <b>Germany</b> need to focus on labour sector exploitation; in <b>Italy</b> , the state, NGOs and unions need to respond to the full range of exploitation
Right of trafficked person to work while given temporary residency	Raised by <b>Netherlands</b> ; <b>UK</b> added right to education and training
Strengthen different forms of cooperation, especially between NGOs & governmental agencies	In <b>Greece</b> , state-NGO co-operation was stressed; in <b>Netherlands</b> , co-operation among NGOs of destination and sending countries; in <b>UK</b> both intra-and trans-national co-operation
Gaining more resources/ expanding capacity of NGOs and state actors	In <b>Germany</b> , the focus of systematic training of all actors is crucial; in <b>Italy</b> , the desire was for resources for a broader range of assistance activities
Research on trafficking	In the <b>UK</b> , this was tied to the need to apply the new definition in the Palermo Protocol
Right to reflection delay	In the <b>UK</b> , the advocate desired reflection delay for all trafficked persons

Looking at the identified priorities, commonalities and differences, participants noted that certain issues lie below the surface of the discussion. For example, the **appropriate use of data and its protection** falls within the identification of trafficked persons and co-operation between NGOs and government agencies.

Also connected to the use of data were such issues as appropriate notification of NGOs regarding **deportation or repatriation**. Such measures are of particular concern especially considering the current anti-terrorist climate, which in many cases has resulted in heightened border controls and a lack of legal counsel for migrants including potential refugees and trafficked persons.

The **treatment of minors** arose as a critical issue, but one where much more research and reflection was needed. Additionally, **anti-corruption** efforts need to be strengthened.

The issue of **‘residence permits’** requires more concrete elaboration in the near future. Questions raised included:

- What should be the core, common content of such permits, i.e. what is the ideal time period, and status of the person who has acquired a permit [including the right to work, access to training, education, unification of family members, etc]?
- What options exist for converting such permits into permanent residency?

The uncomfortable position of NGOs was highlighted by the question:

**How can we, as psycho-social care providers, ask a woman to work with us to get her life in order, when in fact all we are doing is getting her ready to be deported?**

The phrase “**deportation with a smile**” seemed to capture the difficulties inherent in this work and discussions revealed the contradictory differences in frameworks. In this regard one response is based on an underlying assumption that temporary services for trafficked persons are simply part of the process of repatriation. While a different approach provides services to trafficked persons with a view to empower them and assist them with integration into countries of destination. The question of **family reunification** was also specifically raised as a critical issue that requires more work and thinking through for its implications.

Finally, participants explored the **many meanings of media work and public awareness campaigning**, and the difficulties of this work in the context of anti-trafficking. It was asked what assumptions underlie the public awareness work that advocates had prioritized? Are we doing public education? Are we campaigning for resources? The distinction was made between working through the media to raise awareness and working with the public to change policy. Presumably, this work is inter-related, but it is not always thought out clearly resulting in different and sometimes contradictory results. For example, the advocates from KOK and STV, noted the importance of assessing over time how their work was known to two different, but key sectors: their potential client pool and to decision-makers who shape policy.

Each target audience requires very different messages and strategies to reach. These strategies are different as well from awareness raising among the general public. Anecdotal stories of the horrific experiences of individual trafficked persons might be useful for raising general public sympathy and awareness, but might not be sufficient or even useful in advocating for legal or policy changes. The “numbers game”—all journalists want numbers, but few are accurate—arose as a critical point for better research under a common definition to aid advocacy.

#### **IV. Challenges to protecting the rights of trafficked persons**

The meeting grappled with different national circumstances and orientations but **three categories** of issues arose, implicating questions of legal frameworks and structures, political will and cooperation.

##### **Frameworks for rights protection and promotion**

Very specific, concrete structures and policies demonstrated clear connections to effective rights protection for trafficked persons. These structures functioned as ‘enabling conditions’ for trafficked persons to claim rights. Such structures include substantive, non-contingent residency permits, meaningful ‘reflection delay’ time periods and adequate identification systems for trafficked persons, as well as accessible, systematized provision of comprehensive services (health, legal, education and job training) and the possibility to work in the country of destination. Respect for the privacy, dignity and decision-making power of the trafficked person underpins the best measures.

Within the current, national-level examples of these key structures, it became clear that their specific content must be evaluated for rights-promoting dimensions—every ‘residence permit’ is not equally good, every form of service provision needs to be assessed for its intrinsic value; and the movement of trafficked persons home is easily co-opted by anti-immigration policies.

