



**Organization for Security and Co-operation in Europe  
Office of the Special Representative and Co-ordinator for  
Combating Trafficking in Human Beings**

Highlights of the  
16<sup>th</sup> *ALLIANCE AGAINST TRAFFICKING IN PERSONS* conference

**“Combating Trafficking in Human Beings for the Purpose of  
Forced Criminality”**



Vienna, Hofburg, Neuer Saal  
11-12 April 2016

## Introduction

The 16<sup>th</sup> *Alliance against Trafficking in Persons* conference, *Combating Trafficking in Human Beings for the Purpose of Forced Criminality* provided a unique platform for discussion and drew attention to the social and legal implications of human trafficking for forced criminality, building upon the existing OSCE policy recommendations stated in the 2013 *Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings*. Good practices and outstanding gaps regarding the wide range of unlawful activities that this form of exploitation entails were shared. National and international challenges related to prosecution of the crime, as well as victims' rights, identification and assistance were thoroughly analysed. The speakers' contributions were based on their practical experience and work on transnational cases. The conference paid particular attention to trafficking in children, keeping in mind that girls and boys are the most vulnerable groups forced to commit criminal activities.

This high-level event brought together over 325 participants from the 57 OSCE participating States and 11 Partners for Co-operation, from relevant international and regional organizations, NGOs, as well as from academia, think-tanks and the media. The participants included numerous high-level speakers, as well as experts, practitioners and government representatives, in particular national co-ordinators on trafficking in human beings or equivalent mechanisms. The conference was broadcasted live in both English and Russian. The coverage by ORF, the Austrian public service broadcaster, and Kazakhstan's 24 KZ television, as well as the active dialogue on social media, raised the visibility of the event across the OSCE region.

Three side events were held on the margins of the *Alliance* conference:

1. **Identifying victims of trafficking in places of detention**, co-organized with the Council of Europe.
2. **The use of new technologies for trafficking in human beings for the purpose of forced criminality**, co-organized with the Executive Committee of the CIS.
3. **Data collection and exchange of information in detection of human trafficking cases and identification of victims: challenges, best practices and lessons learned**, co-organized with the OSCE's Transnational Threats Department (TNTD)/ Strategic Police Matters Unit (SPMU).

The speakers and participants at the 2016 *Alliance* conference engaged in an active discussion and presented cases of trafficking for forced criminality, highlighting the many different manifestations of this crime (such as, but not limited to, theft, burglaries, pick-pocketing, shop lifting, benefit fraud, forced sham marriage as well as illicit drug production and trafficking). Panel moderators featured as speakers in Panel 4, creating an opportunity to elaborate upon and share concrete recommendations made earlier.

In addition, a Rapporteur was assigned to each panel, assisting the Moderator in collecting and framing the recommendations. This new *Alliance* conference format strives to address the

OSCE participating States' concern over the significant growth of exploitation, especially for forced criminality, and proved to be a success.

### Welcoming Remarks & Keynote address

**Eberhard Pohl**, Chairperson of the OSCE Permanent Council, Germany, **Lamberto Zannier**, Secretary General of the OSCE, **John Brandolino**, Director, Division for Treaty Affairs, UNODC, and the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, **Madina Jarbussynova**, welcomed the 2016 *Alliance* participants.

All distinguished speakers agreed that this was a timely discussion and that more attention should be paid to this particularly heinous form of exploitation and that those really responsible must be prosecuted. They also reiterated that the non-punishment principle is an essential element of a human rights-based approach and that States have obligations to assist victims of crimes and not to treat them as perpetrators. Furthermore, it was pointed out that by creating and consolidating this highly effective coalition, all OSCE Special Representatives, during their respective mandates, have united international organizations and NGO networks active in the field of anti-trafficking, increasing co-operation and fostering joint action.

The speakers referred to the 2013 OSCE paper “Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking” published in consultation with the *Alliance* partners, as the starting point of the important work on this issue.

