

Office of the Special Representative and Co-ordinator
for Combating Trafficking in Human Beings

AN AGENDA FOR PREVENTION: ACTIVITIES AND CHALLENGES IN 2011

2011 Annual Report of the
Special Representative and Co-ordinator
for Combating Trafficking in Human Beings

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Special Representative and Co-ordinator
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presented to the Permanent Council,
15 December 2011



FOREWORD

It is a well-established tradition to take the opportunity of the Annual Report of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings to the Permanent Council to give the participating States not only a detailed overview of the activities of my Office, executive structures, institutions and field operations regarding trafficking in human beings, but also an insight into some of the thematic areas we have explored during the year. Therefore, this Annual Report comprises two different parts. The first part is devoted to OSCE action against human trafficking. The second part (see verso), which builds upon the 11th *Alliance against Trafficking in Persons* Conference on “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, held on 20-21 June 2011, is devoted to trafficking for labour exploitation and contains three essays written by experts in close co-operation with my Office, highlighting various aspects of this relatively new area of anti-trafficking action. Both parts have a single conceptual framework: an agenda for prevention, which is key today, as we are confronted with the massive scale and increasing trends of human trafficking.

A general overview of OSCE activities is contained in the Executive Summary of Part I. Further and more detailed information about every activity can be found in the respective sections and paragraphs of the Annual Report. Finally, the last chapter of Part I, Challenges and Future Perspectives, intends to show the sense of our direction, and highlight general indications about further work we are determined to develop in 2012.

My activity in 2011 has been intense. I have traveled to 16 countries on the occasion of high-level conferences and to meet government authorities, members of parliament, and representatives of law enforcement and the judiciary. I have carried out three country visits, in the United Kingdom, Canada, Moldova, and a joint country visit in Kyrgyzstan with the CiO Special Representative on Gender Issues, Ms. Wendy Patten. Country visits have been the occasion of meetings with ministers and deputy ministers, senior officials in charge of anti-trafficking policy, and a broad spectrum of interlocutors including civil society actors and

organizations. My three country visits will have a follow-up, as agreed with the relevant governments, on the basis of my reports and recommendations. The relationships with government authorities during my country visits were open and constructive, and regarding certain issues we discussed, I have already received positive feedback.

I have devoted particular attention to work with parliamentarians. I testified before the competent committees of the German Bundestag, of the Italian Chamber of Deputies, as I did in 2010 in the US Congress. I have developed my working relationship with the All-Party Parliamentary Group against Human Trafficking in the UK, and I am committed to developing advocacy work aimed at encouraging parliamentarians to establish similar groups or dedicated parliamentary committees, and carry out on a regular basis hearings also involving civil society actors.

I have developed further action aimed at awareness raising of the scale and the gravity of trafficking in human beings. Firstly, I engaged with academia, and gave lectures at the London School of Economics, the University of Rome, Stanford University, the University of Vienna, and the Alpbach Forum in Austria. Secondly, I continued to engage with artists including film makers, photographers, theatre directors, and investigative journalists to further develop awareness raising through the arts and true story-telling. Finally, my Office is contributing to better knowledge of some overlooked aspects of human trafficking, through studies on trafficking for the purpose of the removal of organs, on cases of human trafficking amounting to torture, on codes of conduct in the private sector and in the military.

My Office actively contributed to the Organization’s efforts to address human trafficking as a transnational threat to security, and co-organized with OCEEA, SPMU and UNODC an innovative high-level expert seminar on trafficking and money laundering. Moreover, my Office carried out a remarkable amount of capacity building activities and worked in co-operation with FRONTEX and many international organizations to develop a manual for border guards. We are also doing further work in the field of project development.

We have already started to implement a project on child protection in Moldova, and will promote further projects in various other fields of anti-trafficking action. My warm thanks go to our generous donors.

Internal co-ordination required close co-operation in particular with SPMU, OCEEA and the Gender Issues Programme, and with the ODIHR Anti-trafficking Programme. I devoted particular attention to strengthening my Office's relationship with field operations, not only on the occasion of country visits, but also through the focal points meeting we convened with ODIHR, and through promoting exchange of information on a regular basis.

Our external co-operation, especially in the framework of the *Alliance against Trafficking in Persons* but also in the context of UN.GIFT, has been further brought forward. The *Alliance* High-Level Conference in June, to which the highest leadership of our international partners participated, and the enlargement and renewed commitment to the work of the *Alliance* by old and new partners including international NGOs, are some of the most important achievements of our activities this year.

For the amount and quality of the work of my Office, I want to thank first of all my Deputy Ruth Pojman, my Executive Adviser Liliana Sorrentino, my Co-ordination Adviser Vera Gracheva, and all my competent, highly skilled and dedicated staff. We have worked closely, and have constantly learned from each other. I would also like to thank the Secretary General, the Lithuanian Chairmanship, the Chairperson of the Human Dimension Committee, and all the delegations of participating States and Partners for Co-operation for their constant appreciation and support.

The SR/CTHB has unique features in the international landscape of anti-trafficking mechanisms. My mandate comprises all the areas of anti-trafficking action foreseen by the OSCE Action Plan¹ - prevention, prosecution, victim protection and support, and partnership - across the three dimensions of the OSCE. At the same time, the Action Plan and all the other commitments endorse a human rights approach, which requires that the rights of victims must be respected at all times.² Therefore, my mandate is simultaneously cross-dimensional and human rights-based, as the rights of trafficked persons must be integrated and prioritized in all the OSCE dimensions and in all the areas of anti-trafficking action. Furthermore, as Special Representative and Co-ordinator, I am able to carry out advocacy at the highest political level, and at the same time be operational through

the leadership of my Office. This institutional framework is, in my view, forward-looking and highly effective. As a matter of fact, the development of more efficient anti-trafficking action requires both political will and coherent implementation of legislation and political commitments.

The lives of millions of people – we really do not know how many – are affected by this heinous form of exploitation of persons, their bodies, their work. Recently, I had the privilege to meet a strong and intelligent woman who migrated ten years ago from her country to the EU. Her story is a story of what we can call “successful migration”. She is now a regular resident, she can visit her two children twice a year, and support their studies in her country of origin, which was from the beginning the aim of her migration project. However, when she first migrated, she was indebted and was compelled to work for three years as a domestic worker in various households for a co-national who exploited her to the extent that she did not earn any money; she was obliged to live in degrading conditions, could very seldom call home, and could not visit home for five years because of her irregular status and complete lack of financial means. Then she was able to free herself, to go to another city, and work without being exploited. Now she is active in an organization of domestic workers, she has friends, she helps her colleagues, she can skype with her children, husband and mother every night, she can hug them at least twice a year. But those three years of slavery were not recognized as trafficking by the competent authorities; she never received any back pay, or compensation for what she had suffered then.

This case is not even one of the worst cases of trafficking, but it shows the new challenges that contemporary forms of slavery imply for the lives of people. The OSCE will continue to build trust among participating States to help them to better co-operate in the fight against human trafficking, between law enforcement and civil society actors to better identify trafficking cases and protect its victims, between people in situations of social vulnerability and public institutions. This confidence-building process requires that the forward-looking OSCE Action Plan and relevant commitments, based on a human rights approach, are taken seriously, and consistently implemented. This will be my commitment in the upcoming year.



Maria Grazia Giammarinaro
*OSCE Special Representative and Co-ordinator for
Combating Trafficking in Human Beings*

¹ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

² OSCE Ministerial Council, *Declaration on Trafficking in Human Beings*, MC(10). JOUR/2 (Porto, 7 December 2002).

ACKNOWLEDGEMENTS

I wish to express my gratitude to the Lithuanian OSCE Chairmanship and to the previous Chairmanship of Kazakhstan, as well as to all participating States and Partners for Co-operation for their support and co-operation during 2011. My sincere thanks also go to Secretary General Lamberto Zannier, former Secretary General Marc Perrin de Brichambaut, the OSCE Secretariat structures, the ODIHR and the OSCE field operations, for their continued support and contributions to my work and to this Report. I also wish to thank the international organizations and NGOs who partnered with us especially in the *Alliance against Trafficking in Persons*. I look forward to continuing to work closely with governments, parliaments, judiciary, civil society and international organizations in the OSCE region to prevent and combat trafficking in human beings.

My warmest thanks go to each and every colleague in my talented and dedicated Office, who have worked tirelessly and diligently to support my work throughout this year in Office and to prepare this Annual Report: Alberto Andreani, Aimée Comrie, Vera Gracheva, Claire Jessel, Szilvia Okolicsanyi, Ruth Pojman, Liliana Sorrentino and Georgina Vaz Cabral, as well as our interns and JPOs who worked with us in different periods during 2011: Loretana Iacobelli, Jack Kavanagh, Marion Mondain, Nopnalat Nantavanotayan, Shirin Narymbaeva, Libera Picchianti, Yulia Plakhutina and Irina Sirbu. I wish to extend my thanks to Mike Dottridge, Isabella Orfano and Roger Plant, who wrote the thematic papers in this report in close collaboration with my team. I wish to thank in particular my Adviser, Aimée Comrie, the main drafter of the chapters on the activities of my Office, and Liliana Sorrentino, my Executive Adviser, who took care of consistency and cohesion of the whole text.

And last but not least, I wish to extend my thanks to the following donors that have supported the work of my Office with their generous extra-budgetary contributions: Andorra, Belgium, Iceland, Liechtenstein, Monaco, San Marino, Switzerland and the United States of America.

Maria Grazia Giammarinaro

OSCE Special Representative and Co-ordinator
for Combating Trafficking in Human Beings

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ACRONYMS

AECT	Alliance Expert Co-ordination Team	IPEC	International Programme for the Elimination of Child Labour
AML	Anti-Money Laundering	ITUC	International Trade Union Congress
ATU	Action against Terrorism Unit	MFA	Ministry of Foreign Affairs
BiH	Bosnia and Herzegovina	NAP	National Action Plan
BMSC	Border Management Staff College	NATO	North Atlantic Treaty Organization
CBSS	Council of the Baltic Sea States	NGO	Non-Governmental Organization
CCME	Churches' Commission for Migrants in Europe	NRM	National Referral Mechanism
CEDAW	Convention on the Elimination of Discrimination against Women	OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
CEPOL	European Police College	ODIHR	Office for Democratic Institutions and Human Rights
CFT	Countering the Financing of Terrorism	OSR/CTHB	Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
CiO	Chairperson-in-Office	PA	Parliamentary Assembly
CIS	Commonwealth of Independent States	PC	Permanent Council
CoE	Council of Europe	PCU	OSCE Project Co-ordinator in Ukraine
CPC	Conflict Prevention Centre	PICUM	Platform for International Cooperation on Undocumented Migrants
CRIC	Child Rights Information Centre	SEE	South-Eastern Europe
CTHB	Combating Trafficking in Human Beings	SPMU	Strategic Police Matters Unit
DC/CTHB	Deputy Co-ordinator	SR/CTHB	Special Representative and Co-ordinator for Combating Trafficking in Human Beings
DIMR	German Institute of Human Rights	THB	Trafficking in Human Beings
DWA	Decent Work Agenda	TNT	Transnational Threats
ECPAT	End Child Prostitution, Child Pornography and the Trafficking of Children	UK	United Kingdom
ETUC	European Trade Union Confederation	UN	United Nations
EU	European Union	UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
EULEX	European Union Rule of Law Mission in Kosovo	UNDP	United Nations Development Programme
ExB	Extra Budgetary	UNECE	United Nations Economic Commission for Europe
FATF	Financial Action Task Force	UNHCR	United Nations High Commissioner for Refugees
FIU	Financial Intelligence Unit	UNI	Union Network International
FRA	EU Fundamental Rights Agency	UNICEF	United Nations Children's Fund
FRONTEX	EU Agency for Integrated Border Management	UNIFEM	United Nations Development Fund for Women
GLA	Gangmasters Licensing Authority (UK)	UNODC	United Nations Office on Drugs and Crime
GRETA	Group of Experts on Action against Trafficking in Human Beings	UN OHCHR	United Nations Office of the High Commissioner for Human Rights
HDC	Human Dimension Committee	UNTOC	United Nations Convention against Transnational Organized Crime
HEUNI	European Institute for Crime Prevention and Control	US	United States of America
HRW	Human Rights Watch	USAID	United States Agency for International
ICMEC	International Centre of Missing & Exploited Children		
ICMPD	International Centre for Migration Policy Development		
ILO	International Labour Organization		
IO	International Organization		
IOE	International Organization of Employers		
IOM	International Organization for Migration		



EXECUTIVE SUMMARY

Since the beginning of its mandate in 2004¹, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (hereinafter referred to as SR/CTHB) has worked closely with the participating States and a broad range of partners on three main areas: representing the OSCE at the political level, raising the public and political profile of combating all forms of trafficking in human beings (THB); assisting participating States, at their request, in fulfilling the relevant OSCE commitments and the recommendations of the OSCE Action Plan to Combat Trafficking in Human Beings² (hereinafter the OSCE Action Plan); and co-ordinating anti-trafficking efforts within the OSCE and co-operating with national authorities, civil society and relevant international actors. The SR/CTHB was also tasked by the 2005 Ministerial Council Decision to report annually to the Permanent Council on progress achieved over the preceding year's anti-trafficking work carried out throughout the OSCE region.³ This report covers the period from December 2010 to November 2011, which corresponds to the second year of the term of Maria Grazia Giammarinaro, the current OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings.

The Annual Report of 2011 is divided into two main parts. Part I, *An Agenda for Prevention: Activities and Challenges in 2011* is an overview of the main OSCE anti-trafficking activities. Part II of the Annual Report (see verso) has a special thematic focus on *An Agenda for Prevention: Trafficking for Labour Exploitation*.

Part I - An Agenda for Prevention: Activities and Challenges in 2011

Given that the OSCE participating States continue to be concerned about the rise of this crime and the grave consequences flowing therefrom, in 2011 the OSR/CTHB continued an ongoing dialogue with the participating States through meetings with delegations and officials, with law enforcement and prosecutorial agencies and the judiciary, international organizations and civil society as well as contributing to national and regional conferences and seminars on trafficking-related issues. In all of its activities, the OSR/CTHB continued to advocate for the OSCE cross-dimensional and human rights approach to combating trafficking in human beings. Further, in accordance with the mandate, the OSR/CTHB emphasized the importance of comprehensive and co-ordinated strategies to render these activities more effective.

Throughout 2011, the SR/CTHB advocated for governments to engage at both the national and international levels to step up the implementation of relevant international obligations and commitments. This included notably, addressing the connections between THB and other crimes such as money laundering and corruption, and between THB and structural factors such as discrimination and gender inequality, weak rule of law and lack of access to justice, all of which can contribute to an environment in which trafficking in human beings continues to thrive, constituting a grave violation of human rights and posing a serious transnational threat. She also continued to devote specific attention and resources to two thematic priorities: child trafficking and trafficking for labour exploitation.

1 As defined in: OSCE Ministerial Council, *Decision No. 2/03 Combating Trafficking in Human Beings*, MC.DEC/2/03 (December 2003); OSCE Ministerial Council, *Decision No. 3/06 Combating Trafficking in Human Beings*, MC.DEC/3/06 (June 2006).

2 OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

3 OSCE Ministerial Council, *Decision No. 13/05 Combating Trafficking in Human Beings*, MC.DEC/13/05 (Ljubljana, 6 December 2005).

Working with parliamentarians

The SR/CTHB continued to work closely with parliamentarians in tackling the main challenges in anti-trafficking action. Parliamentarians are key interlocutors and decision makers at the national level, and their contribution is critical to the long-term success of anti-trafficking action. The SR/CTHB called directly on parliamentarians to strengthen their involvement in anti-trafficking efforts – not only to enact legislation, but also to ensure its full and effective implementation and promote policy coherence. Thus on the occasion of country visits, the SR/CTHB prioritized meeting with leading parliamentarians to discuss ongoing challenges in-country. She also testified before the Italian Chamber of Deputies and the German Bundestag.

Working with government authorities

In the course of 2011, the SR/CTHB and her Office met several ministers and national governmental officials. In this work, the SR/CTHB and her Office highlighted that trafficking is not a marginal issue but a huge criminal phenomenon characterized by many forms of exploitation and that the challenge for governments today is to make the anti-trafficking legislation and machinery work effectively on a much larger scale.

During 2011, the SR/CTHB engaged in three country visits, namely to the UK, Canada and Moldova, and in a joint visit to Kyrgyzstan with the Chairperson-in-Office Special Representative on Gender Issues. During these visits, she had high-level meetings with representatives of the Ministries of Foreign Affairs, Internal Affairs, Immigration, Justice, Social and Labour Affairs and others. The joint country visit to Kyrgyzstan included a meeting with H.E. President Rosa Otunbayeva.

Following the country visits, the SR/CTHB and her Office worked with relevant government authorities to follow up on the main findings of the visit, often in the form of a summary report offering specific recommendations based on the OSCE anti-trafficking commitments and the OSCE Action Plan. In addition to country visits, the SR/CTHB engaged with participating States in a number of bilateral and multilateral meetings, and, together with her Office, contributed to numerous national and international events and initiatives on human trafficking issues.

Co-operation and co-ordination with donor states remained an ongoing part of the OSR/CTHB's work with government authorities. In 2011, the Office established a strategic framework for Extra-Budgetary projects to support the

implementation of the SR/CTHB's mandate in various areas of prevention. The strategic framework focuses on different aspects of prevention such as criminal justice, child protection and women's empowerment.

Working with the judiciary

With the aim of strengthening the criminal justice sector response as mandated in the OSCE Action Plan, the OSR/CTHB continued throughout 2011 to work closely with the judiciary in participating States to further improve access to justice for victims of trafficking as well as to provide capacity building on the legal complexities which often characterize human trafficking cases at trial. In the course of roundtable discussions and trainings, the SR/CTHB outlined how restrictive interpretations of legal provisions in the Palermo Protocol can lead to a low prosecution and conviction rate.

Supporting the work of the Lithuanian OSCE Chairmanship and of the delegations of the participating States

Throughout 2011, the SR/CTHB worked in close collaboration with the Lithuanian OSCE Chairmanship. She also maintained a regular dialogue and exchange with the Human Dimension Committee. She addressed the Committee twice in 2011: once on the challenges and opportunities for stepping up action against trafficking in human beings and a second time on the prevention of child trafficking. Furthermore, she contributed to the working session on THB of the Human Dimension Implementation Meeting in Warsaw.

Promoting the implementation of the OSCE commitments

On 20-21 June in Vienna, the SR/CTHB convened the 11th *Alliance against Trafficking in Persons* Conference on "Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice". The event brought together over 350 participants – including distinguished speakers from participating States, international organizations and civil society. For the first time, the Conference was webcast live, thereby reaching out to a much broader audience. The Conference examined the current trends and features of trafficking for labour exploitation and shed light on an innovative strategic approach to the prevention of THB. This approach requires addressing the broader phenomena of exploitation and discrimination both in countries of origin and destination. Furthermore, it requires promoting decent work and social inclusion for the

most vulnerable and disadvantaged people, and effectively ensuring that they enjoy the full protection of the law.

On 3-4 October, the OSR/CTHB, the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA), and the Strategic Police Matters Unit (SPMU), in close co-operation with the United Nations Office on Drugs and Crime (UNODC) organized the *Alliance* Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking”. The event brought together the Financial Action Task Force (FATF), the Egmont Group, the Eurasian Group on Combating Money Laundering and Financing of Terrorism, *Alliance against Trafficking in Persons* partners, representatives of governments, NGOs, the private sector, etc. Financial investigation techniques have a great potential to ensure confiscation of the proceeds of crime, which is at the same time a powerful deterrent for criminals and a pre-condition to ensure access to justice and specifically access to compensation for trafficked persons.

In 2011, the OSR/CTHB continued to implement its technical assistance mandate, often in co-operation with OSCE field operations, by means of capacity building work in several participating States through targeted training courses for professionals working in the anti-trafficking field, especially law enforcement personnel. Highlights of this activity include the training programme organized by the NATO Partnership for Peace Training Centre in Ankara and the CIS International Training Centre on Migration and Combating Trafficking in Human Beings. The OSR/CTHB also delivered trainings in Azerbaijan and Kyrgyzstan, and contributed substantively to the development of a FRONTEX manual on THB for border agencies.

Awareness raising: Towards an anti-slavery movement

In 2011, the SR/CTHB continued to build support for the anti-slavery movement to eliminate all forms of human trafficking through the establishment of partnerships with intellectuals, opinion leaders, academia, arts practitioners, cultural innovators and the media to make people aware of the realities of modern-day slavery, and to commit them to its abolition. Highlights of this activity included the SR/CTHB’s addresses to the London School of Economics, the University of Rome “La Sapienza”, and to a human rights conference jointly organized by the University of Vienna and Stanford University.

In 2011, the SR/CTHB also sought to reach out to wider audiences to raise awareness on human trafficking, including through targeting journalists as a strategic audience, for

example at the Moscow Club of Journalists. Another high-profile engagement with the media was an interview with the SR/CTHB broadcast on CNN International as part of the network’s “Freedom Project: Ending Modern Slavery”. The SR/CTHB also continued to seek out cultural and intellectual channels. She engaged with intellectual forums and platforms for debate and exchange of information, including addressing a high-profile panel on international jurisdiction at the Alpbach Political Symposium 2011.

Strengthening co-operation with external partners

In 2011, the SR/CTHB continued to work with external partners, including through the *Alliance against Trafficking in Persons*. This unique informal platform for co-operation between the OSCE and other major international organizations and NGOs was initiated in 2004 by the OSCE Special Representative for Combating Trafficking in Human Beings. This year, the spirit of the original *Alliance* was renewed by engaging various organizations in bilateral and multilateral dialogue to consolidate existing partnerships and to reach out to a broader range of organizations. An important development this year was the expansion of the *Alliance* to include new partners such as trade unions, employers’ associations, migrant rights groups and human rights NGOs, all of which participated in the annual conference.