Among the priority areas to be addressed:

Repatriation: Does the procedure really provide for safe and *voluntary* repatriation or rather ‘*deportation with a smile*’? What are the options for staying in a destination country? How can NGOs assess the consequences for trafficked persons and their own provision of services? Do they have reliable data on the treatment of persons who are returned? If so, through which channels of communication?

Services: Do health and legal services, welfare benefits and counseling comprise rights-oriented responses? Can they be created within existing legal and resource frameworks in ways that really meet the needs of the trafficked persons (including support for community integration and settlement in the country of destination) or only accessible for victims who are being tolerated in the destination country until “well enough to be shipped home”?

Co-operation with law enforcement: When do NGOs inadvertently become part of the surveillance mechanisms of the state, even though their motive is to find and protect persons who are not only victims of specific crimes but survivors of fundamental rights violations? What are the security risks to NGOs involved in assisting victims and what standards can be drawn from good practice in this field?

These questions arise in many contexts, especially in the search for governmental and NGO systems that adequately and safely identify trafficked persons; in the dominant model of governmental structures that link an NGO’s ability to provide services to the trafficked person to their role as a witness for prosecution; and the role of NGOs in providing services within a framework established by the state, within the constrained political space to provide services to non-nationals while NGOs can not control a states’ actions.

Victim protection: Do current frameworks for provision of law and services effectively respond to the needs of trafficked persons and protect their rights or do some interventions fall short of the full range of needs (family reunification, counseling for abuse, equality of treatment in the

country of destination)? Do some anti-trafficking measures inadvertently limit rights, such as the right to freedom of movement and the right to work?

### **Mandate, political context and political will**

Western European nations are at markedly different stages of responding to 'trafficking' and ensuring the rights of trafficked persons. For a start, there are very different definitions of 'trafficking' in national law. Some national laws define the crime solely as movement into prostitution and only women are identified as trafficked victims. Furthermore, other definitions in national laws limit the concept to cross-border movement. Some nations have 10-15 years of experience, two (UK and Greece) have relatively new policies. All have questions of consistency of programming and too few resources to assist trafficked persons, especially when compared with the funding going to various European programs to stop illegal migration or anti-terrorism efforts. Can NGOs build up the services they understand that trafficked persons really need?

NGOs are also in very different stages. Some are newly entering the field. Others have extensive experience, but almost all faced some limitations in applying a human rights based approach in the context of the definition of trafficked person in the Palermo Protocol. For example, many NGOs have structural limitations in that their mandates that might reach only to women, or women in prostitution (paralleling the definition found in national legislation). Others face funding limits vis a vis money tied to specific government programs and services.

The transparent functioning of and receptivity of regional standard-setting processes to NGO advocacy was of great concern, as NGOs evaluate their scarce time and resources. Better understanding of EU processes in particular is needed, and ways of building the links between national and regional standard setting.

### **Cooperation and accountability among NGOs and with States**

Although the focus of the meeting was assessment, participants expressed an interest in continuing contact, for information, exchange of experiences, and the possibility of collaboration on regional advocacy with an understanding that ODIHR and Anti-Slavery International could play facilitating and communication roles, while national level NGOs might explore the possibility of creating a more formal structure for collaborative work.

Participants also agreed that trans-national and regional work must be better developed, particularly in regard to ensuring public awareness campaigns, and effective services and rights-based care for trafficked persons. For example, concern was expressed to increase contact with NGOs in sending countries, both in regard to preventing trafficking, ensuring safe migration and safeguarding appropriate treatment of returned trafficked persons. Reliable research with accurate numbers pegged to the UN protocol definition is needed.

The benefits and dangers of formal co-operation with state anti-trafficking projects received considerable discussion. There is no avoiding such contacts, especially as increased funding comes through these forms of models, but NGOs had varying degrees of concern for their independence and effectiveness in remaining victim-centered, and some noted the encroachment into civil society actions by these projects.



## V. Developments and opportunities at the regional level

At the regional level, current developments in the European Union (EU) include the *Brussels Declaration on Preventing and Combating Trafficking in Human Beings*<sup>1</sup> and the *Proposal for a Council Directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities*,<sup>2</sup> which proposes a minimalist and highly contingent residence permit for trafficked persons. In addition to EU activities at the regional level, an important development is occurring within the Council of Europe with the drafting of a European Convention on action against trafficking in human beings. The lack of rights protections in EU activities and the focus on rights in the proposed Council of Europe activities provide key triggers for NGO advocacy efforts.

