



SUPPLEMENTARY HUMAN DIMENSION MEETING
ON
TRAFFICKING IN HUMAN BEINGS

FINAL REPORT

Vienna, 19 June 2000

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I. BACKGROUND

The OSCE held the second of three Supplementary Human Dimension Meetings for 2000 in Vienna on 19 June. The meeting was dedicated to the topic “Trafficking in Human Beings.”

This topic was selected for the meeting because trafficking in human beings is currently one of the most urgent and complex human rights issues which demands a more appropriate response from the international community. Human rights violations associated with trafficking in human beings occur throughout the OSCE region in countries of origin, transit and destination. Although at this time there is no internationally agreed upon definition of trafficking, the OSCE/ODIHR encourages the use of a broad concept of the term as the basis for a human rights approach towards the problem. This approach would encompass cases of trafficking for the sex industry as well as other forms of forced labour and/or servitude, including sweatshop, domestic or agricultural labour, and forced or fictitious marriages.

Participating States have the responsibility to address such diverse cases of trafficking in human beings by implementing effective programs of prevention, protection of victims, legislative reform and prosecution of traffickers. Increasingly, the OSCE and its institutions have taken on a key role in supporting such national initiatives and promoting regional and international solutions.

The OSCE/ODIHR outlined steps for national action plans and recommendations for OSCE bodies in its *Proposed Action Plan 2000 for Activities to Combat Trafficking in Human Beings*. The ODIHR has also begun to implement projects in this field in the areas of research, prevention, training of police and border officials, legislative reform and NGO capacity building to support direct services to victims. Furthermore, in June 2000 the Austrian Chairmanship of the OSCE seconded former Austrian Minister of Women’s Affairs, Dr. Helga Konrad, to the ODIHR as Regional Co-ordinator to chair the Stability Pact Task Force on Trafficking in Human Beings.

OSCE field missions have become increasingly involved in addressing this issue, first through monitoring related human rights violations. Several field missions are also implementing projects to address trafficking, and co-ordinating anti-trafficking activities with other international organisations, governmental agencies and grassroots NGOs in the field.

The focus of the 19 June meeting was to discuss the role of the OSCE and participating States in the fight against trafficking. By highlighting best practices and discussing challenges, participants elaborated concrete recommendations to participating States and to OSCE institutions and field presences for implementation of OSCE commitments in this area.

I. EXECUTIVE SUMMARY

The meeting began with an opening plenary session after which the participants divided into two working groups in order to have a more concrete and focused discussion on the agenda topics. The plenary session started with brief introductions by Ambassador Christian Strohal of Austria on behalf of the Austrian Chairmanship of the OSCE, and Ambassador Gérard Stoudmann, Director of the OSCE/ODIHR. These were followed by keynote speeches given by Sandra Valle, Officer in Charge from the Office of the Director-General of the UNODCCP, Patsy Sørensen, Member of the European Parliament, Rapporteur for the Fight Against Trafficking in Women, Philippe Boudin, Director, Comité Contre Lesclavage Moderne, and Erhard Busek, Coordinator, Southeast European Co-operative Initiative (SECI), as well as a statement by Helle Degn, President of the OSCE Parliamentary Assembly.

The participants then dispersed in the two working groups:

Working Group 1 addressed the role of the OSCE and the implementation of the proposed Action Plan to Combat Trafficking in Human Beings.

Working Group 2 focused on the role of the participating States and on recommendations for action at the national and international level.

The meeting closed with a Plenary Session where the recommendations of both groups were presented and discussed.

The following key issues with regard to trafficking in human beings were identified in one or both working groups as well as in the opening address and the keynote speech:

- Trafficking in human beings affects the entire OSCE region and the problem requires more attention. All OSCE participating States should be aware of their responsibility as countries of origin, transit and/or destination of trafficking victims.
- The definition of trafficking should include the wide variety of forms of trafficking, not focusing exclusively on trafficking for the sex industry, as persons are trafficked into a multitude of exploitative or abusive situations. It should focus on the main elements of force, coercion, deception and/or debt bondage and the exploitative or abusive purpose for which the deception, coercion or debt bondage is employed.
- The participating States should take more effective and concerted action to implement their OSCE commitments to eliminate all forms of trafficking in human beings (Moscow, 1991; Istanbul, 1999) and ensure that international human rights standards are taken into account.
- To ensure the protection of victims of trafficking, a human rights approach must be at the core of any credible anti-trafficking strategy. Trafficking victims should not be treated as illegal immigrants or criminals, but rather as victims of serious human rights violations with the right to effective legal remedies, legal protection, non-discriminatory treatment, and rehabilitation.
- It was stressed that the participating States as well as the OSCE should co-operate closely with NGOs.