The OSR/CTHB maintained active working relationships with a host of international organizations, NGOs and civil society organizations to develop further avenues for dialogue and consultation on policy initiatives, joint project implementation, as well as to monitor key trends and developments on the ground.

Internal co-ordination and co-operation

The SR/CTHB continued to join forces with the OSCE structures and institutions in promoting the implementation of the OSCE anti-trafficking commitments. The OSCE was indeed one of the first organizations to advocate for such a holistic and human rights-based approach⁴, and this legacy of common purpose continued throughout 2011 as reflected in joint activities and projects with the Office for Democratic Institutions and Human Rights (ODIHR), the OCEEA, the SPMU, the Gender Issues Programme, and the field operations. Co-ordination and co-operation are therefore ongoing processes that take various forms. For

⁴ OSCE Ministerial Council, *Decision No. 1 Enhancing the OSCE’s Efforts to Combat Trafficking in Human Beings*, MC(8).DEC/1 (28 November 2000); OSCE Ministerial Council, *Declaration on Trafficking in Human Beings*, MC(10).JOUR/2 (Porto, 7 December 2002).

example, the SR/CTHB, jointly with the ODIHR, hosted the annual Internal Co-ordination Meeting of OSCE Anti-Trafficking Focal Points (Vienna, 23-24 November 2011). The meeting brought together colleagues from various Offices within the Secretariat (OSR/CTHB, OCEEA, SPMU, Gender and Borders), from ODIHR, as well as focal points from field operations, and provided the opportunity to exchange information regarding the current state of anti-trafficking action in the OSCE region.

Stepping forward: Challenges and future perspectives

Despite significant progress in anti-trafficking efforts and a strong commitment from participating States, trafficking in human beings remains a grave human rights violation and a serious transnational threat throughout the OSCE region and beyond. In order to make the anti-trafficking framework more effective, the SR/CTHB has continued to raise the profile of the prevention of and fight against trafficking in human beings, and to dedicate special attention to child trafficking and trafficking for labour exploitation, as the thematic priorities of the Office. In accordance with the OSCE Action Plan, the SR/CTHB will continue to take action in the framework of the so-called “three Ps” - prevention, prosecution and criminal justice response, and protection of victims, with the addition of a fourth “P”, namely partnership.⁵

⁵ See Chapter 2 on “Stepping Forward: Challenges and Future Perspectives” for more information.

1. AN AGENDA FOR PREVENTION: OSR/CTHB ACTIVITIES IN 2011

1.1 Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings

1.1.1 Ongoing Dialogue and Action with Participating States

Since its mandate was defined in Ministerial Council Decision No. 2/03, and further developed in Ministerial Council Decision No. 3/06, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (SR/CTHB) has worked closely with a broad range of partners and stakeholders, including the participating States on three main areas: representing the OSCE at the political level, raising the public and political profile of combating all forms of trafficking in human beings (THB); assisting participating States, at their request, in fulfilling the relevant OSCE commitments and the recommendations of the *OSCE Action Plan to Combat Trafficking in Human Beings*⁶ (hereinafter referred to as OSCE Action Plan); and co-ordinating anti-trafficking efforts within the OSCE and co-operating with national authorities, civil society and relevant international actors.⁷ Building on the Astana Commemorative Declaration, which reaffirms that “*the inherent dignity of the individual is at the core of comprehensive security*”, and given that the OSCE participating States continue to be concerned about the rise of this crime and the grave consequences flowing therefrom, in 2011 the SR/CTHB continued an ongoing dialogue with the participating States through country visits, meetings with delegations, officials, law enforcement and prosecutorial agencies and the judiciary, international organizations and civil society. She also contributed to national and regional conferences and seminars on trafficking-related issues.⁸ In all of their activities, the SR/CTHB and her Office continued to advocate for the OSCE’s comprehensive and human rights approach to combating trafficking in human beings. Further,

in accordance with her mandate, the SR/CTHB emphasized the importance of comprehensive and co-ordinated strategies to render these activities more effective.

To promote and support these approaches, the SR/CTHB and her Office met with key parliamentarians, government officials, judiciary and law enforcement personnel, civil society organizations, intellectuals and journalists in many OSCE participating States. This work included providing technical assistance and capacity building, sharing good practices, exchanging experiences and jointly seeking better solutions to meet the common challenge: to provide a co-ordinated and multi-faceted response to the crime of human trafficking.

Despite increased national and international efforts during the past decade, a major concern continues to be the low number of identified and assisted victims, and the lower number of traffickers that have been brought to justice in many countries. In order to strengthen the effectiveness of anti-trafficking action, the SR/CTHB selected a number of thematic priorities for activities in 2011, including child trafficking, trafficking for labour exploitation and the importance of strategic partnership with a wide range of actors.

Child trafficking is one of the worst forms of violence against children, which poses a real and concrete threat to the human development and security of all countries. Building on existing OSCE commitments in this area, as well as follow-up to the work with *Alliance* partners, the SR/CTHB continued to prioritize action to prevent child trafficking. Children are trafficked for every possible exploitative purpose and are a source of huge profits for their exploiters; there is a lot more to be done in all participating States to tackle this problem. Throughout the year, the SR/CTHB also stressed that in order to better prevent child trafficking for whichever illicit purpose, anti-trafficking policy should be combined with establishing or decisively improving national child protection systems and with effective implementation and safeguarding of the rights of all children without discrimination, and regardless of their status.

In the SR/CTHB’s work on **trafficking for labour exploitation**, she stressed that anti-trafficking policy should be reinforced by coherent policies and actions in related areas such as migration and labour policy. Furthermore, building on ground-breaking work in 2010 on trafficking for labour exploitation

⁶ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

⁷ OSCE Ministerial Council, *Decision No. 2/03 Combating Trafficking in Human Beings*, MC.DEC/2/03 (December 2003); OSCE Ministerial Council, *Decision No. 3/06 Combating Trafficking in Human Beings*, MC.DEC/3/06 (21 June 2006).

⁸ See OSCE Summit, *Astana Commemorative Declaration*, SUM.DOC/1/10 (Astana, 3 December 2010); OSCE Ministerial Council, *Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach* (Helsinki, 5 December 2008).

for the purpose of domestic servitude⁹, she called for a broad strategic approach to the prevention of trafficking for labour exploitation in line with the OSCE commitments. Thus, throughout 2011, in all of her meetings and events, the SR/CTHB affirmed the importance of implementing measures aimed at: promoting decent work and encouraging respect for fundamental rights at work, especially for migrant workers; monitoring labour recruitment; promoting a stronger role for labour inspectors; strengthening the rule of law and access to remedies and compensation for harm and unpaid wages; and eliminating corruption.

Strengthening existing **partnerships** and building new ones was also a priority for the SR/CTHB and her Office, who engaged in continuous dialogue and exchange with civil society actors, academia, arts practitioners and international organizations throughout country visits, bilateral meetings and in the participation in various seminars and conferences. All these efforts culminated in the 11th *Alliance against Trafficking in Persons* Conference on “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, which was held on 20-21 June in Vienna (hereinafter referred to as 11th *Alliance* Conference on Trafficking for Labour Exploitation). For the first time since the creation of the *Alliance*, trade unions, employers’ associations and migrant rights groups joined the innovative platform for policy and joint action between key civil society and international actors.

1.1.2 Working with Parliamentarians

Throughout 2011, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings continued to work closely with parliamentarians in tackling the main challenges of anti-trafficking action. Parliamentarians are key interlocutors and decision makers at the national level, and their contribution is critical to the long-term success of anti-trafficking action. While significant progress has been achieved during the past ten years, thanks to the efforts and partnerships of governments, NGOs and international organizations, the SR/CTHB called directly on parliamentarians to strengthen their involvement in anti-trafficking efforts – not only to enact legislation, but also to ensure its full and effective implementation and promote policy coherence.

The SR/CTHB addressed the General Committee on Economic Affairs, Science, Technology and the Environment of the OSCE Parliamentary Assembly in the Winter Session in Vienna on 24 February. She called on Members of Parliament to pledge to take action in their own Parliaments to create

the cultural, social, political and legislative environment for the development of a new understanding of human trafficking, and of the plight of trafficked persons, as well as to promote solidarity and a humane attitude towards victims. She underlined five main areas of work to which they could contribute: migration policy, labour law policy, protection of victims’ rights, prevention, and partnership. More specifically, she stressed that while migration governance is a challenging issue at the national and international levels, there is a need to promote effective migration management and coherent policies for the socio-economic development, social cohesion and common security of all countries, as recognized in the OSCE commitments.¹⁰

Given the importance of partnership and co-operation with parliamentarians, the SR/CTHB prioritizes meetings with parliamentarians during country visits. In the United Kingdom (UK) on 8 March, she met with the Chairs of the All-Party Parliamentary Group on Human Trafficking, and the Special Advisor to the All-Party Parliamentary Group. During the meeting, the political approach to human trafficking and related challenges in the UK were discussed, as well as the role of civil society. She stressed the importance of consulting with and involving specialized NGOs to ensure a more effective multi-agency approach especially on protection and assistance to victims. Following up on the country visit, on 19 October, the SR/CTHB was invited to 10 Downing Street on the occasion of the UK Prime Minister’s Anti-Slavery Day celebration. On the margins of the event, she continued her consultations and met with UK and foreign parliamentarians (including from Denmark, Italy and Romania) who are engaged in anti-trafficking action at the national and regional levels. She also explored possibilities for co-operation with representatives of the Human Trafficking Foundation (HTF)¹¹ and ECPAT UK who are implementing a project to develop a European network of parliamentarians combating human trafficking.

During the joint country visit of the SR/CTHB and the Special Representative of the OSCE Chairperson-in-Office on Gender Issues to Kyrgyzstan from 26-30 July, the SR/CTHB met with the Vice Speaker of the *Jogorku Kenesh* (Parliament) and the Head of the Committee for Human Rights, Equal Opportunities and Public Associations. The Vice Speaker noted the draft CTHB law currently in the second reading, as well as the array of tools that the country has developed over the past decade. A main challenge highlighted by the Vice Speaker was the implementation of these tools. Both

⁹ OSCE OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010).

¹⁰ The benefits stemming from effective migration management were emphasized by OSCE Ministerial Council, *Decision No. 5/09 Migration Management*, MC.DEC/5/09 (Athens, 2 December 2009). See also OSCE Ministerial Council, *Decision No. 2/05 Migration*, MC.DEC/2/05 (Ljubljana, 6 December 2005).

¹¹ The Human Trafficking Foundation (HTF) is a UK-based charity which grew out of the work of the All-Party Parliamentary Group on Human Trafficking, and is chaired by Mr. Anthony Steen, Special Advisor to the All-Party Parliamentary Group.

the Vice Speaker and the Head of the Committee noted the problem of bride kidnapping and how it was connected to THB.

As part of her country visit to Canada from 6-12 August, the SR/CTHB had the opportunity to meet with an anti-trafficking advocate and Member of Parliament, who introduced Bill C-268: An Act to amend the Criminal Code (minimum sentence for offences involving trafficking of persons under the age of 18 years), thereby creating a new offence for child trafficking with a five-year mandatory penalty. In addition, during the Canada visit, she met with the Head of the Canadian Delegation to the OSCE Parliamentary Assembly. They discussed how Canada's successful multiculturalism policy has fostered civic participation and the social inclusion of migrant communities, who are encouraged to maintain a strong cultural heritage while at the same time adopting some common Canadian culture and democratic values.

As part of her ongoing work with parliamentarians, the SR/CTHB continued to address parliaments in participating States upon their request. On 29 March, she testified before the Permanent Committee for Human Rights of the III Commission for Foreign and European Affairs of the Italian Chamber of Deputies. The hearing was part of an ongoing investigation on human rights and democratization led by the Committee for Human Rights. The hearing was referred to in a number of Italian media. She also gave an informal briefing and met with members of the Italian Delegation to the OSCE Parliamentary Assembly.

On the occasion of the OSR/CTHB's participation in a regional conference in Bosnia and Herzegovina (BiH) on 6-7 October, the Deputy Co-ordinator met with representatives of the BiH Parliamentary Assembly Joint Committee for Human Rights, Child Rights, Youth, Immigration, Refugees, Asylum and Ethics. The Chairperson of this Joint Commission of the BiH Parliament discussed progress on fulfilling international commitments and obligations to combat THB.

As a follow-up to the SR/CTHB's meeting with Members of the German Parliament (*Bundestag*) during her country visit to Germany in September 2010, the SR/CTHB testified before the Committee for Human Rights and Humanitarian Aid of the German *Bundestag* on 9 November. The hearing was part of a special focus on human trafficking of the Committee. The Special Representative's address was followed by an in-depth discussion with members of the Committee. Important issues addressed included how to improve the effectiveness of national responses; how to strengthen efforts to combat trafficking for labour exploitation; as well as the potential of an independent National Rapporteur in charge of measuring the results of anti-trafficking action and reporting to the Parliament.

The ultimate goal of assistance and support measures is the social inclusion of the trafficked person. In the vast majority of countries, national regulation provides for repatriation of the victim after the end of criminal proceedings. However, a human rights-based approach should primarily focus on the legitimate interests of trafficked persons, and lead to better regulation, providing for job opportunities in the country of destination, or in the country of origin in case of voluntary return. In simple words, trafficked persons should have a real chance to rebuild their lives.

Address of the OSCE Special Representative
Maria Grazia Giammarinaro
Bundestag, Berlin, 9 November 2011

The OSR/CTHB participated in the work of the Unified Commission on the Harmonization of Countering Terrorism, Organized Crime and Drug Traffic Legislation in the CIS region, under the CIS Inter-Parliamentary Assembly (CIS IPA), and strongly supported draft Commentaries to the CIS Model Law on Combating Trafficking in Human Beings and the CIS Model Law on Providing Assistance to the Victims of Trafficking in Human Beings,¹² both adopted by the CIS IPA in 2008 (Saint Petersburg, Russian Federation, 20 October). The OSR/CTHB emphasized that the draft Commentaries based on international and regional norms (such as the UN Convention on Transnational Organized Crime¹³ and its Trafficking Protocol¹⁴, the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings¹⁵, the OSCE Action Plan, and many other international instruments), promote a human rights-based approach at all stages of the prevention of the crime, prosecution of offenders and protection provided to the trafficked persons. The OSR/CTHB underlined the significance of these regional documents which aim to help the CIS countries to incorporate the CIS model laws into their national legislation, as required by the CIS Programme of Co-operation to Combat Trafficking in Human Beings 2011-2013¹⁶.

¹² CIS, *Model Law on Combating Trafficking in Human Beings*, <<http://www.durex-promo.ru/index.php?ds=1424101>>, accessed 18 November 2011; CIS, *Model Law on Providing Assistance to the Victims of Trafficking in Human Beings* (Russian only), <<http://www.crime.vl.ru/index.php?blog=4&p=1918&more=1&c=1&t=1&pb=1>>, accessed 18 November 2011.

¹³ United Nations (UN), *United Nations Convention against Transnational Organized Crime* (15 November 2000).

¹⁴ United Nations (UN), *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime* (15 November 2000).

¹⁵ Council of Europe (CoE), *Convention on Action against Trafficking in Human Beings* (Warsaw, 16 May 2005).

¹⁶ See Commonwealth of Independent States Programme of Co-operation to Combat Trafficking in Human Beings 2011-2013, in Russian only, at: <<http://www.cis.minsk.by/page.php?id=18806>>, accessed 16 November 2011.

1.1.3 Working with Government Authorities

In the course of 2011, the SR/CTHB and her Office met with several ministers and national governmental officials. In this work, the SR/CTHB and her Office highlighted that trafficking is not a marginal issue but a huge criminal phenomenon involving all types of victims and many forms of exploitation and that the challenge for governments today is to make the anti-trafficking legislation and machinery work effectively on a much larger scale. This section presents highlights of the OSR/CTHB's work with national authorities throughout 2011, beginning with an overview of the country visits undertaken.

Country visits

From 7-9 March, the SR/CTHB visited the UK to consult with government authorities and NGOs on human trafficking issues and to support ongoing efforts. She engaged in direct consultations with the Minister of State for Immigration, Mr. Damian Green, and met with senior officials at the Foreign Office, the Home Office, the UK Border Agency, the Crown Prosecution Service/Ministry of Justice and the Gangmasters Licensing Authority. She further participated in a debate held by the All-Party Parliamentary Group on Human Trafficking¹⁷. Discussions during the visit focused on the legislative, policy and practical responses to the THB situation in the country, and in particular on the identification of victims of trafficking, protection of their rights, prosecution of traffickers and on crime prevention. Moreover, with a view to learning more about practical responses and enhancing co-operation with NGOs, she met with representatives of the Anti-trafficking Monitoring Group¹⁸, including Anti-Slavery International, the Bristol Coalition, ECPAT, Helen Bamber Foundation, Human Trafficking Foundation, Kalayaan and the Poppy Project. The



UK Minister of State for Immigration, Damian Green, delivers a keynote address at the 11th Alliance against Trafficking in Persons conference, 20-21 June 2011, Vienna.

OSCE/Alberto Andreani

overall discussion focused on the role of NGOs in the UK and existing challenges in the victim assistance system.

Following the visit, the SR/CTHB issued a report summarizing the main findings and offering specific recommendations based on the OSCE anti-trafficking commitments, especially the OSCE Action Plan. The report is meant to support the Government in further strengthening the ongoing anti-trafficking work. It should be noted that combating THB has become an area of rapid policy development in the UK, and that progress has already been achieved since the SR/CTHB's visit in March 2011, including the adoption of the new Government's Strategy on Human Trafficking.¹⁹ The report is currently being considered by the UK authorities; an initial exchange of views on its findings and follow-up already took place on 19-20 October during a meeting of the SR/CTHB with the Head of the Human Trafficking and Acquisitive Crime Unit in the Home Office in London, as well as in a meeting with the Chief Executive of the Gangmasters Licensing Authority. Additionally, upon invitation of the Equality and Human Rights Commission, the SR/CTHB contributed to the Launching of the Inquiry into Human Trafficking in Edinburgh, Scotland, on 28 November. The event aimed at catalyzing further anti-trafficking efforts and at promoting human rights-based approaches to anti-trafficking.

From 26-30 July, the SR/CTHB and the CiO Special Representative on Gender Issues conducted a joint visit to Kyrgyzstan, accompanied by the Deputy-Coordinator for Combating Trafficking in Human Beings. This followed on an earlier visit of the Deputy Co-ordinator in March, in which she held meetings with relevant authorities facilitated by the OSCE Centre in Bishkek to prepare the first joint visit of the two Special Representatives in July. The overall purpose of the joint visit was to hold high-level meetings to discuss matters related to trafficking in human beings and gender issues in the OSCE region and in Kyrgyzstan. The visit was organized in co-operation with the Ministry of Foreign Affairs of Kyrgyzstan and in close collaboration with the OSCE Centre in Bishkek. In the course of the visit, the SR/CTHB and the Deputy Co-ordinator (DC/CTHB) met with representatives of Kyrgyzstan's Government, including the Vice Prime Minister on Social Issues, Mr. Ibragim Junusov, the Deputy Minister of Labour, the Deputy Minister of Internal Affairs, the Vice-Chairman of the State Committee for National Security, the Deputy Prosecutor General, as well as senior officials from the Ministry of Foreign Affairs and the President's Office. They also met with representatives of international organizations, including UNODC, IOM, ILO,

¹⁷ See Section 1.1.2 for details.

¹⁸ The Anti-Trafficking Monitoring Group is a group of nine UK-based organizations set up to monitor the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. The Group published a report in June 2010, "Wrong kind of victim? One year on: an analysis of UK measures to protect trafficked persons".

¹⁹ *Human Trafficking: The Government's Strategy* (Crown copyright 2011), <<http://www.homeoffice.gov.uk/publications/crime/human-trafficking-strategy?view=Binary>>, accessed 15 September 2011.

UNICEF and UN Women. Moreover, they met with NGOs including “El Agartu”, “Golden Goal”, “Ulybka”, Public Association “Nurjolber”, “DIA”, “Public Foundation “Danko”, and the public association “Development centre for civil initiatives - Aikol”. Furthermore, they met separately on 28 July with NGOs working on women’s entrepreneurship and empowerment, including the “Women’s Support Center”, the “Women Entrepreneurs Support Association”, the Organization of Rural Women “Alga”, organizations working in local communities such as “Eraim”, and “Arysh”, as well as the Red Crescent Society. In these meetings, the SR/CTHB stressed the importance of the strong role played by NGOs in Kyrgyzstan.



OSCE Special Representative Maria Grazia Giammarinaro with Chairperson-in-Office Special Representative on Gender Issues Wendy Patten in July 2011

On 30 July, the Special Representatives concluded their visit with a meeting with H.E. President Rosa Otunbayeva. This meeting was a strong and powerful signal of the importance of preventing and combating human trafficking, and of keeping the prevention of violence against women and trafficking in human beings high on the political agenda. The Special Representatives confirmed the commitments of the OSCE structures and institutions to continue to support the Kyrgyz authorities in the development of the new National Plan of Action on THB, and the National Action Plan to implement UN Security Council Resolution 1325 on women, peace, and security. They also recognized the importance of the strong involvement of civil society in Kyrgyzstan in these efforts. During the meetings in Kyrgyzstan, the SR/CTHB confirmed the significance of co-operation between the OSCE and the Kyrgyz Republic in the fight against all forms of trafficking in human beings, as a violation of human rights and a serious transnational threat. The discussion focused on the development of two key policy areas: gender-sensitive migration policies and strategies targeted at the economic and legal empowerment of women, including female migrant workers. As a follow-up to the country visit, the OSR/CTHB provided its comments and recommendations, upon request

from the Ministry of Labour, Migration and Employment, to the draft Plan of Action of Kyrgyzstan to Combat Trafficking in Human Beings, 2012-2015.