**Maria Grazia Giammarinaro**, United Nation’s Special Rapporteur on Trafficking in Persons, especially in Women and Children, delivered the keynote address, which laid the grounds for further discussion at the three subsequent panels. She noted that even though the phenomenon is mostly underground, there are indications that this form of exploitation is not marginal. She recommended amending national legislation to include the commission of unlawful activities as a form of human trafficking and codifying the principle of non-punishment. In addition, the UN SR emphasised three essential elements of trafficking for the purpose of forced criminality:

- For traffickers, this is a way not only to exploit victims, but also a way to avoid the risk of prosecution and place the victim in the most dangerous situation;
- Trafficking for exploitation in illegal activities in the vast majority of cases is carried out in the context of organized crime (but not necessarily showing a complex or hierarchical organization);
- It disproportionately affects children.

## Panel 1: Trafficking for forced criminality: forms and implications

This panel was moderated by **Klara Skrivánková**, Europe Programme and Advocacy Coordinator and Special Adviser to the Ethical Trading Initiative at Anti-Slavery International, who worked together with Rapporteur **Houtan Homayounpour**, Senior programme officer of the ILO. **Gulnara Shahinian**, GRETA member, Council of Europe, **Corinne Dettmeijer**, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, the Netherlands, and **Olivier Peyroux**, Sociologist, Expert on Migration and Trafficking in Persons, France, emphasized that the complex nature of this particular form of exploitation has proven to be challenging for the authorities. The current migration flows exacerbate the problem of identification of victims of trafficking, in particular among irregular migrants, asylum seekers and unaccompanied minors. The panelists agreed upon the following recommendations:

- *Protection of the rights of victims of human trafficking is central to anti-trafficking action and, for that, the proactive identification of victims of trafficking for forced criminality should be enhanced.*
- *It is particularly important to improve the identification, registration and assistance to child victims forced by traffickers to commit crimes, in particular among unaccompanied minors. It should be ensured that children are not kept in detention, not even in the name of "their own safety."*
- *It is essential to break the link between victims and traffickers, and at the same time ensure that victims returning to their traffickers are still considered to be victims.*
- *Awareness-raising should be done as a preventive measure, including among the most vulnerable groups of the population and especially children.*
- *Specific protocol/instructions must be issued on how to deal with forced criminality cases, fostering essential co-operation and co-ordinated action amongst participating States and stakeholders, both national and international.*
- *Comprehensive data collection and sharing systems should be established, which reflect current information on this form of trafficking, in order to obtain solid evidence for the development of effective policies. Data should be collected on victims, as well as perpetrators, with due regard to data protection.*
- *Introducing the non-punishment principle into national legislation, as well as its broad application in punitive criminal law and administrative law, should be considered by all participating States.*

## Panel 2: Challenges of investigation and prosecution

Panel 2 was moderated by **Michèle Ramis**, Ambassador-at-large on Organized Crime, MFA of France, who was assisted by Rapporteur, **Jan Austad**, Senior Adviser, Ministry of Justice and the Police Security, Norway. The Panel included **Radmila Dragičević-Dičić**, Judge, Supreme Court of Cassation, Serbia, **Anders Lisborg**, Senior Advisor, Centre against Human Trafficking, Ministry for Social Affairs, Integration, Gender Equality and Children, jointly with **Anna Vallentin**, Detective Inspector, National Police, Denmark and **Elisabeth Moiron-**

**Braud**, Secretary General, MIPROF (The Interministerial Taskforce for Protecting Women Victims of Violence and Combating Trafficking in Human Beings) Ministry for Families, Children and Women's Rights, France.

Panelists concluded that the main challenge identified during the discussion was how to detect and qualify a case as trafficking in human beings when the connection with the activity of criminal networks is not obvious or not yet established, and how to prove the act was committed under coercion. They also underlined the importance of expertise, co-ordination and willingness to allocate resources to investigate and prosecute cases of forced criminality in an effective manner.