II. RECOMMENDATIONS

This report, just as the Meeting itself, focuses on concrete recommendations arising from the working groups. These recommendations from delegates, international organisations (IOs) and non-governmental organisations (NGOs), are wide-ranging and aimed at various actors (OSCE Institutions, Governments, NGOs). The recommendations have no official status, and the inclusion of a recommendation in this report does not suggest that it reflects the views or policy of the OSCE.

It is emphasised that the OSCE cannot implement all of these recommendations. However, they can provide a basis for assessing the degree of follow-up. It should be noted that operational recommendations which were made to existing OSCE structures, but which are not compatible with the mandates of those structures, have not been reproduced here.

Outcome of Working Group 1 The Role of the OSCE and Implementation of the Proposed Action Plan to Combat Trafficking in Human Beings

Moderator:

Peter EICHER, First Deputy Director of the OSCE/ODIHR

Introducer:

Jyothi KANICS, Adviser on Trafficking Issues, OSCE/ODIHR

A. Recommendations for the OSCE and the ODIHR:

- The OSCE should strive to mainstream trafficking concerns into its overall approach to human dimension issues and its projects in general.
- The OSCE should further integrate anti-trafficking measures into the political and programmatic activities of all relevant OSCE bodies, including the Permanent Council, the Ministerial Council and the Parliamentary Assembly.
- The OSCE should address the socio-economic root causes of trafficking in the countries of origin in its projects and other activities, i.e., work to address poverty, the disadvantaged position of women in society and domestic violence.
- The OSCE should raise awareness about trafficking within OSCE institutions and among OSCE personnel.
- ODIHR should develop training programmes for members of OSCE field missions working on the issue of trafficking in order to build their capacity to monitor, report and respond to the problem of trafficking through their regular OSCE activities. Also, OSCE staff should be trained to be trainers themselves, to pass on their expertise to national actors and their colleagues in the field.
- Training should also be provided for border officials, police, judges, prosecutors and counsellors.
- ODIHR should provide experts to assist participating States in the areas of legislative reform and law enforcement training.
- Recognising that the deployment of an international field presence can create a demand for trafficked persons, the OSCE should develop a Code of Conduct that is binding upon its mission members.
- The OSCE should establish a rapid reaction mechanism to deal with urgent individual cases of trafficking in countries in which there is an OSCE presence.
- An inventory should be made of existing initiatives to counteract trafficking and of best practices in the fight against trafficking. Such an inventory should be the product of a joint effort of the OSCE, other IOs, NGOs and governments under the co-ordination of the OSCE.
- The Stability Pact Task Forces on Gender and on Trafficking in Human Beings should closely co-ordinate their efforts.

- The OSCE should adopt stronger standards against trafficking.

B. Recommendations for OSCE field operations:

- Field operations should act as a bridge between NGOs and state authorities in resolving individual trafficking cases, to ensure the safe repatriation of the persons concerned and to ensure the prosecution and punishment of perpetrators.
- Field operations should establish a focal point on trafficking and, where possible, working groups on trafficking consisting of several staff involved in the problem of trafficking from different angles, such as monitoring, gender and rule of law.
- Field operations should expand monitoring and research. E.g. a more comprehensive study of trafficking should be conducted in Central Asia because the phenomenon is under-researched in that region.
- Field operations should work with governments, NGOs and other partners on such issues as access to justice, remedies for victims, witness protection and voluntary repatriation.

C. Recommendations for participating States:

- Where such legislation does not yet exist, States should work towards enacting legislation to counteract trafficking. Such legislation should be based on a human rights approach to the problem of trafficking, meaning that trafficked persons should be treated not as criminals, but rather as victims.
- Legislation should include witness protection programmes, as well as rehabilitation and reintegration programmes for the trafficked persons.
- Especially in countries of origin and of transit, co-ordination and co-operation on the bilateral and multilateral level should be ensured to counteract trafficking, including with a view to repatriating victims of trafficking.
- OSCE participating States should provide sustained funding for programmes for the protection of victims, including safe houses.
- OSCE participating States are encouraged to second experts in trafficking issues to those OSCE field operations that are increasingly confronted with the problem of trafficking. Potentially, a secondment for a regional co-ordinator for the Newly Independent States could be considered.
- Finally, but not least, the Ministerial Council should give strong political support to activities to combat trafficking.