From 7-12 August, the SR/CTHB visited Canada to consult on human trafficking issues and support ongoing efforts to prevent and combat this crime. In the course of this visit, she held discussions with representatives of the national authorities, including the Deputy Minister for Citizenship and Immigration, the Intergovernmental Working Group on Trafficking in Persons, the Department of Justice, the Department of Foreign Affairs and International Trade including the Anti-Crime Capacity Building Program, the Canadian International Development Agency, Human Resources and Skills Development Canada, the Canada Border Services Agency, the Human Trafficking National Coordination Centre of the Royal Canadian Mounted Police and the Ontario Ministry of the Attorney General including the Victim Services Secretariat. Moreover, the SR/CTHB had the opportunity to exchange ideas with key NGO stakeholders during a roundtable facilitated by World Vision Canada. Present at the roundtable were World Vision Canada, Save the Children Canada, Streetkids International, International Justice Mission Canada, Hope for the Sold, Plan Canada, and the Maytree Foundation. The SR/CTHB emphasized the importance of strategic prevention of labour exploitation, and the need for co-ordination between NGOs and trade unions in this work. As part of the country visit to Canada, she also delivered a keynote address at a conference on the “Globalization of Crime: Criminal Justice Responses”, organized by the International Centre for Criminal Law Reform and Criminal Justice Policy and the International Society for the Reform of Criminal Law.



OSCE Special Representative Maria Grazia Giammarinaro with the Honourable Chief Justice Lance Finch of British Columbia at the Globalization of Crime Conference, Ottawa, Canada, August 2011

The SR/CTHB found that Canada has developed some innovative tools in combating trafficking in human beings, including the provision of unconditional assistance to victims of trafficking, i.e., regardless of their co-operation with a criminal investigation. She discussed with the Canadian authorities how best to facilitate co-operation and

information exchange on subjects including but not limited to – international co-operation among law enforcement agencies, victim-witness protection and capacity building at an international level, as well as capacity building of prosecutors and the judiciary. Following the visit, the SR/CTHB is finalizing a report summarizing the main findings and offering specific recommendations to the Government of Canada based on the OSCE anti-trafficking commitments, especially the OSCE Action Plan.

From 31 October-3 November, the SR/CTHB paid an official country visit to Moldova. She met with government officials, including the Deputy Prime Minister and Minister of Foreign Affairs and European Integration, Mr. Iurie Leanca, Deputy Ministers of Foreign Affairs and European Integration, of Labour, Social Protection and Family, of Internal Affairs, and of Justice, as well as with the Chair of the Superior Council of Magistrates.²⁰ She also conducted meetings with officials from: the Department to Prevent and Combat Trafficking in Persons of the General Prosecutor's Office, the National Institute of Justice, the Permanent Secretariat of the National Committee to Combat Trafficking in Human Beings, and the Prime Minister's Office. In addition, consultations were held with representatives of UNDP, UNICEF, UNHCR and IOM. She also met with leading NGOs, including La Strada Moldova, Terre des hommes, the Child Rights Information Centre (CRIC) and the National Center for Child Abuse Prevention Amicul (NCCAP). She further met with NGO representatives from the left bank of the Dniestr river who work on THB issues, including Interaction, Social Aspect and Resonance. In the meetings, she discussed current THB trends and main efforts of civil society to prevent trafficking and assist trafficked persons. The visit of the SR/CTHB was closely co-ordinated with the OSCE Mission to Moldova which provided strong support in the preparation and contributed knowledge and expertise. Lastly, the SR/CTHB delivered remarks at the launch of the "Recommended Principles and Guidelines on Human Rights and Human Trafficking Conference" on 2 November, in Chisinau. The event was organized by the Ministry of Foreign Affairs of Moldova, UN Office of the High Commissioner for Human Rights (UN OHCHR) and UNDP Moldova.

During her visit, the SR/CTHB discussed the human trafficking situation and the continuing efforts of the authorities and civil society to prevent and combat trafficking, especially child trafficking. She stressed the importance of tackling trafficking in human beings for all purposes and to protect the rights of trafficked persons. She further discussed the innovative approach in Moldova in the establishment of a National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking, based on a combination of preventive and protective measures. Moreover, she

discussed the future development of the new National Plan of Action on THB, and pledged to assist and support the process in co-operation with the OSCE Mission to Moldova.

Ongoing work with government authorities

In addition to country visits, the SR/CTHB engaged with participating States in a number of bilateral and multilateral meetings, and, together with her Office, contributed to numerous national and international events and initiatives on human trafficking issues, particularly in the areas of prevention of labour trafficking and child trafficking.

The OSR/CTHB participated in the "International Seminar on Trafficking in Human Beings in Finnish Work Life" which was held on 3 February in Helsinki. The event was organized by the Ombudsman for Minorities and National Rapporteur on Trafficking in Human Beings, the Central Organization of Finnish Trade Unions (SAK) and the European Institute for Crime Prevention and Control (HEUNI). The objective of the seminar was to highlight the relevance of the phenomenon of THB for labour exploitation in Europe and in Finland in particular. HEUNI presented its analysis of trafficking for labour exploitation including a discussion on the type and quality of data available.

On 3-4 March in Vilnius, the SR/CTHB held a number of bilateral meetings with the Lithuanian authorities, including the Ministry of Social Security and Labour, the Ministry of the Interior and the Department of Police.²¹ The Head of the Ministry of Interior Unit that co-ordinates the implementation of the National Action Plan explained the current challenges and priorities facing the office, including the impact of the economic crisis, which has affected all institutions. Nonetheless, the Ministry of Interior has created a database with the help of IOM and Norway, which is monitoring labour exploitation among other forms of trafficking, including recent cases in the construction and agricultural sectors. The Lithuanian authorities stressed their commitment to step up international co-operation and specifically to address delays in mutual legal assistance which can impede international co-ordination. The SR/CTHB reiterated the significance of the child protection system as a preventive measure and the role of the Ombudsman for children's rights. The bilateral meetings confirmed the strong potential for co-operation with the Lithuanian authorities, and highlighted numerous good practices currently put in place by Lithuanian stakeholders. On 15-16 March in Almaty, Kazakhstan, the Deputy Co-ordinator for Combating Trafficking in Human Beings participated in the Regional Conference on "Refugee Protection and International Migration in Central Asia", organized jointly by UNHCR and IOM, in co-operation with the OSCE and the United Nations Centre for Prevention

²⁰ See also Section 1.1.4 on working with the judiciary.

²¹ She also met with NGOs in Vilnius, see Section 1.1.8.d for more details.

Diplomacy for Central Asia (UNRCCA). The Conference brought together over 120 participants, including senior representatives from states in and around Central Asia, as well as representatives of regional and international organizations, civil society, academia and from the diplomatic community. The objectives of the Regional Conference were to increase the understanding of the nature, scale and reasons for mixed migratory movements in Central Asia and the wider region, and to agree on the development of a comprehensive and co-operative regional strategy on how to address this phenomenon with a human rights approach. The Deputy Co-ordinator led a roundtable discussion entitled “Preventing trafficking and protecting the victims, with specific attention to child trafficking”.

On 11 April, following consultations with the Lithuanian OSCE Chairmanship and with the Chair of the Human Dimension Committee, the SR/CTHB convened an Expert Consultation Meeting on Trafficking in Human Beings for Domestic Servitude. The meeting followed up on the 2010 *Alliance against Trafficking in Persons* Conference “Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude” and the recommendations published in the fourth Occasional Paper on this topic²². Participants included national experts from OSCE participating States with experience in addressing this particular form of trafficking, including in diplomatic households.



Key Recommendations for Action to Tackle Trafficking in Human Beings for Domestic Servitude, OSR/CTHB Occasional Paper no. 4

The Deputy Co-ordinator for Combating Trafficking in Human Beings addressed the opening session of the Conference “Street involved children in SEE—Our Responsibility” on 7 June in Belgrade, Serbia, co-organized by the Ministry of Interior, Save the Children Norway, the Migration, Asylum, Refugees Regional Initiative (MARRI), and the OSCE Mission to Serbia. The conference brought together around 100 participants and prominent experts from over ten countries to discuss

issues affecting children on the street in South-Eastern Europe (SEE), as well as governmental and civil society efforts to advance models to prevent exploitation and abuse of vulnerable children, and to ensure adequate protection and integration of migrant and street children in the region. The Deputy Co-ordinator also participated in the meeting of the National Anti-trafficking Co-ordinators of South-Eastern Europe on 8 June as a part of the Brdo process, hosted by the Ministry of Interior of Serbia. The objectives were to exchange information on key anti-trafficking activities in the SEE region, and to discuss THB trends, especially as relevant to vulnerable children, such as street children.

A representative of the OSR/CTHB delivered a speech at an “Expert Conference on Forced Labour Exploitation and Counter Trafficking in the Baltic Sea Region”, which was held on 7-8 June in Oslo, Norway. The conference launched a joint project of the Council of the Baltic Sea States (CBSS) Task Force-THB and HEUNI, entitled “Data and Education on Forced Labour Exploitation and Counter Trafficking (DEFLECT)”.

The Deputy Co-ordinator and an OSR/CTHB consultant visited Kazakhstan from 24-28 June in order to finalize data collection for a comprehensive anti-trafficking country assessment report. During the visit, the Deputy Co-ordinator participated in meetings facilitated by the Foreign Ministry with representatives of the Ministries of Justice, Interior, Education and Science, and the Supreme Court. They held meetings with NGOs in Astana and Almaty, as well as with representatives of diplomatic missions and international organizations involved in fighting human trafficking in Kazakhstan; they also visited a shelter in Astana. Moreover, on 23 June, the Deputy Co-ordinator participated in the high-level “Equity focused child protection conference in lieu of the 20th Anniversary of Kazakhstan’s Independence” organized by UNICEF and the *Majilis*, the Parliament of Kazakhstan. She addressed the conference in the session “Prevention of Child Trafficking: the OSCE’s approach”.

On 27 September, the SR/CTHB also gave a keynote speech at the “Regional Round Table on human trafficking for labour exploitation and domestic servitude in Europe” in Vienna. The event was organized by the IOM, the Austrian Institute for International Politics, the Federal Ministry for Labour and the Office of the President of Austria. The event was followed by the Regional Round Table “Challenging Data on Human Trafficking via Common Internet Platform”, which took place on 28 September in Vienna.

The OSR/CTHB continues to work closely with government authorities to promote better identification mechanisms for victims of human trafficking. The Office participated in the Regional Seminar on “Identification of Victims of Human Trafficking in South-Eastern Europe” organized by the French

²² OSCE OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010).

Interdepartmental Unit against Organized Crime in South-Eastern Europe based in Croatia. The seminar took place in Zagreb on 6-7 October and was part of the French 2011 cycle of regional conferences on “Justice and Human Rights in South-Eastern Europe”. It included the participation of the Minister for European Affairs, Mr. Jean Leonetti (France), and the Secretary of State for European Integration (Croatia) among other leading authorities. The seminar provided an opportunity to exchange ideas on how to strengthen co-operation and co-ordination at national, regional and international levels, as well as the need for co-operation between police and NGOs in order to make identification more effective.

Upon invitation of the Austrian Federal Ministry for European and International Affairs, and its Task Force on Combating Human Trafficking, on 17 October in Vienna, the SR/CTHB contributed to the event celebrating the EU anti-trafficking day. The event was organized in co-operation with the IOM.²³

On 8-9 November, the OSR/CTHB participated in the Russian-American Trafficking in Persons Forum in Moscow. This Forum brought together representatives of the Ministry of Health and Social Development, Ministry of Interior, Investigative Committee, the Federal Ombudsman for Human Rights, representatives of the Public Chamber, and over 25 NGOs from all Russian regions. The Forum was also attended by academia, independent experts, and international organizations, such as IOM, and the media. The event was addressed by US officials, including the US Ambassador-at-Large, Office to Monitor and Combat Trafficking in Persons, Mr. Luis CdeBaca, and by US NGOs. The event focused on the elaboration of effective strategies to be developed jointly to achieve sustainable results in the fight against human trafficking for all forms of exploitation.

The SR/CTHB also values ongoing dialogue and co-operation with the OSCE Partners for Co-operation, including with the Mediterranean and Asian Partners.²⁴ In line with Permanent Council Decision No. 571 of 2 December 2003²⁵, which called for new avenues of co-operation and interaction and to explore the scope for wider sharing of OSCE norms, principles and commitments, and Ministerial Council Decision No. 17/04 of 7 December 2004²⁶, the SR/CTHB held bilateral

meetings with high-level delegations from Israel, including with the Israeli National Co-ordinator in October 2011, and the Egyptian National Co-ordinator in December 2010. Further, at the request of the Egyptian National Co-ordinator, the OSR/CTHB provided technical assistance to support the development of the National Action Plan to combat trafficking in human beings and provided its comments and advanced recommendations to the draft NAP. Lastly, the SR/CTHB also met with the Permanent Representative of Afghanistan to the International Organizations in Vienna in November 2011 to discuss how to strengthen the country’s efforts in combating trafficking in human beings.

Ongoing co-operation with donors

Co-operation and co-ordination with donor states remained an ongoing part of the OSR/CTHB’s work with government authorities. Donors provide input from the outset of programme development and throughout its implementation through regular contact and dialogue. In 2011, the OSR/CTHB held various meetings with donors to discuss work in progress. For example, on 19 September, the SR/CTHB met with the Minister for External Relations of the Principality of Monaco, Mr. José Badia, to discuss the implementation of current and forthcoming projects, especially projects implemented in Moldova and the Russian Federation.

On 13 September, the OSR/CTHB organized a kick-off meeting in Chisinau, Moldova, for donors to mark the initiation of the project entitled “Prevention of Human Trafficking in Children without Parental Care in the Republic of Moldova”. With the generous support of Andorra, Liechtenstein, the Principality of Monaco and San Marino, the OSR/CTHB has started work on this project, together with a local NGO partner and in co-operation with Moldova’s national and local authorities, as well as with the OSCE Mission to Moldova.

In 2011, the OSR/CTHB developed a strategic framework for Extra-Budgetary projects (hereinafter referred to as the strategic framework) to support the implementation of the mandate²⁷ in the area of prevention. The strategic framework, in line with the OSCE commitments, reflects the cross-dimensional approach of OSCE efforts in this area and new partnerships to involve all relevant actors in the prevention of human trafficking. The strategic framework was presented to participating States on 22 November in Vienna in an event held together with ODIHR. The strategic framework aims at developing a range of knowledge-based strategies and initiatives, exploring and testing innovative approaches to various aspects of prevention, with a view to better supporting participating States in the implementation of the OSCE

²³ For other events, see Section 1.1.8.c on EU.

²⁴ The OSCE maintains special relations with six Mediterranean Partners for Co-operation: Algeria, Egypt, Israel, Jordan, Morocco and Tunisia. Starting from the early 1990s, formal relations were also initiated with the following Asian countries: Japan, Republic of Korea, Thailand, Afghanistan, and Mongolia. In 2009, Australia was granted the status of Partner for Co-operation and was invited to participate in the meetings of the Contact Group with the Asian Partners for Co-operation.

²⁵ OSCE Permanent Council, *Decision No. 571 Further dialogue and co-operation with the Partners for Co-operation and exploring the scope for wider sharing of OSCE norms, principles and commitments with others* (2 December 2003).

²⁶ OSCE Ministerial Council, *Decision No. 17/04 OSCE and its Partners for Co-operation*, MC.DEC/17/04 (7 December 2004).

²⁷ OSCE Ministerial Council, *Decision No. 3/06 Combating Trafficking in Human Beings*, MC.DEC/3/06 (21 June 2006).

Action Plan and subsequent anti-trafficking commitments.²⁸ The five components of the strategic framework are to: i) strengthen the criminal justice response as a means of crime prevention; ii) promote and support empowerment strategies; iii) strengthen child care and protection systems at the local level in order to better prevent human trafficking; iv) support and promote corporate social accountability and responsibility; and v) promote awareness raising as a component of an anti-slavery movement. Participating States had the opportunity to raise questions or issues during a Q&A session immediately following the presentation.

1.1.4 Working with the Judiciary

With the aim of strengthening the criminal justice sector response as mandated in the OSCE Action Plan, the OSR/CTHB continued throughout 2011 to work closely with the judiciary in participating States to further improve access to justice for victims of trafficking as well as to provide capacity building on the legal complexities which often characterize human trafficking cases at trial. Furthermore, the SR/CTHB called attention to the ever-changing *modus operandi* of human traffickers. It is still often difficult for law enforcement, prosecutors and judges, in both cultural and legal terms, to identify a victim of trafficking who has not been physically confined. She explained how perpetrators are increasingly using subtle methods of control, and how a victim could nevertheless be coerced to stay in an exploitative situation because she or he has no viable and acceptable alternative but to submit to the abuse. These other forms of coercion can include for instance withholding wages, debt bondage, psychological abuse, confiscating identity documents and fraud. In this way, in several trafficking cases, workers are induced to stay in an exploitative and slavery-like situation even if they are not paid for months. In fact, they see no other viable option than to endure the exploitation.

The SR/CTHB delivered an address to the “High Level Roundtable on Vulnerable Victims and Gender Based Violence: Comparing Cultural Models and Prosecution Trends” organized by the Italian National Judicial Council in Rome on 2 February. In line with MC.DEC/5/08 on Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach, she addressed an international training course for judges and prosecutors on “Penal systems, migration flows and international co-operation”, which the Italian Judicial Council organized in Rome. Participants included judges and prosecutors from Albania, France, Italy and Romania, as well as representatives of Eurojust, and NGOs. She lectured on international

standards for the protection of victims’ rights and the necessity of a multidisciplinary approach to the identification and assistance of trafficked persons.

On 19 April, the SR/CTHB participated as a keynote speaker in a training course on THB organized by EULEX in Pristina. The training was attended by about 40 professionals, including EULEX judges, prosecutors, legal officers, advisers and other international experts. On the margins of the event, the SR/CTHB held consultations with the Head of the OSCE Mission in Kosovo and other OSCE officials, and the President of the Assembly of EULEX Judges, as well as local authorities and representatives of civil society. In her address, the SR/CTHB outlined how restrictive interpretations of legal provisions in the Palermo Protocol can lead to a low prosecution and conviction rate. She elaborated on how the cultural background of practitioners can lead them towards such restrictive interpretations, and thus the need for further capacity building among judges and prosecutors to ensure that there is a better understanding of the penal provisions on human trafficking.

In my view, the Palermo Protocol was intended to enlarge the definition of slavery and forced labour, and to provide practitioners with a new and flexible instrument, with a view to criminalizing new forms of slavery. Ironically, so far the definition of trafficking has been read through the wrong cultural “lens” which has led to restricting its scope of application.

Address of the OSCE Special Representative
Maria Grazia Giammarinaro
EULEX Police Headquarters, Pristina, 19 April 2011

On 6-7 October, the Deputy Co-ordinator for Combating Trafficking in Human Beings participated in the “Second Regional Conference of Presidents of Supreme Courts and State Prosecutors on Co-operation in Criminal Matters” which was organized by the highest judicial institutions in Bosnia and Herzegovina (BiH) and the OSCE Mission to Bosnia and Herzegovina. During the conference, representatives of the regional judiciary discussed the possibilities of enhancing co-operation in various segments of work and potential regional projects, including through mutual legal assistance. The Deputy Co-ordinator addressed the conference on behalf of the SR/CTHB, focusing on the challenges of THB for the criminal justice system and the role of judges and prosecutors in ensuring justice for trafficking victims. She met with the OSCE Head of Mission to BiH as well as with the Acting Chief Prosecutor of BiH, to discuss challenges and developments related to strengthening the capacity to address THB for labour exploitation, including the investigation and prosecution of cases.

²⁸ OSCE Ministerial Council, *Decision No. 2/03*; OSCE Permanent Council, *Decision No. 685*; OSCE Ministerial Council, *Decision No. 8/07*; OSCE Ministerial Council, *Decision No. 5/08*.

On 31 October-1 November, as part of a country visit to Moldova, the SR/CTHB met with the Chair of the Superior Council of Magistrates, and the Deputy Director of the National Institute of Justice. In the meetings, the SR/CTHB stressed the importance of regular training programmes on THB issues for the judiciary, and emphasized the importance of addressing aspects related to victims' rights, including the right to compensation and prevention of secondary victimization. She further recommended that such programmes be multidisciplinary and also involve representatives of NGOs, lawyers and prosecutors.



OSCE/Alberto Andreani

OSCE Special Representative Maria Grazia Giammarinaro with Anti-Mafia Prosecutor General (Italy) Pietro Grasso, May 2011

1.1.5 Supporting the Work of the Lithuanian OSCE Chairmanship and of the Delegations of Participating States

Throughout 2011, the Special Representative worked in close collaboration with the Lithuanian OSCE Chairmanship that prioritized the strengthening and full implementation of the participating States' commitments across all dimensions of security. The 2011 Chairmanship also paid particular attention to the promotion and protection of human rights, fundamental freedoms, democracy and the rule of law, and encouraged broad and active participation of civil society and NGOs.²⁹ As detailed later in section 1.1.8.d, the OSR/CTHB actively seeks out and engages with NGOs and civil society actors in the fight against THB and thus sought to support the Lithuanian OSCE Chairmanship in this important effort.

The SR/CTHB and her Office participated in two events hosted by the Lithuanian OSCE Chairmanship in Vilnius. Firstly, her Office contributed to a conference on women's entrepreneurship in the OSCE region organized by the Gender Issues Programme, in co-operation with the Lithuanian Ministry of Social Security and Labour and the Gender Studies Centre of the Vilnius University on 3-4 March. The conference entitled "Women's

Entrepreneurship in the OSCE Region: Trends and Good Practices" looked at challenges, trends and practices across the OSCE region, in particular in Central Asia and the South Caucasus. The SR/CTHB stressed that women's legal and economic empowerment is important both to prevent THB and to promote the social inclusion of trafficked persons. Furthermore, the SR/CTHB participated in the 6th Ministerial Meeting of the Community of Democracies, held on 1 July in Vilnius. On the margins of this Meeting, she met with several high-ranking women leaders as well as with the Chairperson-in-Office's SR on Gender Issues.