Concrete findings of the panel include:

- *Trafficking in human beings by means of forced criminality is a growing form of trafficking which strains the existing legal framework since the needs of criminal justice and the obligation to protect victims have to be reconciled.*
- *Systematic training and awareness-raising for law-enforcement and the judiciary is essential. It is necessary to adapt training sessions to the changing trends and challenges and to the background of trained officers and avoid standard training models. Training should be delivered on different aspects and forms of human trafficking, including for forced criminality, to a range of front-line actors, not only law enforcement staff, social workers and civil society representatives but, crucially, to prosecutors and judges. At the same time, the specialization of prosecutors in the field of human trafficking and its different forms should be encouraged.*
- *From a legal perspective, the definition of human trafficking in national law should include commissioning of offences as a form of exploitation.*
- *Information should be exchanged among different national structures whenever possible and relevant. Considering the cross-border dimension of human trafficking for forced criminality, international co-operation is also key. The creation of joint investigation teams (JIT), which have proven to have a strong added-value, should be promoted. If such a framework for co-operation is not possible, it is crucial to base investigations on well-organized co-operation which permits flexibility, quick exchange of information, and clarifies responsibilities and accelerates the judicial process.*
- *With due regard to child protection, the adoption of special techniques and the creation of a child-friendly environment for interviewing child victims should be encouraged.*
- *Investigators and prosecutors should take into consideration the expertise and knowledge of specialized NGO during investigations, criminal proceedings and for the follow-up on the integration of victims.*

### Panel 3: Victims' rights: challenges in identification, referral and assistance of trafficked people

**Helga Konrad**, the first OSCE Special Representative for Combating Trafficking in Human Beings, moderated Panel 3 and together with **Petya Nestorova**, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings, elaborated recommendations with regard to the improved protection of victims' rights. The complementary expertise of the panellists, **Valbona Hystuna**, Child Protection Officer, ARSIS - Association for the Social Support of Youth, Greece and **Parosha Chandran**, Barrister, 1 Pump Court Chambers, United Kingdom, laid the foundation for a lively discussion on the issue, while highlighting the different legal and social aspects of victim support across the OSCE region.

Lessons learned from this panel include:

- *The criminalisation of human trafficking in national law must cover human trafficking for the purpose of forced criminality. Relevant case law should be widely distributed amongst the judiciary and used in trainings.*
- *The non-punishment provision must be the subject of national legal provisions which do not limit its application to certain offences. Further, guidance should be issued to prosecutors and other relevant professionals on the implementation of this provision, taking into account existing OSCE policy recommendations.*
- *With a view to combating traffickers' impunity, creating minimum standards for law enforcement agencies in conducting human trafficking investigations should be considered by the OSCE/Council of Europe.*
- *Identification of victims of trafficking must be dissociated from the criminal investigation and proceedings, and must not be dependent on the presumed victim's co-operation with the investigation. In order for early, proactive identification to be ensured, countries are encouraged to set up effectively functioning National Referral Mechanisms which take into account multi-disciplinary expertise and adopt a multi-agency approach.*
- *Child protection is paramount. With a view to prevent the disappearance of child victims of trafficking, children should have appointed legal guardians and be accommodated in a safe and supportive environment. Furthermore, victim/witness protection measures have to be effectively applied, including to children. The Council of Europe Guidelines for Child Friendly Justice should be followed.*
- *Furthermore, age determination procedures must take into account the best interests of the child, in accordance with the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.<sup>1</sup>*
- *Identifying children who are exploited by family members/relatives and have no perception of being exploited remains a challenge. Durable solutions for the child must be sought through, for example:*

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<sup>1</sup> General Comment No. 6 states that identification measures should not only take into account the physical appearance of the individual, but also his or her psychological maturity. In the event of remaining uncertainty, the authorities should accord the individual the benefit of the doubt such that if there is a possibility that the individual is a child, s/he should be treated as such.