Outcome of Working Group 2 The Role of the Participating States and Recommendations for Action at the National and International Level

Moderator:

Maria Grazie GIAMMARINARO
Ministry of Equal Opportunities, Italy

Introducers:

Ann JORDAN, Director, Initiative Against Trafficking in Persons
International Human Rights Law Group

H.A. VAN DER STOLPE, Ministry of Justice of the Netherlands

A. Recommendations for participating States

Regarding legislation

- The participating States should adopt and/or implement and periodically review and analyse their legislation relating to trafficking to ensure its conformity with international provisions and their OSCE commitments in this field, in particular with regard to human rights and victim protection clauses.
- The participating States should criminalise trafficking in their national legislation with a view to ensure effective prosecution. Appropriate penalties should be foreseen.
- The participating States should harmonise their national legislation concerning the legal definition of trafficking in order to improve international co-operation.

Regarding prevention

- The participating States should organise information campaigns in countries of origin on the diverse aspects of trafficking, aimed at prevention and education, as well as information campaigns in countries of destination about rights set forth in national and international legislation for trafficked persons.
- The participating States should actively involve embassies and consular offices in public awareness campaigns and identification of methods used by traffickers.
- The participating States should prevent “revictimization” of trafficked persons, inter alia through social reintegration programs in countries of destination and in countries of origin. Reintegration programmes should include education, training for employment opportunities and practical assistance.

Regarding protection of victims

- The participating States should provide social assistance and integration programs, including safe housing, counselling in a language known by the victim, medical and psychological assistance and access to health care, training including basic language training and skills training, work opportunities, assistance with repatriation or integration in the country of destination.
- The participating States should provide temporary or permanent residence permits for trafficked persons regardless whether the victim is willing to act as a witness or not, at least at the first stage of the criminal proceeding. The victim should be allowed to work during his or her stay in the receiving country. The victim should not be deprived of the right to apply for asylum.
- Compensation for victims comparable to the gravity of the crime should be foreseen.
- The participating States should introduce measures allowing the confiscation of traffickers' earnings and should use the confiscated assets to supplement government funding for programs that address the needs of victims of trafficking.
- The participating States should introduce witness protection programs for victims acting as witnesses in criminal proceedings. The right to privacy of victims should be protected for reasons including preventing and eradicating social stigmatisation.
- The participating States should provide for the possibility for NGOs to be in court on behalf of victims.

Regarding law enforcement

- The participating States should organise awareness raising among law enforcement, judiciary and other public officials about all aspects of trafficking, such as the connection between the protection of human rights and prosecution, the connection between trafficking and organised crime and between trafficking and gender issues. In particular, through training for law enforcement and prosecutors focused on the human rights dimension, new techniques of investigation concerning organised crime could be developed, including in co-operation with NGOs.
- The participating States in close co-operation with specialised NGOs and other experts should produce guidelines for all public officials involved in the fight against trafficking and protection of victims, based on an integrated approach to prosecution, prevention and protection of human rights of trafficked persons.
- Each participating State should establish specialized police and prosecutorial units that are trained to deal with the complexities, gender issues and victim sensitivities involved in trafficking. As a first step, specific curricula for police academies need to be established.

Regarding national mechanisms

- The participating States in co-operation with specialised NGOs, local authorities and other experts should develop national strategies and co-ordinating mechanisms such as interagency bodies to combat trafficking. They should consider the establishment of interagency bodies and national rapporteurs.
- Participating States that have introduced such measures on trafficking need to establish a system to monitor the implementation of national strategies and action plans.
- The participating States should address the root causes of trafficking. Through bilateral and multilateral agreements with countries of origin, the participating States should aim to improve the social, economic and legal status of persons in countries of origin, also by providing support to government agencies and NGOs that work towards the empowerment of women.
- The participating States should analyse the impact of their national immigration laws on the development of trafficking, and ensure that there is a distinction made between trafficking and migrant smuggling.

Regarding State co-operation

- The participating States should use the OSCE as a forum for sharing strategies and improving trans-national co-operation between OSCE countries of origin, transit, and destination. They should also consider bilateral meetings between delegations of destination and origin countries to discuss the problem and to develop co-ordinated strategies and joint actions to prevent trafficking in human beings.
- Through bilateral and multilateral agreements with countries of origin the participating States should aim to improve women's social, economic and legal status in countries of origin, by providing support to government agencies and NGOs that work towards the empowerment of women.