The SR/CTHB has also maintained a regular and fruitful dialogue with the delegations of the OSCE participating States and Partners for Co-operation in Vienna and co-operated with the Human Dimension Committee and the Security Committee. The Human Dimension Committee has been a central forum for discussion and consultations with the participating States on the implementation of OSCE anti-trafficking commitments. At the request of the Chairperson of the Human Dimension Committee, the SR/CTHB addressed the Committee twice in 2011, on 8 February and 11 October. In the first meeting, the SR/CTHB provided an overview of the challenges in anti-trafficking action as well as of the opportunities for stepping up action against trafficking. In her second address to the Committee, she gave a concrete overview of the different forms of child trafficking, and the particular vulnerability factors that render children more susceptible to this crime and which need to be addressed.

Furthermore, the SR/CTHB addressed the working session on THB at the Human Dimension Implementation Meeting on 6 October in Warsaw, during which she called for a strategic approach to the prevention of human trafficking, especially for labour exploitation. She also stressed the importance of access to justice for victims of human trafficking, including the right to legal aid to claim compensation for damages suffered.³⁰

In the run-up to the December 2011 Ministerial Council in Vilnius, the OSR/CTHB actively supported the Lithuanian OSCE Chairmanship and the participating States, in co-operation with other OSCE structures and institutions, in the preparation of a relevant draft ministerial document on trafficking in human beings by providing background information, analysis of existing commitments and justification of steps to be taken further on the basis of the THB-related situation in the OSCE region.

Finally, another important area of co-operation with participating States is the support provided to the incoming 2012 Irish OSCE Chairmanship by participating in a training organized by the Irish MFA with representatives of the

²⁹ 2011 Lithuanian OSCE Chairmanship Work Programme, CIO.GAL/4/11/Rev.1, 12 January 2011.

³⁰ See Section 1.3.1 on ODIHR contribution for more details.

2012 Irish OSCE Chairmanship and 2013 Ukrainian OSCE Chairmanship on 19 July 2011 in Vienna.

1.1.6 Promoting the Implementation of the OSCE Commitments

Alliance against Trafficking in Persons Conference: “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”

On 20-21 June in Vienna, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings convened the 11th *Alliance against Trafficking in Persons* Conference, on “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”. The event brought together over 350 participants – including distinguished speakers such as the Executive Director of UNODC, Mr. Yury Fedotov, the UK Minister of State for Immigration, Mr. Damian Green, the Executive Director of ILO, Mr. Guy Ryder, the Deputy Director General of IOM, Ms. Laura Thompson, the Chairman of the CIS Executive Committee, Mr. Sergey Lebedev, among other ministers and deputy ministers, senior government officials, national anti-trafficking co-ordinators and rapporteurs, representatives from international organizations and NGOs, law enforcement agencies and trade unions, employers’ organizations and migrant rights groups. For the first time, the Conference was webcast live, thereby reaching out to a much broader audience. The event was complemented by four side events organized by the OSR/CTHB, Le Groupe des Ambassadeurs Francophones, Anti-Slavery International, International Confederation of Trade Unions, and independent experts on the following subjects: “Labour migration in the CIS region, with a special focus on child migration”; “Codes of Conduct in the Private Sector”; “Never Work Alone: Trade Unions and NGOs Joining Forces to Combat Forced Labour and Trafficking in Europe”, and “La mendicité organisée: a form of child exploitation”.

This year’s *Alliance* Conference examined anti-trafficking action in a broader perspective, including the importance of integrating anti-trafficking policy into related policy areas such as labour, migration and asylum policy, child protection and women’s empowerment. Promoting policy coherence is necessary to secure a more effective implementation of commitments in this area and to enhance the impact of anti-trafficking action. More specifically, participants discussed how more effective social protection mechanisms and especially comprehensive child protection systems can contribute to the prevention of trafficking in children. Speakers also addressed ways to strengthen the criminal justice response and complement it by further mobilizing institutional



OSCE/Alberto Andreani

OSCE Special Representative Maria Grazia Giammarinaro (centre) with former OSCE Special Representatives, Helga Konrad (left) and Eva Biaudet (right), at the 11th *Alliance* Conference, June 2011

and civil society resources. This includes recommendations to step up other administrative measures, such as stricter regulation and monitoring systems in economic sectors prone to exploitation, the monitoring and regulation of private employment agencies and the labour suppliers. In this light, the UK experience with the Gangmasters Licensing Authority as presented at the Conference is particularly relevant. Trade union representatives and NGOs suggested innovative ways of enhancing the prevention of trafficking for labour exploitation, for example, through the promotion of workers’ self-organization and representation, and the establishment of complaint procedures to report abuses and suspected instances of labour exploitation. Participants learned about the pioneering work of the *Confédération française démocratique du travail* to protect the rights of domestic workers, as well as the preventative framework established by Switzerland to protect the rights of domestic workers employed in diplomatic households, including through out-of-court mediation tools.³¹

Another new focus of this year’s Conference was how the public and private sectors can work together to ensure that trafficking does not occur in workplaces or in supply chains, building on the OSR/CTHB’s research on codes of conduct.³² The Special Advisor to the UN Special Representative of the Secretary-General on Business and Human Rights presented the recently adopted *UN Guiding Principles on Business and Human Rights* and discussed how governments can encourage businesses to comply with these principles and exercise due diligence to keep their supply chain clean of trafficking.

³¹ For further information on the strategic approach to the prevention of trafficking for labour exploitation, please see verso which is a follow-up to the issues and concrete measures discussed during the 11th *Alliance* Conference on Trafficking for Labour Exploitation.

³² OSCE OSR/CTHB, *The Implementation and Enforcement of Codes of Conduct in the Private Sector to Reduce Demand for the Services of or Goods Produced by People who have been Trafficked*, Occasional Paper Series (forthcoming); also see Section 1.1.6 on research.

Alliance Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking”

On 3-4 October, the OSR/CTHB, the OCEEA, and the SPMU, in close co-operation with the UNODC organized an *Alliance Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking”* (hereinafter referred to as *Alliance Expert Seminar on Money Laundering/THB*), with the participation of the Financial Action Task Force (FATF), the Egmont Group, the Eurasian Group on Combating Money Laundering and Financing of Terrorism and *Alliance against Trafficking in Persons* partners such as the Council of Europe, Interpol, Europol, and La Strada International. The seminar gathered representatives of governments, NGOs, the private sector, experts from academic institutions and investigative journalists. The seminar also brought together a broad range of anti-money laundering (AML) experts from national financial intelligence units (FIUs), law enforcement agencies, prosecution services, the judiciary, international organizations and financial institutions. Mr. Colin Powell, Chairman of the Group of International Finance Centre Supervisors, UK, presented the findings of the July 2011 FATF report entitled *Money Laundering Risks Arising from Trafficking in Human Beings and the Smuggling of Migrants*³³. The effective application of financial investigation techniques in organized crime cases was explored in a keynote address by Mr. Pietro Grasso, Anti-Mafia Prosecutor General of Italy. Representatives from the private sector included Western Union, Raiffeisen Bank and J.P. Morgan Chase Bank, all of whom have undertaken work in terms of strengthening their compliance and monitoring mechanisms. This event addressed the crucial stage of the criminal business side of the trafficking process, the legalization of THB-related criminal proceeds. To date, most of the global effort to stem THB has focused on the THB crime itself, and not on the

proceeds derived from and invested in THB and other criminal activity. This is due to several factors, including a general lack of awareness among law enforcement agencies of THB-related financial activity, a general lack of awareness among financial investigators of THB operations, limited interagency and international co-operation on THB in general and on the financial aspects of THB specifically, insufficient laws on THB/AML and insufficient implementation of the Financial Action Task Force’s 40+9 recommendations.

The *Alliance Expert Seminar on Money Laundering/THB* built on previous OSCE work on the nexus of THB proceeds and anti-money laundering measures,³⁴ in particular the OSR/CTHB’s collaboration with FATF. The OSR/CTHB participated in a meeting on 23 February in Paris to review the FATF Report.³⁵ In co-operation with SPMU and OCEEA, the follow-up to the *Alliance Expert Seminar on Money Laundering/THB* includes a summary report containing the key recommendations and findings of the seminar, which is expected to be published in 2012. The SR/CTHB will also work to ensure that the key deliverables of the event are applied in a practical way including in her Office’s training programmes for law enforcement, as well as in the provision of technical assistance to participating States and Partners for Co-operation.

Research

In 2011, the OSR/CTHB undertook a research project on the concept of codes of conduct, including two Occasional Papers to be published in 2012. The first research study examines how the implementation and enforcement of codes of conduct in the private sector can reduce demand for the services of or goods produced by people who have been trafficked. The second research study examines the implementation and enforcement of codes of conduct, zero tolerance policies and other policies that address the demand for exploitative labour and commercial sex in military and international organizations (including policies of Ministries of Defence, NATO policies to be enforced by individual governments, and codes of conduct for UN peacekeepers and employees of UN agencies and international organizations, including OSCE), working in post-conflict and humanitarian situations. Codes of conduct and zero tolerance policies send out an important message about an organization’s commitment to combating human trafficking, both to its employees and to the outside world. The aim of the background papers is to take stock of such existing policies and to identify promising practices in



OSCE/Petra Durekova

Expert Roundtable, *Alliance Expert Seminar on Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking*, 3-4 October 2011

³³ Financial Action Task Force (FATF), *Money Laundering Risks Arising from Trafficking in Human Beings and the Smuggling of Migrants* (July 2011).

³⁴ The topic was first addressed in September 2008 at a Regional Meeting on Combating Human Trafficking and Money Laundering in the Mediterranean Rim Region. The two-day meeting was organized in Larnaca, Cyprus in co-operation with the OSR/CTHB, the Republic of Cyprus and the UNODC. The topic was further addressed on 16-18 November 2010 in Cape Town, South Africa, in the framework of the first joint meeting of the Financial Action Task Force and the Egmont Group of Financial Intelligence Units on Money Laundering and Terrorist Financing Typologies.

³⁵ Financial Action Task Force (FATF), Op. Cit.

developing, resourcing and implementing codes of conduct and related policies to combat trafficking both for labour and sexual exploitation. The first paper looks at the benefits that occur when businesses have introduced codes of conduct to regulate activities in their workplaces and those of their suppliers to address the demand for services provided or the goods produced by trafficked persons, and the actions that businesses and organizations can take to create an environment where abuse and exploitation is less likely to occur.

In 2011, the OSR/CTHB initiated a new research project in co-operation with the Helen Bamber Foundation (UK) and the Ludwig Boltzmann Institute for Human Rights (Austria) which examines how and when trafficking in human beings can amount to torture, and the legal, medical and other consequences that flow from this characterization. The research project builds on the important work of the Helen Bamber Foundation, including with Amnesty International, the Journey Exhibit, the London School of Hygiene and the former United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Manfred Nowak. In his 15 January 2008 Report to the Human Rights Council, the Special Rapporteur had raised the issue of human trafficking as a form of torture, highlighting the characteristics of the crime which could amount to torture: victims of human trafficking are often kept in forced confinement or are subjected to a high level of psychological control; they are often forced into sexual or labour servitude or other forms of exploitation; they may undergo severe surveillance and be forced to use substances or drugs as a means of control; they may be subjected to severe forms of physical and mental violence including physical beatings, sexual abuse, humiliation and other force which may amount to torture or at least cruel, inhuman and degrading treatment.³⁶ This research will form the basis of an Occasional Paper that will benefit from the respective expertise of the two NGO partners, namely the strong and long-standing clinical, practical, and policy experience of the Helen Bamber Foundation and the legal and human rights expertise of the Boltzmann Institute.

Another area of research for the OSR/CTHB together with the SPMU, focuses on trafficking for the purpose of the removal of organs. The research study will help identify crime patterns and the *modus operandi* of criminal networks engaged in this crime, as well as profiles of victims and perpetrators. A follow-up to the 2009 Joint CoE/UN Study on Trafficking in Organs, Tissues and Cells and Trafficking in Human Beings for the Purpose of the Removal of Organs, the report will identify gaps in national legislation and disclose obstacles preventing effective investigation and prosecution of this

crime, including the lack of sufficient witness protection systems. The qualitative study will also include in-depth analysis of available case studies in the OSCE region and include information on the complex relationships between brokers, medical personnel, clients/recipients of organs, and any patterns between origin-transit-destination countries. Lastly, the study will also examine the wider links between this grave form of human trafficking and the lack of rule of law, human rights violations and corruption, based on actual case studies.

Capacity building

In 2011, the OSR/CTHB continued implementing its technical assistance mandate, often in co-operation with OSCE field operations, by means of capacity building work in several participating States through the (co-)elaboration and the (co-)delivery of targeted training courses for professionals working in the anti-trafficking field, especially law enforcement personnel, to raise their skills in their anti-trafficking efforts. Whenever possible, the OSR/CTHB encouraged civil society's participation in the training in order to increase co-operation with law enforcement to subsequently optimize the results of future investigations on trafficking in human beings and other related crimes.

Based on the tenets of the OSCE Ministerial Council Decision on Highest Standards of Conduct and Accountability of Persons Serving on International Missions and Forces³⁷, as well as on OSCE and NATO Codes of Conduct, the OSR/CTHB contributed to the one-week training programme, organized twice a year by the NATO Partnership for Peace Training Centre in Ankara, Turkey. The training aims to provide NATO personnel and officials from other countries with a basic knowledge of trafficking in human beings and raise awareness of this phenomenon as a serious crime and human rights violation. The OSCE contributions (17-18 February and 20 October) focused on the human rights-based approach to the prevention of trafficking, to the prosecution of traffickers and the protection of victims. Furthermore, they included a presentation on transnational criminal structures, operating at different levels and with different purposes and *modi operandi*. Participants at the training included senior military officers and border guards from Albania, Bangladesh, Belarus, Bosnia and Herzegovina, Czech Republic, Egypt, Jordan, Kazakhstan, Kyrgyzstan, the former Yugoslav Republic of Macedonia, Moldova, Morocco, Qatar, Tunisia, Turkey, and Ukraine.

Upon the request of the authorities of the Republic of Belarus, the OSR/CTHB, together with the SPMU, participated in training sessions organized by the CIS International Training

³⁶ United Nations Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Mr. Manfred Nowak, A/HRC/7/3, Seventh session, Item 3 on the provisional agenda (15 January 2008).

³⁷ OSCE Ministerial Council, *Decision No. 16/05 Ensuring the Highest Standards of Conduct and Accountability of Persons Serving on International Forces and Missions* (Ljubljana, 6 December 2005).

Centre on Migration and Combating Trafficking in Human Beings and funded by the IOM Office in Minsk on 26 May and on 24-25 October. The events were attended by law enforcement officials from Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Arab Emirates and Uzbekistan, and examined lessons learned and best practices in combating trafficking in human beings. The five-day training courses consisted of presentations and roundtables. Besides the OSCE and the IOM, there were speakers from La Strada-Belarus, the Office of the UN High Commissioner for Human Rights, Interpol, Europol, UK Criminal Police-London (Metropolitan Police), the CIS Executive Committee, and experts from Serbia and other countries.

Also in Minsk, the OSR/CTHB contributed to an annual session of the “Working Group on Prevention of Irregular Migration” of the International Border Police Conference held on 30-31 March. A particular challenge raised by the participants in 2011 was how to distinguish mixed migration flows including between irregular migrants and asylum seekers according to internationally recognized standards. The OSR/CTHB was invited to present the OSCE’s approach to THB.

On 31 May-1 June, the OSR/CTHB contributed to a sensitization seminar in Lankaran, Azerbaijan, on “Human Trafficking and Forced Labour for Regional Law Enforcement Agencies”. The training was organized by the OSCE Office in Baku and supported by the IOM and the ILO, and was attended by members of the regional police in Lankaran. The objective of the training was to raise awareness among regional police officers and public officials in the area of prevention and combating trafficking in human beings and to support the creation of a referral mechanism for victims of human trafficking at the regional level. The OSCE training covered the role of community policing in victim identification, illegal migration and smuggling of migrants, and the legislative framework in Azerbaijan. The OSR/CTHB will continue to work to promote awareness raising and capacity building among law enforcement and relevant authorities.

Throughout 2011, the OSR/CTHB contributed to the development of a FRONTEX manual on THB in a series of workshops. The first of these was held on 23-24 February in Cesena, Italy with the aim of bringing EU authorities including border guards, and related agencies and experts together to contribute and to assess the main needs for the development of a common curriculum on THB for border guards including training tools and training material. The working group was composed of 14 EU representatives of border guards and related agencies, and experts of FRONTEX, IOM, UNICEF, CEPOL, Eurojust, Europol, Interpol and the OSR/CTHB.

From 10-13 October, the OSR/CTHB delivered specialized training courses for police officers, prosecutors and border guards in Osh and Batken, Kyrgyzstan, in the framework of the project “Preventing trafficking in human beings in the South of Kyrgyzstan by addressing the challenges emerging from the June 2010 violence” implemented by the OSCE Centre in Bishkek’s Osh Field Office. The objective of the training was to enhance capacity in the detection and investigation of THB and the use of proactive investigation techniques which do not rely exclusively on victim or witness testimony. Some 60 Government officials participated in the training, demonstrating a high level of interest from the public sector.



OSCE/Alberto Andreatani

Training to border guards in Batken, Kyrgyzstan, on 14 October, in co-operation with the OSCE Centre in Bishkek’s Osh Field Office.

Finally, the OSR/CTHB has continued to co-operate with the Training Section in the OSCE Secretariat in the framework of the General Orientation (GO) Programme which includes a THB module so as to ensure that OSCE staff members, especially those working on the human dimension and police or transnational threat (TNT)-related issues are familiar with the issue of human trafficking, the approach and the efforts of the Organization.

1.1.7 Awareness Raising: Towards an Anti-Slavery Abolitionist Movement

In 2011, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings continued to build support for the anti-slavery movement to eliminate all forms of human trafficking through the establishment of partnerships with intellectuals, opinion leaders, academia, arts practitioners, cultural innovators and the media to make people aware of the realities of modern-day slavery, and to commit them to its abolition. Key activities in this regard included involving committed intellectuals and in particular artists, in awareness raising exercises especially targeting youth. The SR/CTHB also worked with committed journalists to promote ethical reporting on trafficking and increased professional coverage of THB issues, as well as in-depth

investigative journalism through capacity building, training, and networking. In addition to speaking engagements at universities, with youth groups and participating in print, radio and TV interviews, her Office also fielded numerous information requests from graduate students and journalists throughout the OSCE region who were interested in finding out the latest features and dimensions of this crime.

With a view to engaging with a young professional audience, the SR/CTHB addressed several major universities in 2011, especially targeting those future professionals that could be committed to or engaged in awareness raising for human trafficking in the future. On 7 March, she delivered an address to the London School of Economics on “International implications of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, over the 10 years since its enactment”. She asserted the need for an interpretation of the Palermo Protocol³⁸ which better reflects the intentions of the drafters to cover a broader range of exploitation. On 26 May, she addressed an international workshop at the Faculty of Political and Social Science of the University of Rome “La Sapienza” in collaboration with Parsec Consortium, on the subject of “Trafficking in human beings: the case of Nigerian women”. The objective of the workshop was to raise awareness among a variety of stakeholders including academia, social services and NGOs of the widespread phenomenon of the sexual exploitation of Nigerian women, not only in Italy but also in Spain, the UK, the Netherlands, Germany and Austria among other countries.

On 3 June, she delivered a keynote speech at the seminar “Immigration and the Fight against Human Trafficking: Rights, Security and the Employment Market”, held under the aegis of the 2011 Economic Festival in Trento, Italy. This multidisciplinary Festival is a forum that is open to the general public, in which economic, legal and political issues are actively debated. On 22 June, at the invitation of the Boltzmann Institute for Human Rights, the SR/CTHB addressed a panel held in Vienna on “Asylum, Immigration and Human Trafficking” at a conference jointly organized by the University of Vienna and Stanford University. The conference focused on US-American and European approaches to contemporary human rights problems, and the SR/CTHB delivered an address focused on the need to translate legal and political commitments into solid gains for victims of trafficking. She stressed that a human rights approach which bolsters social, economic, cultural and political rights of vulnerable and exploited persons will ultimately reduce and prevent the horrendous crime of human trafficking.

³⁸ United Nations (UN), *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime* (15 November 2000).

Throughout 2011, the SR/CTHB also sought to reach out to wider audiences to raise awareness on human trafficking, including by targeting journalists as a strategic audience. From 8-9 February, she participated in a high-level meeting with representatives of leading newspapers and news agencies at the Moscow Club of Journalists dedicated to “Problems of THB Prevention and the Role of the Media” as well as a roundtable on “The Role of the Media in Combating THB” held in co-operation with the Faculty of Journalism, Moscow State University, in the framework of the Russian Union of Journalists’ Annual Conference on Media Development. Participants included journalists from leading Russian media outlets and government officials, as well as experts from academia, international organizations and national NGOs, including from the Russian Union of Journalists, Novaya Gazeta, Rossijskaja Gazeta, Moskovskiy Komsomoletz, Izvestija, news agencies ITAR-TASS, Regnum, Agency of Social Information, Radio Majak, and others – essentially the most popular media outlets with the broadest audience. She affirmed the important role of media professionals in strengthening anti-trafficking action and called on them to inform the general public about trafficking and its features. She also encouraged journalists to pay attention to all aspects of the crime and efforts to combat it, including on labour exploitation, but also on the important role played by civil society organizations to strengthen the fight against trafficking. These high-level meetings with the Russian Union of Journalists laid the foundation for practical collaboration in the future, including through the support for an OSR/CTHB extra-budgetary project jointly designed by the Russian Union of Journalists and the Faculty of Journalism at the Moscow State University, the leading journalism faculty in the Russian Federation. The overall objective of the project which is generously funded by the Governments of the United States of America and Iceland is to increase and improve the role of the media in the prevention of human trafficking.