- *Targeted prevention and awareness-raising, especially in Roma communities and among refugees;*
- *Outreach work which involves “cultural mediators” who speak the language;*
- *Empowerment of children through education and vocational training;*
- *Increase of welfare capacities.*
- *In order to ensure the successful reintegration of trafficked and exploited persons, countries of destination in co-operation with countries of origin should monitor the entire repatriation and reintegration process, including ensuring a proper follow-up upon the trafficked person’s return.*

### **Side events**

The recommendations elaborated during the three side events complemented the ones shared during the main conference programme.

#### **Identifying victims of trafficking in places of detention**

This side event was co-organized by the Council of Europe and the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB).

Recommendations include:

- *Members of National Preventive Mechanisms, prison inspectorates, custodial staff and health-care staff in places of deprivation of liberty should be provided with (basic) training on human trafficking and the position of victims.*
- *National Referral Mechanisms should allow for input from independent bodies which inspect places of deprivation of liberty (such as National Preventive Mechanisms) that may detect possible victims of trafficking and refer them for formal identification.*
- *The identification of victims of trafficking must take place without undue delay, to avoid victims spending time in detention.*  
*Countries should be encouraged to carry out research on the problem of secondary victimisation through the detention/criminalisation of victims of trafficking.*

#### **The use of new technologies for trafficking in human beings for the purpose of forced criminality**

This side event was co-organized by the Executive Committee of the CIS and the OSR/CTHB. Main conclusions include:

- *Practical cases show that ICT changes the modus operandi of criminals and can exclude the physical contact between traffickers and victims, thus making the work of law enforcement agencies more difficult. Therefore, authorities need to embrace ICT and use it to address new forms and trends. We also need to take into account other new technologies in addition to ICT that are used by traffickers, for example in illegal transplantations and medical experiments.*
- *New technology provides access to global communities. Therefore, there is a need to enhance co-operation among countries and global ICT companies in exchanging information and data. This goes hand in hand with continuing to develop the legal framework at the national and international level taking into account new and*



*emerging trends.*

- *Children are using technology from young ages, including social media, and are highly vulnerable to human trafficking. Special attention needs to be paid to preventing recruitment of children using ICT and exploitation in the virtual cyberspace.*

### **Data collection and exchange of information in detection of human trafficking cases and identification of victims: challenges, best practices and lessons learned**

This side event was co-organized by the OSCE's TNTD/SPMU and the OSR/CTHB. Main conclusions include:

- *Without coherent and comparable data across countries it is even more challenging to investigate and collect enough evidence for successful prosecution.*
- *Intensifying co-operation with financial institutions within the private sector and law enforcement is key to the successful disruption of criminal networks engaged in money laundering/ human trafficking.*
- *Trust between the financial sector and law enforcement is essential – the two fields of expertise should be seen as complementary to each other in the fight against THB.*

### **Panel 4: Looking forward: recommendations for policy and research**

The moderators of the preceding three panels featured as speakers in Panel 4, moderated by **Ruth Pojman**, Deputy Co-ordinator for Combating Trafficking in Human Beings. All panellists agreed that applying the principle of non-punishment remains the main challenge, especially because it is often difficult to detect the links between offences the victims are forced to commit and their exploitation. The victim should be placed at the centre of the fight against human trafficking in order to ensure that the principle of non-punishment is applied as soon as possible in the course of the investigation.

An additional speaker, **Louise Shelley**, University Professor at the George Mason University, added her thought-provoking views on the need for quality research on the manifestations of trafficking for forced criminality and the linkages between different types of organized crime. She emphasized that we should analyse the intersection of crimes in order to detect human trafficking for forced criminality successfully, as people are used as a commodity by international criminal organizations. It is equally important to look at technology, as it is used by traffickers to communicate, and even though forced criminality is more covert in cyberspace, it still leaves traces. It is also necessary to study the phenomenon as it appears in other regions, in order to recognize new forms that might be prevalent outside the OSCE region.

In conclusion, Ambassador **Madina Jarbussynova** thanked all moderators, rapporteurs, speakers and participants and expressed her desire to continue the successful co-operation with all *Alliance* partners, participating States and Partners for Co-operation.