Regarding bilateral co-operation

- The participating States should exchange best practices at national and international levels.
- The participating States should regularly exchange data and investigative information on trafficking.
- In some cases, the participating States should also co-operate to ensure the protection of the victim's family in the country of origin.

Compliance with international standards

- The participating States should unify their efforts in order to finalise the *UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* (supplementing the UN Convention Against Transnational Organized Crime) and adopt the *UN Convention Against Transnational Organized Crime*. The participating States should support the inclusion of human rights considerations into the UN Draft Protocol on trafficking. NGO recommendations for the wording of the protocol should be considered during the draft process.
- The participating States that have not yet done so should ratify as soon as possible the Optional Protocol of CEDAW.
- The participating States should implement existing international instruments and programs, in particular EU programs such as STOP and DAPHNE.

B. Recommendations for the OSCE

- The OSCE should further integrate anti-trafficking measures into the political and programmatic activities of all relevant OSCE institutions and adopt a gender and trafficking perspective in every relevant action and initiative.
- In its efforts to combat trafficking the OSCE should combine prevention efforts with efforts to protect the human rights of victims.
- The OSCE should raise awareness about trafficking within OSCE institutions and among OSCE personnel. Training should be provided to OSCE staff, including basic training for all OSCE staff members and more in depth training for “key” mission members, to build their capacity to monitor, report, and respond to the problem of trafficking through their regular OSCE activities.
- The OSCE should consider establishing a code of conduct for its mission personnel in conflict and post conflict situations.
- The OSCE should facilitate co-operation and joint strategies between participating States as well as encourage and facilitate interagency co-ordination and government co-ordination with NGOs.
- The OSCE should continue to support NGOs and build the capacity of emerging NGOs.

1. AGENDA

9.00-10.30 OPENING SESSION: REDOUTENSAAL
Opening by Moderator - Ambassador Christian Strohal, OSCE Chairmanship
Introductory remarks by Ambassador Gérard Stoudmann, Director of the OSCE/ODIHR

Key-note speeches by

1. Sandra Valle, Officer in Charge, Office of the Executive Director of the UNODCCP
2. Patsy Sörenson, Member of the European Parliament, Rapporteur for the Fight Against Trafficking in Women
3. Philippe Boudin, Director, Comité Contre L'Esclavage Moderne
4. Erhard Busek, Coordinator, Southeast European Cooperative Initiative (SECI)

Statement by Helle Degn, President of the OSCE Parliamentary Assembly

Technical information by the OSCE/ODIHR

10.30-12.30 WORKING GROUPS: REDOUTENSAAL & RATSAAL

Working Group 1

The Role of the OSCE and Implementation of the Proposed Action Plan to Combat Trafficking in Human Beings

Working Group 2

The Role of the Participating States and Recommendations for Action at the National and International Level

12.30-14.00 Lunch offered by the Austrian Chairmanship

14.00-15.30 Working Group 1 and 2 (continuation)

15.30-16.30 BREAK

Side Meeting A/ Bibliotheksaal

Briefing on Beijing +5

Side Meeting B/ Room 425

Briefing on the UN Draft Protocol

16.30-18.00 CLOSING SESSION: REDOUTENSAAL
Moderators' Reports
Discussion of follow-up measures
Comments from the floor

3. ANNOTATED AGENDA

BACKGROUND

Trafficking in human beings is one of the most pressing and complex human rights issues in the OSCE region. "Trafficking" includes the widespread phenomenon of trafficking in women and girls for forced prostitution or other sexual exploitation. However, "trafficking" may also include trafficking for other forms of forced labour and/or servitude, including sweatshop, domestic or agricultural labour, and forced or fictitious "mail-order" marriages."

Although trafficking differs somewhat in each country or region where it occurs, certain common patterns have emerged. Traffickers tend to target people in countries or regions where socio-economic conditions are difficult and opportunities extremely limited. Women and children are particularly vulnerable and expressly targeted. Traffickers often recruit their victims by falsely promising good jobs in another country or region; some are recruited through marriage agencies; sometimes the victims are abducted or sold. Once in the control of the traffickers, victims usually find themselves trapped in abusive, slavery-like situations, including situations of forced prostitution. In almost all cases the traffickers take the victims' earnings and passports, and use violence, intimidation, and debt bondage to ensure their continued compliance. Traffickers reap huge profits from this trade in human beings. Few victims of trafficking can escape their traffickers or negotiate the conditions of their employment. In many cases the conditions endured by trafficked persons are extremely brutal.