Russian Union of Journalists

OSCE Special Representative Maria Grazia Giammarinaro addresses the Moscow Club of Journalists along with the Secretary of the Russian Union of Journalists, Nadezhda Azhgikhina, February 2011

Building on this engagement with the media in the Russian Federation, the Deputy Co-ordinator for Combating Trafficking in Human Beings addressed a roundtable on “The Role of the Media in Combating Trafficking in Human Beings” in the framework of the 2011 All-Russia “Journalist Festival and International Discussion” in Sochi on 29-30 September. She led a roundtable discussion on human trafficking in the OSCE region and the role of journalists. She also participated in a panel organized by the Russian Union of Journalists and UN Women on the “Female Face of Migration” and issues relating to the integration of migrants in the Russian Federation. In addition, she met with senior representatives of the Russian Union of Journalists to further discuss the ExB project to support the development of the first Russian-language course on trafficking in human beings for journalism students which is expected to become part of the regular curriculum at the Moscow State University, and could serve as a model for other Russian language educational institutions in the Russian Federation and elsewhere. The Deputy Co-ordinator was also interviewed by Crimean-Ukrainian TV after the roundtable in Sochi.

Another high-profile engagement with the media was an interview with the Special Representative broadcast on 24 June on CNN International as part of the network’s “Freedom Project: Ending Modern Slavery”. In this year-long focus throughout 2011, CNN chose to shine a spotlight on the horrors of THB, amplifying the voices of the victims, and highlighting success stories. In the interview with Jim Clancy, anchor of CNN’s “The Brief”, the SR/CTHB highlighted the growing trend toward trafficking for labour exploitation and child trafficking. She explained how the global trade in human beings is changing, growing more sophisticated as a criminal enterprise that can boast more profits and fewer risks than the illegal drug trade. She also stressed that although slavery has been banned by law, it still exists in practice and it is not at all a marginal phenomenon. On the contrary, it involves millions of people. The SR/CTHB also stated that there was a need for all national and international actors to continue to work together on this issue, and that each stakeholder has their own mandate and added value in the face of this truly global problem.

Throughout 2011, the SR/CTHB also continued to seek out cultural and intellectual channels, including film and theatre, for the promotion of anti-trafficking messages. On 18 April, she contributed as a keynote speaker to a panel debate in Pristina following a screening of the documentary “*Vous êtes servis*” by Belgian film-maker Jorge León. The documentary focuses on human trafficking for domestic servitude. The event was attended by some 60 participants including representatives of international organizations, NGOs and local authorities. On 25 June, the SR/CTHB gave a keynote address to a symposium on “To serve – precarious living

and working conditions for domestic workers” following a play of the same name by the same author, performed in Zurich, Switzerland. The event was organized by the Gessnerallee Theaterhaus. In her address, she promoted the adoption of the decent work agenda and recommended signing and ratifying the recently adopted ILO Convention Concerning Decent Work for Domestic Workers³⁹. The promotion of decent work for all is one of the core elements of a strategy aimed at the prevention of labour trafficking. Lastly, on 10 September, the SR/CTHB contributed to a roundtable discussion on migration and trafficking held at the 68th Venice International Film Festival. The event was held in the framework of the “Cinema and human rights” segment organized by Cinecittà Luce, Rai Cinema, Amnesty International, and the civil society organization, Articolo 21, under the patronage of the Italian Ministry for Cultural Heritage and Activities. Following the roundtable, there was a screening of the documentary film “*I am. Stories of Slavery*”, by Barbara Cupisti, a co-production by Rai Cinema and Faro Film with the support of Amnesty International.

On 22-23 May, the SR/CTHB participated in commemorative events of the 19th anniversary of the assassination of the Italian anti-mafia judge Giovanni Falcone, his wife and his personal security guards in Capaci in 1992. The events were organized by the Foundation Giovanni e Francesca Falcone in partnership with the Italian Ministry of Education and aimed at promoting education on the rule of law and a culture of legality among youth. In this framework, on 22 May, the SR/CTHB participated in roundtable discussions on co-operation between law enforcement, the judiciary and civil society to fight organized crime, including trafficking in human beings. Mr. Pietro Grasso, the Italian Chief National Anti-Mafia Prosecutor, representatives of public institutions, NGOs and media, and more than 1500 students from Italy and other European countries, and representatives of institutions and civil society participated in the event. The



19th anniversary of the assassination of the anti-mafia judge Giovanni Falcone, Italy, May 2011, including roundtable on THB as an organized crime

³⁹ ILO, *Convention Concerning Decent Work for Domestic Workers* (16 June 2011)

SR/CTHB emphasized that criminal organizations involved in trafficking are very different from the traditional mafia or other forms of organized crime characterized by a complex, hierarchical command-line and strong local roots. On the contrary, these criminal networks frequently consist of small groups, highly flexible and geographically mobile, each specializing in a certain function such as the production of false documents, logistics and transport. They are therefore even more challenging to disrupt or dismantle.

Throughout 2011, the SR/CTHB also engaged with intellectual forums and platforms for debate and exchange of information. On 29 August, she participated in the Alpbach Political Symposium 2011 of the European Forum, entitled “Justice – Responsibility for the Future” in Alpbach, Austria. The two-day event focused on current issues in the creation and implementation of international law, on global equity, fairness and international justice. It brought together 4,000 participants from 67 countries, including high-level politicians, senior diplomats, judges, academics, journalists and activists as well as students and youth. She addressed the panel on “Current Issues on International Jurisdiction” and outlined an emerging international jurisdiction for trafficking in human beings including international and regional instruments, both in law and with reference to evolving jurisprudence. Other panellists included a Judge from the Appeals Chamber of the Special Court for Sierra Leone, the President of the Assembly of States Parties of the International Criminal Court, and the Director Emeritus of the Max Planck Institute. Panellists discussed the state of international justice today and its importance for affected populations and victims, as well as the need for increased victim and witness protection, and for international co-operation. The SR/CTHB affirmed the need for international tribunals to begin to address human trafficking, including at the International Criminal Court. On 7 September, she participated in the international forum “Otranto Legality Experience” which this year focused on “Illegal Economy, Mafias and Financial Globalization”. This annual forum is organized by the “Freedom Legality and Rights in Europe (FLARE) Network”, which comprises 38 NGOs across the OSCE region active in the struggle against transnational organized crime, in co-operation with the Italian NGO Libera. She contributed to the forum with a lecture on leading tools for the investigation of trafficking in human beings.

The SR/CTHB participated in a meeting of the World Economic Forum’s Global Agenda Council on Organized Crime in The Hague on 28 June. Created in 2008, the Global Agenda Council on Organized Crime is a network of multidisciplinary stakeholders that aims to galvanize investment in the rule of law, and in proactive law enforcement strategies. The SR/CTHB stressed that trafficking in human beings is an inexhaustible source of illicit profits, made by exacting

unpaid work from people reduced to slavery. Such profits are constantly reinvested and laundered, and therefore tend to infiltrate many sectors of the legal economy.

1.1.8 Strengthening Co-operation with External Partners

a. Alliance against Trafficking in Persons

In 2004, upon the initiative of the first Special Representative for Combating Trafficking in Human Beings, the OSCE established the *Alliance against Trafficking in Persons* – an informal platform for co-operation between the OSCE and other major international organizations and NGOs recognized for their active human rights stand against trafficking. The *Alliance* aims to combine the efforts of its more than 30 partners to develop joint strategies and set a common agenda to stamp out modern slavery. The *Alliance* is a good example of how the OSCE can work in strong partnership to address transnational threats. The *Alliance*’s annual high-level conferences and technical seminars held in Vienna bring the best possible knowledge and expertise to the participating States and, at the same time, provide a global perspective on anti-trafficking activities being undertaken by the international community.⁴⁰ The *Alliance* Expert Co-ordination Team (AECT) meetings, convened by the OSR/CTHB twice a year, serve as a consultative forum for the *Alliance* partners and provide

The Alliance against Trafficking in Persons

International organizations

- UNHCR · UNICEF · UNODC · UN OHCHR
- UN WOMEN · ILO · IOM · IFRC · Interpol
- Council of Europe · European Commission · ICMPD
- Council of Baltic Sea States (CBSS) · Europol · NATO

Non-governmental organizations

- Amnesty International · Anti-Slavery International
- Churches Commission for Migrants in Europe (CCME)
- ECPAT · Human Rights Watch (HRW) · International Centre for Missing and Exploited Children (ICMEC)
- La Strada International · Platform for International Cooperation on Undocumented Migrants (PICUM)
- Save the Children · Terre des Hommes International Federation

Social partners and others

- International Trade Union Confederation (ITUC)
- International Organisation of Employers (IOE)
- Bureau of the Dutch Rapporteur on Trafficking in Human Beings.

⁴⁰ See Section 1.1.6 on the *Alliance against Trafficking in Persons* Conference: “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice” and on the *Alliance* Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking”.

an opportunity for exchanging work plans, identifying gaps, examining evidence to determine priorities, approaches and best practices and planning possible joint activities.

In 2011, the spirit of the original *Alliance* was renewed by engaging in bilateral and multilateral dialogue with various organizations to consolidate existing partnerships and to reach out to a broader range of partners. An important development this year was the expansion of the *Alliance* to include new partners such as trade unions, employers' associations, migrant rights groups and human rights NGOs, all of which participated in the annual conference. With this in mind, the SR/CTHB convened meetings in February with the ILO, the International Trade Union Confederation (ITUC), the European Trade Union Confederation (ETUC) and the International Organization of Employers (IOE) to discuss issues of countering THB for labour exploitation. The new partners joining the *Alliance* included the Churches' Commission for Migrants in Europe (CCME), Human Rights Watch (HRW), the International Organization of Employers (IOE), the International Centre of Missing & Exploited Children (ICMEC), the International Trade Union Confederation (ITUC), and the Platform for International Cooperation on Undocumented Migrants (PICUM). This new partnership creates a multiplier effect by capitalizing on each other's expertise and contributions and working together with a shared strategic approach to promote and protect the rights of women, men and children, so as to optimize efforts in tackling human trafficking throughout the OSCE region. *Alliance* partners also contributed greatly to the *Alliance* Expert Seminar on Money Laundering/THB. The SR/CTHB will continue to work closely with *Alliance* partners to develop innovative ideas and tools to combat human trafficking as foreseen during the next AECT meeting to be convened on 16 December.

b. External Co-operation on Addressing Transnational Threats (TNT)

External co-operation strengthened within the *Alliance against Trafficking in Persons* was complemented by the formation of bilateral and multilateral relations with key international organizations involved in combating trafficking in human beings and addressing it as a TNT. In particular, the SR/CTHB works closely with the UNODC, the IOM, the ILO, Interpol, and others. She also co-operates with regional organizations such as the European Commission, NATO, Europol, Eurojust, the CoE, the CIS Executive Committee, CBSS, etc. The UNODC is the key partner for the SR/CTHB in terms of promoting the implementation of the UN Convention against Transnational Organized Crime⁴¹ and the associated Protocol to Prevent,

41 United Nations (UN), *United Nations Convention against Transnational Organized Crime* (15 November 2000).

Suppress and Punish Trafficking in Persons, Especially Women and Children⁴². As of 28 October 2011, 55 of the 56 OSCE participating States had become parties to the Convention and the associated Protocol.

c. Co-operation with International Organizations

UNODC

The UNODC and the OSCE have a long history of fruitful co-operation in the fight against human trafficking. In 2011, the two organizations opened a new page in planning and implementing collaborative anti-trafficking activities. After having revised the results of co-operation between the relevant structures of the two organizations in December 2010, the OSCE Secretary General, Mr. Lamberto Zannier, and the UNODC Executive Director, Mr. Yuri Fedotov, decided to develop a Joint Action Plan for 2011 and 2012 to enhance planning and mechanisms to improve the evaluation of mutual co-operation. The fight against THB was recognized as an area of mutual priority, along with other serious transnational threats such as transnational organized crime, corruption, money laundering, and the smuggling of migrants.

Furthermore, in the Joint Action Plan, the two organizations re-confirmed their partnership in the framework of the *Alliance against Trafficking in Persons* events and its Expert Co-ordination Team meetings. This co-operation is well illustrated by the address of the Executive Director of the UNODC at the 11th *Alliance* Conference on Trafficking for Labour Exploitation. Another example is the fruitful collaboration in the organization of the *Alliance* Expert Seminar on Money Laundering/THB.⁴³

In addition, OSCE and UNODC agreed to provide technical assistance at the regional and national levels within the OSCE area to develop and maintain regular contacts between missions to ensure that anti-human trafficking technical assistance activities are complementary and mutually reinforcing. In this regard, the OSR/CTHB contributed to the fourth annual Central Asian workshop on promoting international law enforcement and judicial co-operation among source, transit and destination countries, organized by the UNODC in co-operation with the OSCE, IOM, and the US Embassy in Kazakhstan (Almaty, Kazakhstan, 9-10 November).

42 United Nations (UN), *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime* (15 November 2000).

43 See Section 1.1.6 on the *Alliance against Trafficking in Persons* Conference: "Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice" and on the *Alliance* Expert Seminar on "Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking".



Mr. Yury Fedotov,
Director-General/
Executive Director,
United Nations Office
at Vienna/ United
Nations Office on
Drugs and Crime

Co-operation continued also in the areas of knowledge gathering and information sharing, for example with regard to the development of the UNODC global case-law database on THB and research and tools to address trafficking in persons for the purpose of the removal of organs.

The SR/CTHB participated in the launch of the UN Voluntary Trust Fund for Victims of Human Trafficking,⁴⁴ and welcomed its establishment at a special event organized by the UNODC and the All-Party Parliamentary Group on Human Trafficking (London, UK, 8 March).

On 26 May, the SR/CTHB addressed the “First Meeting of Experts on the Development of a Digest of Organized Crime Cases – Good Practices and Lessons Learned” in Rome organized by the UNODC, in co-operation with the Governments of Italy and Columbia, and Interpol. The purpose of the Digest is to serve as a practical tool illustrating good practices and lessons learned in the fight against organized crime, as well as to facilitate the implementation of the UNTOC and its Protocols.

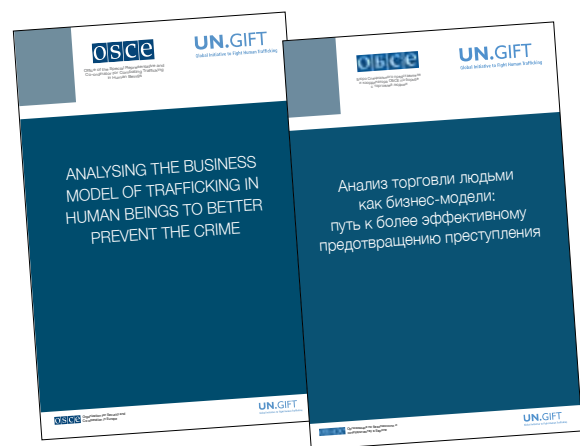
UN.GIFT

The OSR/CTHB has been contributing to the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) since 2007 by providing input to the Expert Group Initiative Projects and subsequent conferences. The SR/CTHB has directed a research project under the UN.GIFT Expert Group Initiative, entitled *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime*, which was translated into Russian in 2011,⁴⁵ and widely distributed.

With a view to reaching a broader audience and promoting the implementation of the OSCE anti-trafficking commitments, the OSR/CTHB shared all of its publications, anti-trafficking manuals, and other supportive material with the UN.GIFT

Knowledge Hub, the winner of the UN 21 Award in the category ICT/Knowledge Management, and provided a link to the UN.GIFT resources on its own website.⁴⁶

In 2011, the OSR/CTHB closely co-operated with the other members of the Steering Committee (UNODC, ILO, IOM, UN OHCHR, and UNICEF) in finalizing the UN.GIFT Strategic Plan 2012-2014, which was designed to ensure the continuation of this global initiative, facilitate fundraising, and improve the transparency of the UN.GIFT activities. The Strategy took into account the independent evaluation of the UN.GIFT, the opinion of all its stakeholders, and the declared aim to increase knowledge and awareness of human trafficking, build capacity of state and non-state actors, and foster partnerships for joint action against human trafficking. The OSR/CTHB also provided support to the UN.GIFT activities, including in 2011 an assessment for the development of a UN.GIFT project in Central Asia, and facilitated better communication between the UN.GIFT Secretariat and the OSCE Anti-Trafficking Focal Points.



In April 2010, the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (and UN.GIFT) published *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime*. The publication was subsequently translated into Russian in September 2011 and is available for download from our website.

[Source: <<http://www.osce.org/cthb/69028>>, accessed 17 November 2011]

UNICEF

On 28 March, the Special Representative met with the Deputy Regional Director of the UNICEF Regional Office for Central and Eastern Europe, the Commonwealth of Independent States and the Baltic States in Geneva. The purpose of the meeting was to discuss co-operation in the follow-up to the *Alliance* Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance

⁴⁴ United Nations, *Resolution Global Plan of Action to Combat Trafficking in Persons: resolution / adopted by the General Assembly, A/RES/64/293* (2010).

⁴⁵ OSCE OSR/CTHB and United Nations Global Initiative to Fight Human Trafficking, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* (Vienna, May 2010), also available in Russian at <<http://www.osce.org/ru/cthb/83225>>, accessed 16 November 2011.

⁴⁶ UN.GIFT Knowledge Hub, <<http://www.ungift.org/ungift/en/stories/un.gifts-new-virtual-knowledge-hub.html>>, accessed 16 November 2011

Prevention of Child Trafficking⁴⁷. The meeting provided an opportunity for an exchange of views and information on each organization's approach to child trafficking, as well as about concrete plans and future projects. UNICEF confirmed its support for the strategy on child protection as laid out in the *Alliance* statement, and expressed its commitment to co-operate, which was later confirmed in the participation of the Deputy Regional Director at the 11th *Alliance* Conference on Trafficking for Labour Exploitation.

UNHCR

Throughout 2011, the OSR/CTHB maintained an active and fruitful dialogue with the UNHCR in Vienna and Brussels. On 3 February, the SR/CTHB met with representatives of UNHCR in Brussels to discuss co-operation in the framework of the *Alliance* and in the development of an extra-budgetary project on the "Prevention of exploitation and trafficking of the unaccompanied and separated migrant children from Afghanistan and of other children on the move in the Balkans". The overall objective of the project is to tackle the challenges posed by the migration of Afghan and other migrant children who travel alone, undocumented and unregistered, and asylum-seeking and refugee children in the Balkans, and who may be victims of or at risk of being trafficking. UNHCR provided comments to the draft project proposal and expressed its support for the project and commitment to further co-operation. This was later complemented by their participation in the 11th *Alliance* Conference on Trafficking for Labour Exploitation, which *inter alia* addressed the intersections of refugee flows, migrant flows and victims of trafficking, and the need to address a broader area of protection for vulnerable persons in this context.

UN OHCHR

Co-operation with UN OHCHR included mutual participation in conferences and seminars. For example, on 4 July, the OSR/CTHB participated in an Expert Meeting of the UN Special Rapporteur on Trafficking in Persons, especially Women and Children, Ms. Joy Ngozi Ezeilo, on the "Prosecution of Trafficking in Persons Cases: Integrating a Human Rights-Based Approach in the Administration of Criminal Justice" in Geneva, Switzerland. The OSR/CTHB presented on lessons learned for the investigation and prosecution of human trafficking, more specifically on best practices for vulnerable victims, recommendations which were also included in the summary report of the Expert Meeting, which is expected to be integrated into the forthcoming Report of the Special Rapporteur.

Furthermore, the SR/CTHB was invited to deliver an address at the conference "Launching the Recommended Principles and Guidelines on Human Rights and Human Trafficking in Moldova", which took place in Chisinau, Moldova, on 2 November. The event was organized by the Ministry of Foreign Affairs of Moldova, UN OHCHR and UNDP Moldova on the occasion of the visit to Moldova of the UN High Commissioner for Human Rights, Ms. Navanethem Pillay.



ILO Executive Director, Standards and Fundamental Rights at Work, Guy Ryder, delivers an address at the 11th *Alliance* against Trafficking in Persons conference, 20-21 June 2011, Vienna.

ILO

On 28 March, the Special Representative met in Geneva with the ILO Executive Director of the Department of Standards and Fundamental Principles and Rights at Work, Mr. Guy Ryder, as well as senior managers from the Regional Office for Europe and Central Asia and technical experts working on trafficking issues. The purpose of these meetings was to strengthen and broaden the *Alliance* partnership especially in light of the 11th *Alliance* Conference on Trafficking for Labour Exploitation, as well as to advance the policy approach of mainstreaming THB in other relevant policy areas. The meeting also confirmed the willingness to work together to strengthen the protection of rights of victims of labour trafficking and achieve better prevention through the promotion of the decent work agenda.

The SR/CTHB delivered a keynote address at the regional conference on "Building Partnerships to Combat Human Trafficking and Forced Labour", held in Tbilisi, Georgia, on 18-19 May. The event was organized jointly by the ILO, IOM, ICMPD and the OSCE, and co-hosted by the Government of Georgia. The event was part of an EU-funded regional anti-trafficking project in the South Caucasus. The project was implemented jointly by the OSR/CTHB, the ODIHR, the OSCE Offices in Baku and Yerevan, ILO, IOM and ICMPD. The event brought together international experts and stakeholders from OSCE participating States in the South Caucasus and other areas. Representatives of government and law enforcement agencies, as well as international organizations and NGOs and workers' and employers' associations discussed new aspects of ever-changing migration flows involving the region and their impact on trafficking for labour exploitation.

⁴⁷ *Alliance against Trafficking in Persons* Expert Co-ordination Team (AECT), *Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking* (Warsaw, 8 October 2010).