The first presentations and discussions addressed the EU and the proposed *Brussels Declaration* from September 2002. In May 2003, the Council of the EU took note of the Brussels Declaration. Furthermore, the Proposal for a Council Directive on short-term residence permits proposes to conform such permits to a minimalist 6-months contingent on ‘genuine’ cooperation with authorities and proof of having severed connections with “traffickers” after a 30-day reflection delay. The criticism was expressed that this standard is often very difficult for many trafficked persons, who may be in intimate relationships with persons that might themselves be considered as traffickers or connected to other criminal activities.

Discussions highlighted key venues wherein EU policies will be developed and could be influenced. One particular point of action arose in relation to the composition of an European Experts Group, charged with reviewing and suggesting the consolidation of best practices and standards within the EU and at national and regional levels. It is composed of governmental and independent experts, as well as representatives from international organizations and NGOs. Its first meeting was in September 2003.

The European Forum on Organized Crime is another key venue that has an impact on anti – trafficking policies carried out by the European Commission. NGOs can attend as independent advocates and have a substantive impact as they have unparalleled information on what is happening on the ground.

The newly initiated drafting process for a European Convention<sup>3</sup> was also discussed. Much of the discussion centered on the relationship between the processes and standards recommended in the Brussels Declaration and the proposed CoE human rights oriented Convention. The proposed work schedule of the draft Convention is tight – an 18 month schedule, beginning September 2003 and finishing December 2004. The ultimate structure and power of the proposed Convention is still unclear: will it set up super-national structures (treaty body) which will have the capacity to receive complaints? Will it have a monitoring/oversight role for states parties through self-reporting? Will it include an independent inquiry procedure?

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<sup>1</sup> [http://www.europa.eu.int/comm/justice\\_home/news/forum\\_crimen/2002/workshop/brussels\\_decl\\_en.htm](http://www.europa.eu.int/comm/justice_home/news/forum_crimen/2002/workshop/brussels_decl_en.htm)

<sup>2</sup> COM (2002) 71 [2002/0043/CNS](http://europa.eu.int/prelex/detail_dossier_real.cfm?CL=en&DosId=171579) Proposal for a Council Directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities. More info: [http://europa.eu.int/prelex/detail\\_dossier\\_real.cfm?CL=en&DosId=171579](http://europa.eu.int/prelex/detail_dossier_real.cfm?CL=en&DosId=171579).

<sup>3</sup> [http://www.coe.int/T/E/human\\_rights/trafficking/](http://www.coe.int/T/E/human_rights/trafficking/)

## **VI. Conclusion: Next steps at national and regional level**

As this was primarily designed as an assessment meeting, participants closed with some ideas on next steps, which could be taken in the spirit of continued collaborative work, without needing to draw upon additional funding or a specific workplan at this time. Ideas for action are based upon a human rights framework as emphasized throughout the session and guided by key documents, such as the Anti-Slavery International's report, the UN Trafficking Protocol and the UNHCHR's Recommended Principles and Guidelines on Human Rights and Human Trafficking.

All participants agreed, however, that some vehicle for work could be evolved from the five national NGOs as focal points in a loose, core group, communicating with Anti-Slavery International in their international NGO capacity and the staff of the ODIHR as a supportive IGO. The group concluded by agreeing on the following next steps:

- Co-organize side meeting during the annual OSCE Human Dimension Implementation Meeting in Warsaw and launch advocacy materials there;
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  - Discuss and liaise with other organizations outside the group in order to coordinate and gain support for lobbying positions;
- Explore possibilities for expansion of the advocacy group to other Western European countries.

## **CONTACT DETAILS OF PARTICIPATING NON-GOVERNMENTAL ORGANISATIONS**

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### **Anti-Slavery International**

[info@antislavery.org](mailto:info@antislavery.org)

[www.antislavery.org](http://www.antislavery.org)

### **KEDE – Centre for research and action on peace**

*Greece*

[kedewinpeace@ath.forthnet.org](mailto:kedewinpeace@ath.forthnet.org)

[www.stop-trafficking.org](http://www.stop-trafficking.org)

### **KOK – Federal association against traffic in women and violence against women in the migration process**

*Germany*

[office@kok-potsdam.de](mailto:office@kok-potsdam.de)

[www.kok-potsdam.de](http://www.kok-potsdam.de)

### **On the Road**

*Italy*

[mail@ontheroadonlus.it](mailto:mail@ontheroadonlus.it)

[ontheroadonlus.it](http://ontheroadonlus.it)

### **STV – Foundation against Trafficking in Women**

*The Netherlands*

[stv@opvang.nl](mailto:stv@opvang.nl)

[www.fo-stvkennisnet.nl](http://www.fo-stvkennisnet.nl)

### **Eaves Housing for Women**

*United Kingdom*

[denise.marshall@eaveshousing.co.uk](mailto:denise.marshall@eaveshousing.co.uk)