Trafficking in human beings, particularly of women and children, has been loudly denounced by the international community as an egregious and profound human rights abuse, a form of "modern-day slavery," and a particular form of violence against women. As governments are responsible for ensuring human rights on their territories, they have an obligation to protect individuals from such practices, prosecute violations, and provide effective remedies for victims.

Despite increasing efforts to combat it, however, trafficking continues to flourish and expand in the OSCE region.

In order to provide a common framework for discussing the problem of trafficking, the working definition of "trafficking in human beings" used by the OSCE ODIHR is as follows:

- All acts involved in the recruitment, abduction, transport (within or across borders), sale, transfer, harbouring, or receipt of persons;
- By the threat or use of force, deception, coercion (including abuse of authority), or debt bondage;
- For the purpose of placing or holding such person, whether for pay or not, in involuntary servitude, forced or bonded labour, or in slavery-like conditions (including forced prostitution);
- In a community other than the one in which the person lived at the time of the original deception, coercion or debt bondage.

OVERVIEW

The focus of the meeting will be to discuss the role of the OSCE and the participating States in the fight against trafficking and to develop concrete recommendations for implementation of OSCE commitments in this area. Discussions will take place in two parallel working groups.

Those working groups will address the following general issues:

- What are the priorities of the OSCE, its institutions, field operations and participating States in the fight against trafficking?
- How can governments, national and international institutions and civil society in the OSCE region co-operate to overcome this phenomenon?

WORKING GROUPS

I. The Role of the OSCE and Implementation of the Proposed Action Plan to Combat Trafficking in Human Beings

Context:

The issue of trafficking has been raised in the OSCE context since the early 1990s (Moscow Document 1991). However, the OSCE has only recently begun to address this issue in operational terms.

In preparation for the 1999 Summit Meeting in Istanbul, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) prepared a proposed OSCE Action Plan of activities to combat trafficking. The purpose was to suggest specific actions that could be taken by the OSCE and the participating States in the short to medium term to address the problem of trafficking within the OSCE framework, and to encourage the delegations and OSCE institutions to consider additional ways to integrate anti-trafficking measures into the OSCE's ongoing, core activities. Included in the Action Plan are recommendations for institutions at all levels of the OSCE, from the political to the field level, as well as recommendations for the participating States.

The purpose of this working group is to increase awareness of the Action Plan, to review the progress made in its implementation, and to identify priority areas for further action. In particular, attention will be given to how the OSCE can enhance its activities in the field and at the political level, and how it might facilitate greater co-operation and accountability among the participating States.

Topics for this working group will include:

- Review of current activities and future initiatives by the OSCE, its institutions and field Missions
- Co-operation with other international organisations and NGOs active in the field
- Contribution of the OSCE to regional initiatives (e.g. Stability Pact for South-East Europe)
- Priorities and next steps

II. The Role of the Participating States and Recommendations for Action at the National and International Level

Individually and collectively, the participating States of the OSCE bear primary responsibility for implementation of measures to combat trafficking. Whether they are countries of origin, transit, or destination, nearly all OSCE States are affected by trafficking to some degree.

Despite increased attention on the political level, however, few States have taken adequate measures to protect individuals from trafficking and its related human rights abuses, to prosecute

those engaged in trafficking, or to provide effective assistance or remedies to victims. Current legal frameworks, policies and strategies have generally proven inadequate to deal effectively with this complex transnational problem, and co-operation at the national and international level is the exception rather than the rule.

Participating States play a crucial role in the fight against human trafficking, in particular when it comes to the treatment of victims. The way in which victims are perceived and treated especially in transit/destination countries is a decisive factor in addressing the problem on a national and international level. The OSCE should therefore encourage participating States to take concrete steps to develop a national plan of action and/or co-ordinating mechanism to address trafficking.

Topics for this working group will include:

- Limitations of current laws, policies and strategies, particularly as they relate to the human rights and needs of victims of trafficking (legal status, protection and support services, repatriation, legal remedies and compensation, adequate prosecution of traffickers)
- Examples of good practices
- Priorities for national and international action
- Development of national strategies or "action plans"
- Strategies to enhancing co-operation between participating States
- Presentation of the existence and the development of international instruments and initiatives in other international fora (e.g. UN, Budapest Process, Council of Europe, Europol, SECI)