IOM

Co-operation with IOM was ongoing in 2011, reflected in the participation of the Deputy Director General, Ambassador Laura Thompson, who addressed the 11th *Alliance* Conference on Trafficking for Labour Exploitation. On the occasion of EU Anti-Trafficking Day, the SR/CTHB delivered a keynote address at an international seminar entitled “Combating Trafficking in Human Beings for Sexual Exploitation” on 18 October in Madrid organized by IOM Spain and the Spanish Ministry of Health, Social Affairs and Equality. The SR/CTHB also took part in IOM events organized in Austria.⁴⁸



IOM Deputy Director General, Laura Thompson, delivers an address at the 11th *Alliance against Trafficking in Persons* conference, 20-21 June 2011, Vienna.

OSCE/Alberto Andreani

Council of Europe (CoE)

Following the adoption of the Council of Europe Convention on Action against Trafficking in Human Beings (2005, enacted in 2008), the OSCE, which contributed to the drafting of this regional treaty at the expert level, agreed to join forces to promote its widest possible signature and ratification, where appropriate, in compliance with the OSCE MC Decision 15/05⁴⁹. At the same time, the CoE agreed to call for full implementation of the OSCE anti-trafficking commitments. The OSCE was afforded observer status with the Committee of the Parties to the abovementioned Council of Europe Convention and continued to develop further constructive co-operation with the CoE drawing from the human rights-based approach to combating THB and shared values and principles.

In 2011, the OSR/CTHB and ODIHR ensured that OSCE participating States could access first-hand information from the CoE on its experience and expertise in the fight against THB at the OSCE anti-trafficking events, such as at the 11th *Alliance* Conference on Trafficking for Labour Exploitation, for which the CoE Deputy Secretary General sent a video address; and the *Alliance* Expert Seminar on

Money Laundering/THB.⁵⁰ Close co-operation with the CoE continued in the framework of the *Alliance* Expert Co-ordination Team, at regular meetings hosted by the SR/CTHB (Vienna, 25 March and 16 December).

At the 14th CoE-OSCE Co-ordination Group meeting (Vienna, 21 October), the OSCE and the CoE anti-trafficking Focal Points agreed to enhance co-operation in the existing formats through participation in each others' events, exchange of information, awareness raising and advocacy. Furthermore, the two organizations, at the abovementioned meeting, agreed to develop new avenues of co-operation, such as planning and implementing joint events on issues of mutual interest, conducting joint trainings where relevant and preparing joint publications, to ensure the complementarity of their activities, avoiding unnecessary duplication and paying due respect to their mandates and composition.

EU

In 2011, the OSR/CTHB continued to work closely with the EU, including with the European Commission, and the EU Anti-Trafficking Co-ordinator, as well as with FRONTEX, the EU co-ordinating agency for border control, and with the European Union Agency for Fundamental Rights (FRA).

On 3 February, the Special Representative met with the EU Commissioner for Home Affairs, Ms. Cecilia Malmström, to discuss the forthcoming EU strategy on THB and future co-operation with the Commission. Later in the year, on 14 September the SR/CTHB met in Vienna with the newly appointed EU Anti-Trafficking Co-ordinator, Ms. Myria Vassiliadou, to discuss trafficking trends and priorities for future anti-trafficking action as well as to identify areas for future collaboration bilaterally and in the framework of the *Alliance against Trafficking in Persons*. Further, on 15 September, the OSR/CTHB participated in a consultation meeting on the forthcoming integrated EU strategy on THB. The meeting was convened by the European Commission DG Home Affairs and was chaired by the EU Anti-Trafficking Co-ordinator. The future EU Integrated Anti-Trafficking Strategy is expected to provide political guidance for EU action for the next five years. The Strategy is meant to support and foster the implementation of the 2011 EU Directive on THB⁵¹. The substantive contribution of the OSR/CTHB, in co-operation with ODIHR, emphasized the need for: policy coherence between anti-trafficking and related areas of migration, labour, gender and access to justice; addressing human

⁴⁸ See Section 1.1.3 on ongoing work with government authorities.

⁴⁹ OSCE Ministerial Council, *Decision No. 15/05 Preventing and Combating Violence against Women* (Ljubljana, 6 December 2005).

⁵⁰ See Section 1.1.6 on the *Alliance against Trafficking in Persons* Conference: “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice” and on the *Alliance* Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking”.

⁵¹ European Union (EU), *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (5 April 2011).

trafficking for labour exploitation; devoting specific attention to victim identification, assistance and access to justice; devoting specific attention to children, especially migrant children; ensuring a safe, voluntary and dignified return of trafficked persons; promoting partnership with and funding for NGOs; and the prevention of human trafficking through gender-sensitive migration policies.

EU Directive on Trafficking in Human Beings

The new EU Directive takes a holistic and integrated approach to THB with provisions on criminal law, prosecution of offenders, victims' support and victims' rights, prevention and monitoring of implementation. The Directive sets new important standards for the protection of victims' rights. It establishes inter alia that assistance and support shall be provided to victims before, during and for an appropriate period of time after criminal proceedings, in order to enable them to exercise their rights. This provision has a remarkable added value as it acknowledges the fact that victims' rights cannot be ensured only within criminal proceedings but require social, medical and legal assistance measures. Furthermore, the Directive provides for specific provisions to assist and support child victims.

[Source: EU, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (15 April 2011)]

On 22-23 February, the SR/CTHB addressed the Stakeholders Meeting "Applying FRA's Indicators on the rights of the child: policy priorities for data collection" organized by the EU Agency for Fundamental Rights in Vienna (FRA). Furthermore, the OSR/CTHB provided comments to the FRA report entitled "Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States"⁵².

On 18 October, the OSR/CTHB participated in the 5th EU Anti-Trafficking Day conference organized in Warsaw by the Polish EU Presidency, the European Commission, the EU Anti-Trafficking Co-ordinator and seven EU Agencies: CEPOL, the EU Asylum Support Office (EASO), and the European Institute for Gender Equality (EIGE), Europol, Eurojust, FRA and FRONTEX. Moreover, given the importance of raising awareness and garnering political will to support anti-trafficking action, the SR/CTHB and her Office contributed to a number of other events to mark this anniversary, such as ones in Vienna, Madrid, London and Paris.⁵³

⁵² Available at <http://fra.europa.eu/fraWebsite/attachments/FRA-report-domestic-workers-2011_EN.pdf>, accessed 16 November 2011.

⁵³ For more information on the following events: Vienna, see Section 1.1.3 on ongoing work with government authorities; Madrid, see Section on IOM above; London, see Section 1.1.2 on working with parliamentarians.

CIS Executive Committee

Throughout 2011, the OSR/CTHB developed further constructive co-operation with the CIS Executive Committee. Its significance for both organizations was reflected by the delivery of an opening speech by the Chairman of the CIS Executive Committee, Mr. Sergey Lebedev, at the 11th Alliance Conference on Trafficking for Labour Exploitation. At the event, the OSR/CTHB, in agreement with the CIS Executive Committee, distributed the CIS Programme of Co-operation to Combat Trafficking in Human Beings 2011-2013⁵⁴ (in Russian and in English), and organized and convened a side event (for Russian-speaking participants) dedicated to the CIS experience in countering human trafficking for labour exploitation.

The CIS Bodies of Sectoral Co-operation, namely the Co-ordinating Council of Prosecutors General (the structure responsible for the implementation of the CIS Programme of Co-operation to Combat Trafficking in Human Beings 2011-2013), presented a written contribution to the Alliance Expert Seminar on Money Laundering/THB, providing an overview of CIS activities in this crucial area. This contribution was included as a core document into the agenda of the side event on "Combating Money Laundering and Human Trafficking: CIS Experience", convened by the OSR/CTHB in the course of the Seminar for the Russian-speaking audience.

ICMPD

In 2011, the OSR/CTHB continued to work closely with ICMPD including through contributing to two international seminars on "Enhancing Transnational Co-operation on Trafficking Cases in South-Eastern Europe" of the Transnational Referral Mechanisms-II (TRM-II) Project funded by USAID. From 16-18 March in Budapest, the SR/CTHB delivered a keynote address at the first seminar co-hosted by the Hungarian Ministry of Interior in the framework of the Hungarian European Union Presidency, during which she stressed the need for better co-ordination on labour trafficking through a clear division of roles and responsibilities among all agencies involved in the National Referral Mechanism (NRM) process.

Moreover, the need for information exchange and the facilitation of communication and follow-up on transnational trafficking cases, and the significance of co-operation between countries of origin, transit and destination, was also emphasized. Participants drafted lists of categories of information to be included in any draft template for the NRM referral. The eventual draft was presented for review at the second seminar which took place in Sofia from 27-29 June and was co-hosted by the Bulgarian National Anti-Trafficking

⁵⁴ Available in Russian at <<http://www.cis.minsk.by/page.php?id=18806>>, accessed 16 November 2011.

Co-ordinator. The OSR/CTHB provided a summary of the main findings of the 11th *Alliance* Conference on Trafficking for Labour Exploitation. Providing concrete feedback on the draft template, the OSR/CTHB contributed to the review process of follow-up assistance measures under the transnational referral system.

In the future, the OSR/CTHB will co-operate with ICMPD on a capacity building project for combating trafficking for labour exploitation.

d. Co-operation with Civil Society Organizations

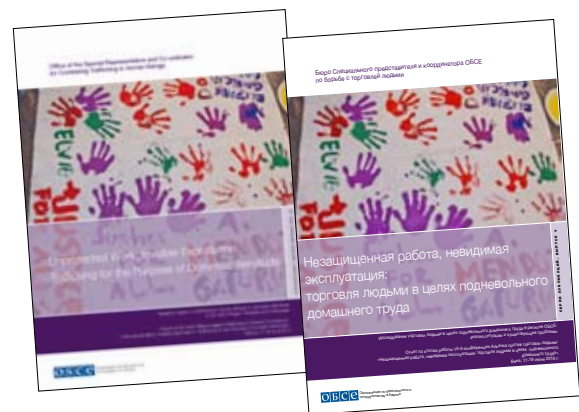
The OSR/CTHB continued to work closely with NGOs and civil society organizations in 2011 to develop further avenues for dialogue and consultation on policy initiatives, joint project implementation, as well as to monitor key trends and developments on the ground.

As part of its commitment to improving access to justice for victims of trafficking, the OSR/CTHB continued in 2011 together with ODIHR to support the work of the European Action for Compensation for Trafficked Persons, known as COMP.ACT, a project co-ordinated by La Strada International and Anti-Slavery International. On 1 July, the OSR/CTHB delivered an address to a seminar on improving access to compensation for victims of trafficking held in Rome jointly organized by COMP.ACT and the NGO “On the Road”.

In 2011, the OSR/CTHB continued to work with the NGO Child Rights Information Centre (CRIC) to implement the project “Prevention of Human Trafficking in Children without Parental Care in the Republic of Moldova” (2010-2011), aiming at the social and professional integration of children at risk. The Project includes life skills education through *ad hoc* trainings, enrollment in vocational training courses, assistance in obtaining free of charge accommodation and material support, as well as support in finding appropriate employment. Two groups of beneficiaries will be involved in the project: 30 boarding school graduates will be assisted to continue their studies for three years, and around 100 children who will graduate from boarding schools will receive professional orientation training. Funded by Andorra, the Liechtenstein, the Principality of Monaco, and San Marino, the project is implemented in co-operation with national and local public authorities.

As a follow-up to its path-breaking work on trafficking for the purpose of domestic servitude in 2010 and as part of its continuing advocacy for the rights of domestic workers, the OSR/CTHB co-organized a roundtable on “Rights Violations

and Access to Justice of Domestic Workers in the Context of Diplomatic Immunity” in co-operation with the German Institute for Human Rights (DIMR) on 2-3 May in Berlin. 30 experts from nine countries participated in the roundtable, representing a variety of perspectives ranging from foreign affairs ministries, NGOs, the legal profession, academia and international organizations. The OSR/CTHB supported the participation of several NGOs to the event. The event was an opportunity to discuss the findings from a study on domestic workers in the context of diplomatic immunity by DIMR. This study can be seen as a continuation of a discussion on the issue of rights violations in the context of diplomatic immunity which had been initiated at the High-level *Alliance against Trafficking in Persons* Conference held in June 2010, as well as to the specific recommendations included in the Occasional Paper *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*. Co-operation with the DIMR is part of the strategy of the OSR/CTHB to mobilize greater political will to prevent and combat human trafficking for domestic servitude, including in diplomatic households.



In December 2010, the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings published *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*. The publication was subsequently translated into Russian in June 2011 and is available for download from our website.

[Source: <<http://www.osce.org/cthb/75804>>]

In 2011, the OSR/CTHB initiated a new partnership with the Helen Bamber Foundation (UK) and the Ludwig Boltzmann Institute for Human Rights (Austria) for a research project on feature of THB amounting to torture.⁵⁵

A further example of the OSR/CTHB co-operation with NGOs were meetings held in Vilnius on 3-4 March with the NGO “Centre for Missing People” and Caritas – Lithuania. Both NGOs have long-standing experience with victims of trafficking in the country, especially with victims of sexual exploitation including children.

⁵⁵ See Section 1.1.6 on research.

Furthermore on 6 October in Warsaw, in the margins of the session on THB of the Human Dimension Implementation Meeting, the OSR/CTHB and ODIHR joined efforts with civil society partners to support the side event “Enhance Child Protection and Prevent Child Trafficking”. Hosted by the Project Mario⁵⁶ partners: ECPAT, Nobody’s Children Foundation, Save the Children Albania and Terre des hommes. The side event aimed at raising awareness among OSCE participating States about challenges and best practices in the protection of children who belong to particularly vulnerable groups. It was a follow-up to the *Alliance against Trafficking in Persons* Joint Statement on Child Protection, especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking, presented at the OSCE Review Conference in Warsaw in October 2010.⁵⁷

Co-operation with NGOs also included contribution to NGO events. For example, on the occasion of the EU Anti-Trafficking Day, the French network of NGOs *Ensemble contre la traite des êtres humains* invited the OSR/CTHB to address the conference on the “Impact of Migration Policies on the Fight against Trafficking in Human Beings” held in Paris on 7 November. Participants included the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat Maalla M’jid, representatives from GRETA - Council of Europe, representatives of the French Ministry of Justice and of law enforcement, NGOs such as Migreurop, Hors la rue, Caritas-Albania, and Caritas-Kosovo. The OSR/CTHB discussed the impact of migration policies on human trafficking measures and stressed the efforts made by some participating States to overcome existing inconsistencies in national legislation.

1.2 Internal Co-ordination and Co-operation

The SR/CTHB continued to join forces with OSCE structures and institutions in promoting the OSCE’s longstanding cross-dimensional and comprehensive approach to combating THB. The OSCE was indeed one of the first organizations to advocate for such a multidimensional and human rights-based approach, and this legacy of common purpose continued throughout 2011 as reflected in joint activities and projects with the ODIHR, the OCEEA, the SPMU, the Gender Issues Programme, the field operations, as well as other structures of the OSCE Secretariat specifically tasked by the OSCE Action Plan to combat human trafficking.

⁵⁶ For more information on the Project Mario partners, see <<http://marioproject.org/>>.

⁵⁷ See Section 1.3.1 on ODIHR for more details.

Co-ordination and co-operation are therefore ongoing processes that take various forms, including: co-ordination meetings of structures in the Secretariat, annual meetings of all relevant OSCE bodies (for example, annual Internal Co-ordination Meetings of OSCE Anti-Trafficking Focal Points, annual Heads of Mission (HoM) meetings and Regional meetings of HoMs), as well as meetings between units at every level during country and other field visits in participating States where the OSCE has a presence, to ensure continuous regular exchange of information and sharing of experiences and lessons learned, as well as joint planning of activities, where appropriate.

Here are some examples of internal co-ordination in 2011:

The OSR/CTHB participated in the Annual HoM Meeting in January 2011 as well as the Regional HoM meetings organized by the Conflict Prevention Centre, to review the situation in each host country, to take stock of the implementation of field operations’ mandates, and review the priorities of the institutions and Secretariat units to ensure smooth co-ordination and avoid overlap. The OSR/CTHB thus participated in the HoM meeting for Central Asia in Tashkent on 12-13 April, for South-Eastern Europe in Tirana on 10-11 May, for Eastern Europe in Chisinau on 4-5 July and lastly for the South Caucasus in Yerevan on 13-14 September. The contribution of the OSR/CTHB to these meetings included providing suggestions on how to mainstream THB in related areas of work such as supporting effective justice systems, human rights and rule of law, labour migration policy, women’s economic empowerment, and combating THB-related corruption and other forms of organized crime.

The SR/CTHB together with ODIHR, hosted the annual Internal Co-ordination Meeting of OSCE Anti-Trafficking Focal Points (Vienna, 23-24 November). The meeting brought together colleagues from various Offices within the Secretariat (OSR/CTHB, OCEEA, SPMU, Gender and Borders), from ODIHR, as well as most of the focal points from the OSCE field operations, and provided the opportunity to exchange information regarding the current state of anti-trafficking action in the field, including programmatic activities, plans, priorities, challenges and fundraising. A particular focus was on how to strengthen co-ordination among internal actors, and specifically how to develop and implement comprehensive regional programming among such actors.

The SR/CTHB, together with the ODIHR, SPMU and other relevant structures, also co-operates with field operations on capacity building, technical assistance, project development, providing - when requested - advice and exchange of information on best practices and regional initiatives and support in fundraising. Furthermore, field operations

strongly support the work of the SR/CTHB, sharing their knowledge and expertise on the THB situation and efforts in the countries where they operate. They also help facilitate and organize the country visits of the SR/CTHB. Lastly, field operations also alert the SR/CTHB to THB cases, and raise issues for advice and assistance as appropriate.

A remarkable achievement of co-operation was the organization of the *Alliance* Expert Seminar on Money Laundering/THB by OCEEA, OSR/CTHB and SPMU, in partnership with UNODC.⁵⁸

1.2.1 Addressing THB as a Transnational Threat (TNT)

THB has been recognized as a serious transnational threat, a form of organized crime integrally linked with various other forms, such as drug trafficking, corruption, money laundering, forging of documents, fraud, smuggling of migrants, and terrorist activities, apart from being a gross violation of human rights and fundamental freedoms. Human trafficking endangers national security and economies of the participating States permeating into the legal economic sectors, and furthermore, transforming labour exploitation resulting from THB into a structural component of the global economy.

The OSCE commitments and recommendations provide the participating States with valuable tools to meet the challenges of THB as a transnational (as well as internal) threat and challenge. In 2011, the OSR/CTHB continued to promote the implementation of these comprehensive commitments in the course of country visits to the United Kingdom, Kyrgyzstan, Canada and Moldova.⁵⁹ The OSR/CTHB contributed to national and international events related to THB-TNT in Almaty, Baku, Brussels, Bucharest, Istanbul, Minsk, Moscow, Otranto, Palermo, Paris, Pristina, Rome, Saint Petersburg, Sarajevo, and many other cities.

TNT-related issues were thoroughly examined by the SR/CTHB in her presentations at the PC, HDC, OSCE PA, national parliamentary hearings and national judicial council meetings. In 2011, the connections between THB and money laundering were a specific area of work of the SR/CTHB, leading to the abovementioned *Alliance* Expert Seminar on Money Laundering/THB.

The OSR/CTHB also addressed THB as a transnational threat through technical assistance and capacity building activities in a number of participating States. This technical assistance

was often delivered upon request in the form of trainings (for example, for the NATO Partnership for Peace Training Centre in Ankara, Turkey, and the CIS International Training Centre on Migration and CTHB in Minsk, Belarus). The OSR/CTHB also participated in the creation of a training curriculum for EU Border Agencies with FRONTEX.⁶⁰

1.3 Highlights of OSCE Anti-Trafficking Activities

1.3.1 Office for Democratic Institutions and Human Rights (ODIHR)

The mandate of the ODIHR on combating human trafficking stems from its general mandate to monitor and provide technical assistance⁶¹ to participating States in the implementation of their human dimension commitments and specific tasks under OSCE Ministerial commitments. Throughout 2011, ODIHR's Anti-Trafficking Programme continued its focus on strengthening respect for trafficked persons' rights and preventing human trafficking through human rights protection. In particular, it has worked to ensure that States develop and implement human rights compliant anti-trafficking policies; that trafficked persons have effective access to rights, justice and remedies; that there is outreach to and integration of particularly vulnerable communities in an effort to prevent human trafficking; and that return is safe and undertaken with full respect for the human rights of the individual involved.



Director of ODIHR Janez Lenarcic addresses the 11th *Alliance* Conference on Trafficking for Labour Exploitation, June 2011

ODIHR's work throughout 2011 has been implemented through a variety of activities at the policy and grassroots levels with both state and civil society actors across the OSCE region. This included support to individual cases through the

⁶⁰ See Section 1.1.6 on capacity building.

⁶¹ OSCE Ministerial Council, *Decision No. 1 Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings*, MC(8).DEC/1 (28 November 2000); OSCE Ministerial Council, *Decision No. 2/03 Combating Trafficking in Human Beings*, MC.DEC/2/03 (2 December 2003), Chapter VI et al.

⁵⁸ See Section 1.1.6 on the *Alliance* Expert Seminar on "Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking".

⁵⁹ See Section 1.1.3 on country visits.

provision of legal assistance to trafficked persons, as well as outreach work to vulnerable groups in a number of countries of destination and origin throughout the OSCE region; training seminars and expert meetings for criminal justice actors (police, prosecutors, judges, lawyers) and civil society organizations on international standards and good practices on effective access to justice and compensation for victims of crime and, in particular, trafficked persons. This included support to OSCE field presences in building the capacity of local and national policymakers and practitioners on anti-trafficking, such as in Azerbaijan and Uzbekistan.

In an effort to strengthen cross-border information exchange and co-operation between lawyers on issues relevant to trafficked persons' access to justice, ODIHR organized an international workshop on this topic. The workshop, which took place in Istanbul from 28-30 March and was organized in co-operation with the Istanbul Bilgi University, provided a forum to take stock of activities and developments in relation to access to justice throughout the OSCE region. It looked at access to justice as a comprehensive concept as well as its individual elements (such as key pre-conditions for effective access to justice) and the various practical mechanisms (including criminal, civil, administrative and informal avenues at the national level as well as international level). The workshop brought together 26 lawyers and NGO staff from 15 countries across the OSCE region, both countries of origin and countries of destination.⁶² It allowed participants to share and analyse policy strategies and practical cases, as well as highlight good practices and challenges. The workshop also provided an opportunity to discuss and network with practitioners from international organizations and national institutions, including the Human Rights Law Research Center at Istanbul Bilgi University, the German Institute for Human Rights, Anti-Slavery International and the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA). Furthermore, a number of OSCE field missions, represented by their anti-trafficking Focal Points, participated in the workshop and contributed their expertise.

Together with the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, ODIHR's Senior Advisor on Anti-Trafficking Issues addressed a panel at the Regional Anti-trafficking Conference "Building partnerships to combat human trafficking and forced labour", organized jointly by the ILO, ICMPD, IOM, OSCE and co-hosted by the Government of Georgia on 18-19 May in Tbilisi.

Throughout 2011, ODIHR continued its support to the European Action for Compensation for Trafficked Persons

⁶² These included Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, the Czech Republic, Germany, Kazakhstan, Moldova, Poland, the Russian Federation, Serbia, Tajikistan, Turkey, Turkmenistan, the United Kingdom and Uzbekistan. The workshop report is forthcoming on <<http://www.osce.org/odihr>>.

(COMPACT) as an Advisory Group member as well as through the support of some of its national and international initiatives. This included a special event on trafficked persons' access to justice and compensation at the Human Rights Council on 31 May 2011 co-organized by ODIHR's Anti-Trafficking Programme, Anti-Slavery International and La Strada International (representing COMPACT), together with the Permanent Missions of Germany and the Philippines to the United Nations. The event, which was opened by the UN High Commissioner for Human Rights, Ms. Navi Pillay, extended its support to the findings and recommendations of UN Special Rapporteur on Trafficking in Persons, especially women and children, Ms. Joy Ngozi Ezeilo, contained in her 2011 report on effective remedies, prior to its presentation at the 17th Session of the Human Rights Council. This event was a follow-up to ODIHR's participation at the expert consultation of the UN Special Rapporteur on trafficking in persons on the right to an effective remedy for trafficked persons held on 22-23 November 2010 in Bratislava which had served to provide comments to the Special Rapporteur's draft report on effective remedies.

The working session focusing on trafficking in human beings at the 2011 Human Dimension Implementation Meeting in Warsaw was held on 6 October. It was dedicated to the implementation of commitments relevant to human trafficking and trafficked persons' access to justice and effective remedies, including compensation, in particular. The session was opened by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Maria Grazia Giammarinaro, and ODIHR Director, Janez Lenarčič. The UN Special Rapporteur on Trafficking in Persons, especially women and children, Ms. Joy Ngozi Ezeilo, gave the keynote speech at the session, and presented the UN *Draft basic principles on the right to an effective remedy for trafficked persons* which she had submitted to the UN Human Rights Council in June this year.⁶³ ODIHR will work with the UN Special Rapporteur to solicit input from the OSCE participating States and support a regional consultation. On the margins of the working session on human trafficking, ODIHR, in co-operation with the Office of the Special Representative and Co-ordinator on Combating Trafficking in Human Beings, also supported a side event on child protection organized by a coalition of NGOs, the project Mario partners.⁶⁴ The event presented research and field work on how to protect children on the move and separated children, asylum seeking and refugee children; advocacy to ban the detention of migrant children and peer education as a tool to improve outreach to and rights' protection of children

⁶³ For more details on the session and related documents see <http://www.osce.org/event/hdim_2011?view=conference_documents&display=page_4&arg=81384&session=827>, accessed 16 November 2011; for a press release on the session, see <<http://www.osce.org/odihr/83808>>, accessed 16 November 2011.

⁶⁴ For a press release on the event see <<http://www.osce.org/odihr/83824>>, accessed 16 November 2011; for more information on the work of the Project Mario partners, see <<http://marioproject.org/>>.

from marginalized communities; challenges and practices in ensuring individual best interests determination procedures and identification. The UN Special Rapporteur on Trafficking in Persons, especially women and children, Ms. Joy Ngozi Ezeilo, also addressed the side event and welcomed information and input from civil society organizations and international organizations in the preparation of her next report to the UN General Assembly, which will focus on child trafficking. This side event was a follow-up to the 2010 *Alliance against Trafficking in Persons* Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking.

ODIHR's Senior Advisor on Anti-Trafficking Issues contributed to this year's EU Anti-Trafficking Day (18 October), which focused on strengthening the effectiveness and co-operation of EU Agencies in combating trafficking in human beings, as a panel speaker in the workshop on prevention, highlighting the need to expand and rethink traditional prevention work, including concrete proposals in that regard: given that trafficking is about exploitation, to focus efforts on examining how such exploitation is possible and how to create disincentives to exploitation; to address the inequalities within and between countries, as well as to provide adequate access to social and economic rights, particularly to the most vulnerable groups. In her presentation, the Senior Adviser emphasized ODIHR's work on prevention through rights protection and provided examples of good practice from ODIHR's activities with partners in the OSCE region.

Throughout 2011, ODIHR continued to highlight the need to enhance human rights protection in the return of trafficked persons. It is currently developing a *Guide on Human Rights Protection in the Return of Trafficked Persons*. The guide is aimed at policymakers and practitioners and will focus on how to ensure that return is safe and in line with human rights obligations and human dimension commitments. Research and practice continue to show that participating States do not systematically assess the risk of harm faced by a returning victim of trafficking or ensure that the return does not violate their obligations of 'non-refoulement', and in cases of minors, is in the best interests of the child.

Some of the key achievements of ODIHR's anti-trafficking work have been to bring to the agenda of participating States and keep within their attention the right to effective remedies and effective access to justice, including compensation, and enhance participating States' awareness and accountability as well as civil society action. It also strengthened ties and co-operation between government and civil society actors in countries of origin and destination through its support of cross-border assistance, events and networks. Through its support of peer education as an effective tool to reach

out to and enhance rights protection of marginalized and vulnerable groups, such as Roma and Sinti communities or migrant workers, ODIHR also managed to raise awareness about the empowering impact of peer education and strengthen its application in practice. In the future, ODIHR will continue to work on improving the inclusion of civil society actors in victim identification and National Referral Mechanisms; strengthening effective access to justice, including compensation, for trafficked persons; bolstering the protection of labour rights and the rights of migrant workers in particular; and strengthening victim identification and assistance mechanisms, in particular with regard to labour trafficking.

1.3.2 Gender Issues Programme, Secretariat

The Gender Issues Programme in the Secretariat supports the OSCE's work in combating trafficking in human beings in several different ways.

Throughout 2011, the Section continued to compile good practices and innovative approaches to addressing various forms of violence, including trafficking, against women. Most recently, the Gender Issues Programme published *MENDING INEQUALITIES: Men and Gender Equality in the OSCE Region*⁶⁵, which provides a compilation of good practices to involve men and boys in gender equality work. The projects highlighted in this reference tool promote equitable relations between men and women and, specifically, provide examples on how to engage men and boys in specific priority areas where inequalities persist. The earlier compilation *Bringing Security Home: Combating Violence against Women in the OSCE Region - A Compilation of Good Practices*⁶⁶ continues to be extensively distributed to OSCE delegations, field operations, institutions, as well as to international organizations and NGOs active in the OSCE region.

In 2011, the Gender Issues Programme focused much of its efforts to combat trafficking through supporting women's economic empowerment initiatives and exchanges of good practices. The Gender Issues Programme published *Women's Economic Empowerment: Trends & Good Practices on Women's Entrepreneurship in the OSCE Region*⁶⁷. In March 2011, the Gender Issues Programme held an international conference on "Women's Entrepreneurship in the OSCE Region: Trends and Good Practices" organized in Vilnius, Lithuania, supporting women's entrepreneurship

65 The publication *Mending Inequalities* can be accessed at <<http://www.osce.org/gender/80978>>, accessed 16 November 2011.

66 The publication *Bringing Security Home* can be accessed at: <<http://www.osce.org/gender/37438>>, accessed 16 November 2011.

67 The publication *Women's Economic Empowerment* can be accessed at <<http://www.osce.org/gender/75553>>, accessed 16 November 2011.

development. The objective of the conference, and planned follow-up activities, is to increase opportunities for women, with the effect of decreasing irregular migration and contributing to the prevention of THB.

In May 2011, the Gender Issues Programme published Issue No. 4 of *The Gender Monitor*, which was dedicated to the subject of women's economic empowerment.⁶⁸ *The Gender Monitor* noted that without the greater participation of women in the economic sphere, women remain vulnerable to human trafficking and irregular migration. *The Gender Monitor* highlighted the Vilnius Conference on women's entrepreneurship, challenges and successes in women's economic empowerment, and examples of successful activities implemented by OSCE field operations.

In July 2011, the Gender Issues Programme participated in "Strategies for Success: Central Asia and Afghanistan Women's Economic Symposium" held in Bishkek, Kyrgyzstan. This symposium brought together country representatives from across Central Asia and Afghanistan to exchange information and ideas on economic empowerment of women. Additionally, the OSCE Gender Issues Programme participated in a regional workshop on *Gender-Sensitive Labour Migration Policies*⁶⁹, organized by the OCEEA. This workshop looked at the gender implications of labour migration policies to promote gender-sensitive policymaking as well as to reduce irregular migration.

The Gender Issues Programme is working with other Units within the OSCE and field operations on several initiatives designed to promote economic empowerment of women in the OSCE region, as well as planning for a technical meeting in early 2012 on the subject of men's involvement in equality initiatives.

1.3.3 Strategic Police Matters Unit (SPMU), Secretariat

The SPMU continued to support the OSCE's efforts to combat trafficking in human beings in several key activities. With the assistance of an expert group composed of representatives of international organizations, NGOs, OSCE field operations and national experts, SPMU finalized and distributed *Trafficking in Human Beings: Identification of Potential and Presumed Victims – A Community Policing Approach*⁷⁰. The guidebook is now being translated into Russian and in the coming future it should be transformed into a training manual for law enforcement authorities.

68 *The Gender Monitor* can be accessed at <<http://www.osce.org/gender/77399>>, accessed 16 November 2011.

69 OSCE, *Guide on Gender-Sensitive Labour Migration Policies* (Vienna, 2009).

70 OSCE Strategic Police Matters Unit, *Trafficking in Human Beings: Identification of Potential and Presumed Victims – A Community Policing Approach* (June 2011).

Another key contribution of the SPMU in 2011 has been its project on "Preventing and Combating Sexual Abuse of Children on the Internet" which included an online workshop on the production and dissemination of child abuse material and the abuse of social networks for grooming which was held on 21 February-4 March. Subsequently, a training seminar for experts from Eastern European countries focusing on online child abuse investigation and victim identification was held in Vilnius from 25-27 May. The project also organized a three-day study visit of a group of experts from Moldova and Ukraine to the UK, to underline the necessity of international co-operation and co-ordination. Lastly, the project will include the preparation and publication of a brochure summarizing the project activities and containing specific recommendations for law enforcement authorities specializing in combating sexual abuse of children on the Internet in participating States.

Throughout 2011, the SPMU continued to deliver THB-related training activities, as well as to participate in relevant seminars and conferences. Highlights of these numerous activities include a presentation on 19 March on the "Role of the Security Sector in Preventing and Combating THB" at the Border Management Staff College in Dushanbe, a presentation on the forced labour seminar in Ganja, Azerbaijan organized by the OSCE Office in Baku on 18-19 April (in co-operation with the OSR/CTHB), a presentation on "Best practices and perspectives of combating trafficking in human beings" at the International Training Centre on Migration and Combating THB in Minsk from 16-20 May and 25 October (in co-operation with the OSR/CTHB), and facilitation of a seminar for Ukrainian law enforcement experts on 22 June on the prevention of THB and related crimes during large sporting events, in preparation for EURO 2012 which will be co-hosted by Ukraine and Poland.

The SPMU also continues to support the OSR/CTHB, including through joint projects such as the *Alliance* Expert Seminar on Money Laundering/THB, which was organized together with OCEEA and UNODC.⁷¹ The SPMU is also providing organizational and financial support to a joint research project with the OSR/CTHB on "Trafficking in Human Beings for the Removal of Organs", which is ongoing until the end of 2011.⁷²

Moreover, in 2011 the SPMU, together with the OSR/CTHB, will undertake a revision and assessment of existing anti-trafficking training materials, manuals and curricula used within the OSCE field operations in the framework of law enforcement training. It is envisaged that this will be followed in 2012 by the convening of an expert group on police training who will review and update the content of these training

71 See Section 1.1.6 on the *Alliance* Expert Seminar on "Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking".

72 See Section 1.1.6 on research.

materials. Lastly, the SPMU will strengthen co-operation and co-ordination mechanisms among participating States' law enforcement agencies within the POLIS online forum, providing them with access to best practices for the investigation and prosecution of THB, legislative models, as well as available software.

1.3.4 Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA), Secretariat

In 2011, the OCEEA continued to promote a comprehensive approach to migration management, with the aim of assisting OSCE participating States in improving their migration legislation and implementing more effective and gender-sensitive national policy frameworks. A comprehensive approach to migration management facilitates legal migration channels, discourages irregular migration and reduces illegal migration, thus contributing to the prevention of human trafficking of male and female migrant workers.

On 17-18 May in Vienna, the OCEEA, in co-operation with ODIHR, the Gender Issues Programme, the IOM and the ILO organized a "Regional Training Seminar on Gender and Labour Migration". This seminar facilitated capacity building and training of policymakers, experts, social partners and civil society representatives on developing gender-sensitive labour migration policies.

Throughout 2011, the OCEEA has been working on the implementation of an OSCE-IOM project which aims at supporting the *establishment of a harmonized data collection process* among Kazakhstan, the Kyrgyz Republic, Tajikistan and the Russian Federation. To assess the availability and quality of migration data in these four countries, several meetings were held in their capitals during 2011. A Handbook on migration data collection is expected to be presented at a Regional Conference in 2012, where the conclusions and recommendations of these assessments will be published. The project is expected to contribute to improved evidence-based policy-making regarding migration management.

In the area of anti-money laundering and countering the financing of terrorism (AML/CFT), the OSCE has continued to support its participating States in adopting and implementing the Financial Action Task Force's 40+9 Recommendations on AML/CFT, including those calling for the identification and confiscation of criminal proceeds from human trafficking activity. At the request of the participating States, OSCE activities in the AML/CFT arena have included public and private sector trainings, international co-operation workshops and assistance in building national capacity, largely within and

between national institutions such as financial intelligence units (FIUs).

On 3-4 October 2011, the OCEEA, the OSR/CTHB and the SPMU, in collaboration with the UNODC, organized in Vienna an *Alliance* Expert Seminar on Money Laundering/THB.⁷³ The seminar included international organizations, government agencies, independent experts and practitioners who identified successful and innovative operational techniques to leverage financial investigations in the fight against human trafficking. By reviewing specific cases and developing strategies to improve financial investigation skills, the seminar equipped practitioners with new knowledge and skills of direct relevance to their daily work.

1.3.5. Borders Team, Secretariat

In 2011, the Borders Team continued to implement a number of training and capacity building activities that contributed to the fight against trafficking in human beings. Professional capacity building activities were provided in co-operation with the OSCE field operations in Central Asia on various aspects of border security and management which resulted in an increased capacity to combat trafficking in human beings at border crossings. Examples of these training efforts include the Customs Training Facility in Kyrgyzstan, the Patrol Programming and Leadership project in Tajikistan, and the follow-on project to support the Implementation of the Tajik National Border Management Strategy. Moreover, the Staff Courses in the OSCE Border Management Staff College (BMSC) in Dushanbe, Tajikistan, included modules on combating human trafficking as a form of transnational organized crime. BMSC has engaged OSR/CTHB in this work and plans for future work and the development of sustainable training modules.

The Borders Team notes that the fight against trafficking in human beings has gained awareness and importance within the priorities and activities of border agencies of participating States, based on observations made while contributing to and participating in numerous border-related events conducted by national border agencies of participating States or other international organizations in the OSCE region. Throughout 2011, a number of border agencies of participating States expressed their interest in identifying possible areas for joint projects with the OSCE directly and indirectly enhancing their capacity to address human trafficking. The Borders Team looks forward to continuing this co-operation to support the OSR/CTHB and field operations' work in combating trafficking in human beings.

⁷³ See Section 1.1.6 on the *Alliance* Expert Seminar on "Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking".

1.3.6 Field Operations

a. South-Eastern Europe

OSCE Presence in Albania

In 2011, the OSCE Presence in Albania continued to provide support to the Government and civil society in enhancing their anti-trafficking efforts. The key in-country activities of the Presence included reviewing the anti-trafficking legislative and operational framework with a view to strengthening victims' rights, strengthening child protection mechanisms, increasing the profile of trafficking issues both at the political and general public level, and promoting co-operation between state institutions and NGOs.

In co-operation with the Office of the National Anti-Trafficking Co-ordinator, the Presence held training workshops for Regional Anti-Trafficking Committees. Some 220 officials received training on how to mainstream anti-trafficking measures into local policy-making and on the identification of victims. Together with Terre des hommes, the Presence established a Child Protection Unit (CPU) in Vlora Municipality in January 2010. The CPU plays an active role in raising public awareness of child protection issues. Training was conducted for staff and pupils of 25 local schools for vulnerable community members and relevant state agencies. The Presence also contracted a lawyer to assess the compliance of domestic legislation with the Council of Europe Convention on Action against Trafficking in Human Beings. In March 2011, the report's findings and recommendations were presented in a workshop attended by state, civil society and international organizations.

In 2011, the Presence in Albania also undertook a number of activities in co-operation with ODIHR and civil society aimed at strengthening access to justice and the rights of trafficking victims. In co-operation with ODIHR and the NGO Centre for Legal and Civil Initiatives (CLCI), 30 victims benefited from improved access to justice through the provision of free legal support during judicial proceedings. This legal aid covered subjects such as victims' right to information, how to file civil and penal claims, case follow-up with the Prosecutor Office and/or Court, and victim representation in court. Three civil lawsuits on compensation are currently being processed. Also in co-operation with the CLCI, in addition to the School of Magistrates, the project organized capacity building training on *Compensation and Other Fundamental Victims' Rights in Law & Practice* for judges, prosecutors, police officers and lawyers. This project followed on the publication of the OSCE/ODIHR study, *Compensation for Trafficked and Exploited Persons in the OSCE Region*, which was launched in Albanian on 3 March 2011. The Presence in Albania also co-operated

with ODIHR to establish a working group with the aim of drafting guidelines on the protection of victims of crime, with a focus on victims of violent crimes and trafficking. The guidelines are envisaged to be adopted by relevant ministries and professionals in the justice system.

Also in co-operation with ODIHR, the Presence in Albania continued working closely with civil society with the aim of encouraging Roma and Egyptian communities to support their most vulnerable members. A Roma youth centre was opened in Elbasan in co-operation with a local NGO and Elbasan municipal social services. Five Roma youth were trained and employed as peer educators and subsequently raised public awareness on the importance of civil registration, education and health care. They also facilitated procedures for civil registration and primary school enrolment.

The Presence in Albania will continue to strengthen the country's anti-trafficking efforts in reviewing and improving anti-trafficking legislation, addressing internal trafficking, both for sexual and labour exploitation, including child labour in the form of forced begging.

OSCE Mission to Bosnia and Herzegovina

Throughout 2011, the OSCE Mission to Bosnia and Herzegovina monitored cases against suspected human traffickers as well as provided assistance to governmental and non-governmental actors within the framework of the BiH anti-trafficking referral mechanism. Following the 2010 amendments to the BiH Criminal Code, the Mission undertook a series of advocacy activities to push forward amendments of THB-related provisions in the Entity and Brčko District Criminal Codes, to ensure compliance with the relevant international standards. In support of this, the Mission also launched the Review of Legislation Pertaining to Combating Trafficking in Human Beings in Bosnia and Herzegovina⁷⁴, completed by the ODIHR and the Council of Europe, with technical support from the Mission.

The Mission also continued co-operating with local stakeholders, including the organization of a state-wide series of discussions for professionals (judges, prosecutors, social welfare providers, law enforcement and NGOs) involved in the referral of child victims of sexual violence to social service providers. In addition, in co-operation with a local NGO, the Mission finalized the implementation of a project⁷⁵ to strengthen the capacity of relevant actors in North East BiH to deal effectively with the rapid increase in THB, particularly amongst minors. This region was selected as it is particularly affected by both internal and cross-

74 Available at <http://www.oscebih.org/documents/osce_bih_doc_2011061709155196eng.pdf>, accessed 16 November 2011.

75 With the financial assistance of the Government of France.

border trafficking. Activities included capacity building of the local referral mechanism (the Tuzla Regional Monitoring Team), trainings for NGO activists and Roma peer educators, a cross-border conference with Serbia and Croatia on enhancing procedures for the return and reintegration of trafficking victims, a meeting of the BiH Strike Force for Combating THB, as well as the re-printing of a manual for judges and prosecutors developed previously by the IOM.

In mid-2011, the Mission started implementing an ExB project⁷⁶ to contribute to more effective identification and prosecution of cases of THB for the purpose of labour exploitation. The aim of the project is for relevant professionals to be better equipped to recognize and properly qualify THB for labour exploitation. The main activities include a baseline assessment of relevant international standards and applicable national legislation, a seminar for prosecutors on identifying and processing cases of labour exploitation, training for labour inspectors in the Federation, Republika Srpska and Brčko District and training for NGOs focusing on trafficking for labour exploitation. This project will also include a closing event with the key participants to present the baseline analysis, discuss lessons learned and follow-up steps.

The Mission will continue to advocate for harmonization between Entity and State legislation, particularly criminal legislation on the basis of a Review of Legislation Pertaining to Combating Trafficking in Human Beings in Bosnia and Herzegovina. The Mission also advocates for full staffing of the Section for Combating THB in the Ministry of Security, as well as for reinstatement of the State Group, as the main multidisciplinary policy-making mechanism. Lastly, the Mission will also continue to support the drafting process of the next Action Plan, by providing expert advice and also by financing a small research project by a professional association on recent trafficking trends, which will feed into the drafting process. The Mission will also support capacity building activities of the judiciary and law enforcement agencies.

OSCE Mission to Montenegro

Throughout 2011, the OSCE Mission to Montenegro continued to assist and co-operate with local stakeholders in their anti-trafficking efforts. The OSCE Focal Point for Anti-Trafficking in Montenegro is a permanent member of the Working Group on the Implementation of the National Strategy for the Fight against Trafficking in Human Beings, which is a multi-agency group consisting of representatives of governmental authorities, the judiciary, law enforcement and civil society. The OSCE Mission continued to share expertise and best practices with its local partners during regular meetings of the Working Group.

⁷⁶ With the financial assistance of the Government of Finland.

The Mission also continued to support the National Coordinator's Office (NCO) through several joint activities. Montenegro's current Action Plan will expire in 2011 and the NCO has been tasked with the drafting of a new action plan as well as a strategic planning document which will be adopted by the Government. Due to a lack of capacity and resources in the NCO, and at their request, the OSCE Mission is supporting the NCO in the drafting of the strategic document. Local experts have been contracted who will conduct an assessment of the current THB situation in-country. Ultimately, the strategic document will act as a roadmap for anti-trafficking efforts for 2012-2016. Following the exchange of views among relevant stakeholders, it is expected that the finalized document will be presented to the media via a press conference organized by the OSCE Mission.

Furthermore, the Mission continued to advocate for enhanced inter-agency co-operation mechanisms in order to better identify and protect victims of trafficking. To this end, the Mission is pleased to report that a Memorandum of Understanding was updated and signed between three NGOs and the Ministry of the Interior, the Ministry of Health, Labour and Social Welfare, the Supreme State Prosecutor's Office, and the Ministry of Education and Science. Moreover, in 2011 the NCO signed the Protocol on Cooperation with the Montenegrin Employers Federation. The OSCE Mission to Montenegro initiated the process as well as facilitated co-operation throughout the process. The document defines three areas of action in the area of labour exploitation: prevention, awareness raising and the reintegration of victims. This Protocol is the first of its kind in the region and many neighbouring countries have expressed interest in replicating the agreement in their states.

In the area of prevention, the OSCE Mission to Montenegro will continue to implement a training and awareness raising project for civic educators which began in April and will be completed in December 2011. The aim of the project is to ensure that preventive education on human trafficking issues is obligatory for all school children. Finally, the OSCE Mission will organize English language training for the operators of the SOS hotline for victims of trafficking.

OSCE Mission to Serbia

An important highlight of the anti-trafficking work of the OSCE Mission to Serbia in 2011 has been a review of the existing framework for victim compensation. Within the current legal framework in Serbia, victims of crime can submit their claims in criminal and/or civil litigation but neither guarantees adequate access to, and the exercise of, the right to compensation for damages suffered (particularly in the case of minors and victims of violent crimes). Inadequate access to

compensation, especially for victims of trafficking in human beings, was identified as one of the key issues in respect of victims' rights in many national and international forums. Given that Serbia signed (although has not yet ratified) the Council of Europe Convention on Compensation for Victims of Violent Crimes in October 2010, the requirement to regulate access to compensation more adequately is vital.

Recognizing the problem, the Mission gathered a group of experts consisting of prominent national practitioners including judges from the Court of Appeal and the Supreme Court of Cassation, academia, representatives from the Prosecutor's Office, relevant NGOs and international organizations. The objective is to assess key deficiencies in victims' access to, and the effective realization of, the right to compensation, and provide recommendations for legislative and institutional reform. Since April 2011, the group of experts has met four times followed by the preparation of thematic papers for a roundtable discussion which was held on 13 October 2011. The Mission expects this initiative to lead to concrete proposals from the stakeholders as to what model is most suitable for Serbia, and which legislative changes need to be introduced.

The OSCE Mission to Serbia also provided support to the conference "Street involved children in SEE-Our Responsibility" on 7 June in Belgrade, Serbia, co-organized by the Ministry of Interior, Save the Children Norway, the Migration, Asylum, Refugees Regional Initiative,⁷⁷ to which the OSR/CTHB participated.

In the future, the OSCE Mission to Serbia will continue to advocate for an increased budget for anti-trafficking action, as well as continuous and institutionalized support to various victim service providers, including those providing emergency services but also those aiming at the long-term reintegration and social inclusion of victims. Moreover, the Mission stresses the need for the institutionalization of services for children as a particular concern.

OSCE Mission in Kosovo

Throughout 2011, the OSCE Mission in Kosovo engaged in advocacy and provided support to Kosovo institutions in order to improve their capacity to identify and assist victims of trafficking and prevent and combat trafficking in human beings in Kosovo. The Mission provided support to the Directorate for the Investigation of Trafficking in Human Beings of the Kosovo Police in co-operation with Centres for Social Welfare in the organization of two police operations in November-December 2010 and May 2011. The aim of these two operations was to identify children who were potential victims of trafficking in human beings for the purpose of

begging.⁷⁸ The operations resulted in the identification of a total of 164 children at-risk. The children were interviewed, registered and their cases were transferred to social services for follow-up, although ultimately none of the children were identified as victims of trafficking *per se*⁷⁹ by the Directorate for the Investigation of Trafficking in Human Beings of the Kosovo police and social workers. Two temporary shelters continue to be under watch in order to identify, refer and assist children exploited for the purpose of begging.

In an effort to assess the implementation of the Kosovo Strategy and Action Plan Against Trafficking in Human Beings 2008-2011 and the revision of the Kosovo Strategy and Action Plan Against Trafficking in Human Beings 2011-2014, the Kosovo Anti-Trafficking Co-ordinator organized and co-ordinated working groups⁸⁰ on the prevention and protection of victims of trafficking and the prosecution of traffickers. A notable achievement was the inclusion of a separate annex on child trafficking into the Kosovo Strategy and Action Plan Against Trafficking in Human Beings 2011-2014.

In order to increase the identification of victims of trafficking and raise the general awareness about trafficking in human beings, the Mission is supporting the Ministry of Justice in the re-establishment of an anti-trafficking and domestic violence helpline. To this end, the Mission began implementing the "Anti-trafficking and domestic violence help line", which is not only expected to improve the capacity of the Kosovo institutions to identify and assist victims of trafficking in human beings, abuse and domestic violence, but also to increase the awareness of the population regarding trafficking in human beings and to work on its prevention.

The Mission also continued with the training of relevant anti-trafficking stakeholders and service providers Kosovo-wide on the "Standard Operating Procedures" and "Minimum Standards of Care for Victims of Trafficking". By the end of 2011, the Mission expects to have finished ten regional training sessions reaching out to some 300 anti-trafficking stakeholders and service providers including the police, social workers, labour, trade and sanitary inspectors, victims'

78 The *US Trafficking in Persons 2010* report, stated that an NGO had identified more than 300 children, particularly from Roma communities, forced to beg in Kosovo. Traffickers allegedly forced the boys to wash car windshields at traffic lights and compel girls to beg for money at hotels and restaurants. The police planned two operations in order to identify these victims of trafficking, <<http://www.state.gov/documents/organization/142979.pdf>>, accessed 26 October 2011.

79 According to the legal framework, only the elements of act and exploitation are needed to establish that a child is a victim of trafficking. In these particular cases, the police did not find that these two criteria were fulfilled.

80 The Mission representative actively advocated for the inclusion in the Strategy and Action Plan of a set of trainings for the relevant anti-trafficking stakeholders, municipal authorities and labour, trade and sanitary inspectors on the usage of Standard Operating Procedures. Furthermore, the Mission emphasized the importance of the anti-trafficking, domestic violence and abuse emergency helpline and requested to strengthen its functioning in order to effectively provide potential victims with counselling and support. It is noteworthy that the Mission's recommendations were all included in the final version of the Action Plan Against Trafficking in Human Beings 2011-2014.

77 See Section 1.1.3 on ongoing work with government authorities.

advocates and civil society to identify, refer and assist victims of trafficking.

During the 2011 Kosovo Anti-trafficking month (9 September-20 October), the Mission, in co-operation with the Kosovo Anti-trafficking Secretariat, implemented a project aiming to establish dialogue between anti-trafficking stakeholders and persons vulnerable to trafficking in human beings by bringing them together in a series of activities. The activities include a documentary screening to groups of students, art workshops and art exhibitions throughout Kosovo. The project aims to increase youth awareness regarding the phenomenon of trafficking in human beings and their vulnerability to it.

In the future, the OSCE Mission in Kosovo will continue to advocate for increased funding to anti-trafficking activities and institutions, especially those providing services to victims and potential victims of trafficking such as the Centres for Social Welfare. The Mission will also continue to raise awareness amongst rural and economically disadvantaged populations on the dangers of trafficking in human beings. Given the lack of comprehensive data available on victims, perpetrators and means of trafficking, the Mission will continue to consolidate data on trends and criminal justice responses (arrests, charges, prosecutions, convictions, acquittals, claims for compensation) in order to better adapt policy to changing circumstances on the ground.

OSCE Mission to Skopje

In 2011, the Mission to Skopje continued to further develop the capacity and effectiveness of the National Rapporteur for Trafficking in Human Beings and Illegal Migration, which was established in 2009. The Mission helped develop a comprehensive research and monitoring methodology as well as detailed guidelines and a standardized template which will serve as the basis for the reporting of the National Rapporteur. This will enable the National Rapporteur to produce high-quality reports which will identify the root causes and trends, raise concerns and provide specific recommendations towards more effective policies and practices in the fight against human trafficking.

The Mission also contributed to local outreach activities in the country by raising awareness of human trafficking, particularly about internal trafficking for the purposes of sexual and labour exploitation and by promoting an active role for local stakeholders in the institutional response to human trafficking. The local outreach activities fostered a better understanding of the regional specificities and facilitated the establishment of meaningful channels for exchange of information, co-ordination and co-operation among stakeholders at local and national levels.

The Mission will continue to support national authorities and civil society to tackle trafficking for the purposes of labour exploitation. Moreover, the Mission will encourage the State to strengthen its victim-centred and human rights approach to all forms of human trafficking, especially in the provision of direct assistance services to victims in the new State-managed shelter.

b. Eastern Europe

OSCE Mission to Moldova

Throughout 2011, the OSCE Mission to Moldova continued to work closely with Government institutions in the fight against human trafficking. This contribution included providing support and capacity building to the Permanent Secretariat of the National Committee on Combating Human Trafficking, based on best practices of similar bodies in other OSCE participating States. The Permanent Secretariat supports the work of the National Committee, an inter-agency ministerial-level body to which the Mission provides recommendations as an observer. The Mission, in co-operation with ODIHR, provided recommendations on anti-trafficking legislation following a request of the Centre for Combating Trafficking in Persons of the Ministry of Internal Affairs. The legislative review was part of the Mission's support to the Government's efforts to harmonize its laws with European standards as part of planning for an EU-Moldova visa liberalization regime. Further, the Mission provided recommendations on anti-trafficking issues, including compensation for trafficking victims, for a Justice Reform Strategy adopted by the Government in September 2011.

The Mission continued to deliver capacity building programmes, including the training of trainers, on improving the investigation, prosecution and court handling of human trafficking and domestic violence cases, to some 180 judges, prosecutors, lawyers and police officers. The training curriculum was regularly updated to reflect new developments in international law, in particular the European Court of Human Rights, to include cases of trafficking for both sexual and labour exploitation and child trafficking.

In the reporting period, the Mission increased its work on empowering women and girls from vulnerable groups in rural areas of both banks of the Nistru/Dniester River with the aim of preventing trafficking. In November and December 2011, in the framework of the global 16-Day Campaign against Gender Violence, the Mission conducted workshops, press conferences, roundtables, university lectures, TV programmes and other initiatives with women and men, boys and girls of both sides of the Nistru/Dniester River. The activities were conducted in close partnership with the

Government, NGOs and other international organizations. For the first time in Moldova, the Campaign included a workshop for men and boys on advocating a zero-tolerance approach to gender violence and positive fatherhood and male role models. A summer school helped 50 young women from both banks aged 18 to 22 years to increase their self-confidence, knowledge of their rights and risks of domestic violence and trafficking, how to access higher education, and how to enter the labour market and set up small businesses. Another project raised the capacity of 160 women to run in the local elections of June 2011. Other activities focusing on prevention included seven theatre performances of the play “Casa M.”, based on true stories of Moldovan women victims of domestic violence, followed by interactive discussions between experts and the public on the causes and consequences of domestic violence and human trafficking.

The Mission supported the provision of multidisciplinary protection services for victims of domestic violence and potential victims of trafficking in selected districts of Northern Moldova, in partnership with local NGOs and in the framework of the National Referral System. Protection services were coupled with capacity building seminars for local communities (police, social workers, NGOs) on how to respond promptly and professionally to cases of violence and potential trafficking. The Mission supported the provision of psychological, social and legal counselling to child victims of sexual abuse and exploitation from Chisinau and other regions, in co-operation with the National Centre for Preventing Child Abuse and as part of the National Referral System.

The Mission’s anti-trafficking and gender programme continued to play a leading role in co-ordinating the work of the Government, NGOs and international organizations through monthly co-ordination meetings in Chisinau and other regions, including Transdnistria, in co-operation with the Ministry of Labour, Social Protection and Family and local public authorities and NGOs. The meetings gathered over 800 representatives of State bodies at the national and local level, NGOs and international organizations, and helped strengthen dialogue and exchange information on local developments, ongoing projects and good national and international practices. Six roundtables in Transdnistria saw an increasing participation of local authorities and closer co-operation with civil society in the social sector.

In co-operation with the SPMU, the Mission supported the participation of three senior police officers of the Centre for Combating Trafficking in Persons in online seminars, a conference in Vilnius and a study visit to the UK for Moldovan and Ukrainian police officers on combating sexual exploitation of children on the Internet, a crime that is increasingly reported in Moldova. The Mission assisted the

OSR/CTHB in implementing an ExB project “Prevention of Human Trafficking in Children without Parental Care in the Republic of Moldova”, which empowers 100 children from boarding schools through education in life-skills, including how to access vocational training, higher education and the labour market.

The OSCE Mission to Moldova will continue to advocate for increased state funding for assistance and protection services, including shelters for victims, and will work closely with Government institutions and civil society to strengthen capacity to investigate and respond to trafficking cases.

OSCE Project Co-ordinator in Ukraine

In 2011, the OSCE Project Co-ordinator in Ukraine (PCU) supported the development of the comprehensive “Law of Ukraine on Combating Trafficking in Human Beings”, adopted by the Parliament on 20 September 2011. The law establishes the legislative background for the prevention and fight against human trafficking as well as assistance to its victims, and stipulates the establishment of a state-led NRM. In this regard, in 2011 the PCU in co-operation with the Ministry for Family, Youth and Sports is finalizing the implementation of a three-year project on the development of such an NRM. During the reporting period, two adopted NRM pilot models have continued to be tested in the Chernivtsi and Donetsk regions, with 16 victims of trafficking in human beings identified and assisted and 38 more currently going through the identification procedure. To facilitate this testing, capacity building activity for more than 1,000 representatives of regional NRM stakeholders has been carried out, with 3,500 practitioners additionally trained within the state in-service training system. The piloting models were presented to representatives of the Ukrainian anti-trafficking NGO community at a national conference organized by the PCU on 2-3 June. The conference recommendations on the sustainability of the proposed models, together with those outlined in the final reports on the results of NRM Monitoring Group’s visits to Chernivtsi and Donetsk regions undertaken in June 2011, will be taken into account during the handover stage at the national level. The selection of the most effective model to be implemented across the country was presented by Ukrainian partners at the concluding NRM conference on 18-19 October.

To provide support to the Ukraine State social service for the identification of the service’s role in combating trafficking in human beings, the PCU is facilitating research on the provision of social services to various categories of victims of trafficking in human beings. The research findings and recommendations are expected to serve as a background for the development of training materials with relevant stakeholders.

To respond to the increasing proliferation of the use of IT in criminal activities, including human trafficking, the PCU facilitated a needs assessment for the Division for Combating Cybercrime of the Department for Combating Cybercrimes and Trafficking in Human Beings, Ministry of Interior of Ukraine. The assessment identified the current capacity of the Division staff as well as further training and equipment needs. The results of the assessment were presented on 25 October at a roundtable on international best practices in the prosecution of cybercrimes, particularly trafficking in children for the purpose of exploitation in the porn industry. In addition, the PCU supported the participation of five representatives from the Ukrainian Ministry of Interior, the Prosecutor General's Office and the State Security Service in a training seminar on the investigation and prosecution of the sexual abuse of children on the Internet, organized by the SPMU in co-operation with the Lithuanian Ombudsman for Children's Rights in May 2011.

The Project Co-ordinator will continue to work closely with relevant authorities to prevent potential human trafficking related to the EURO 2012 football tournament, which Ukraine will co-host with Poland. The PCU supported the initiative of the Ministry for Education, Science, Youth and Sports and State Services for Youth and Sports to conduct a social campaign "Let's do it together!", in particular its anti-violence component "Red Card", as well as took part in two promotional events in cities which will host EURO 2012 in Ukraine-Kiev (14 May) and Donetsk (27 May). An extensive outdoor campaign will be held in October-December 2011 with possible extension into 2012. In addition, to prepare Ukrainian law enforcement authorities to prevent and combat trafficking attempts in connection with EURO 2012, the PCU provides expert and logistic support to the working group to develop a multidisciplinary law enforcement action plan on combating trafficking in human beings during EURO 2012.

Since women remain to be one of the most vulnerable categories for a variety of gender-related offences, including human trafficking and domestic violence, the PCU will assist Ukrainian authorities in tackling these gender issues via the promotion of women's empowerment. As an initial step, the PCU will support a review of women's empowerment framework in Ukraine with a particular focus on economic aspects of such empowerment. The review will combine legislative and practice analysis and provide recommendations in order to remove obstacles preventing women from fulfilling their potential in the economic sphere and to promote the development of women's entrepreneurial and other work-related skills.

c. South Caucasus

OSCE Office in Baku

In 2011, the OSCE Office in Baku continued to co-operate closely on anti-trafficking issues with its regional and international partners. For instance, the Office joined an EU-funded regional Consortium in the South Caucasus focusing on the prevention and prosecution of trafficking and forced labour led by the ILO, in co-operation with the IOM, ICMPD and the OSCE Office in Yerevan. In May 2011, the Office and its Consortium partners jointly organized an expert-level Regional Conference on "Building partnerships to combat human trafficking and forced labour", in Tbilisi, Georgia. The objective of the conference was to follow up on the recommendations of the "Tri-partite Regional Conference in Tbilisi to Address All Forms of Trafficking in Human Beings in the Caucasus and related Destination Countries" that took place in February 2009. As a result of bringing together actors from the countries of origin and countries of destination, and from numerous agencies and civil society groups, the organizers developed a set of recommendations to improve anti-trafficking policies and to encourage better co-operation between the actors in Armenia, Azerbaijan and Georgia.

A major activity in 2011 has been providing awareness raising and capacity building workshops for regional actors of the National Action Plan. These workshops focus on the role of front-line officers in the identification and protection of victims of trafficking and forced labour. Throughout the year, the Office supported awareness raising campaigns to improve the identification of victims of trafficking and forced labour initiated by civil society organizations. These activities included outreach at border check points, construction sites and public transportation hubs, and several public events to which the Office invited journalists, who subsequently increased the visibility of anti-trafficking efforts in the print and electronic media. In September 2011, the Office organized a cross-dimensional five-day training course on online investigative journalism for 17 professional investigative reporters. One relevant area covered in the training consisted of the elements of effective online media investigation of organized crime cases, such as corruption, money laundering, human trafficking and forced labour.

Currently, the Office is facilitating an assessment of the investigation and prosecution of trafficking and forced labour cases in Azerbaijan that will also include specific recommendations to support the Government's efforts in this field. Moreover, in November 2011 the Office prepared a needs assessment on victim services for both actual and potential victims of trafficking and forced labour, which will be followed by a series of capacity building activities for social

workers of the relevant State and civil society organizations. These services will also include specialized support for child victims.

In the future, the Office will continue to work closely with the Government to strengthen investigative and prosecution capacities and to improve the identification of victims of forced labour. The Office will also assist Azerbaijan to develop services for victims and pay special attention to Azerbaijan's status as a destination country due to significant GDP growth mainly in the energy sector.

OSCE Office in Yerevan

The OSCE Office in Yerevan continued to work closely with Government institutions and partners to strengthen the capacity of law enforcement agencies in combating trafficking in human beings in 2011. A main focus in this area has been the development of a "train the trainers" methodology for law enforcement agencies based on a comprehensive training manual designed within a OSCE/ILO/ICMPD/IOM project on "Strengthening of Comprehensive Anti-trafficking Responses in Armenia, Azerbaijan and Georgia". The resulting detailed methodology consists of eight modules and was successfully tested at a one-day training course of trainers in Yerevan and in three other cities in Armenia from February-April 2011. More than 30 future trainers from the Armenian Police Academy, the Prosecutors' School and the Labour Inspectorate were trained, and their suggested recommendations were included in the final version of the methodology which was distributed in September 2011.

The other key activity of the Office has been supporting the implementation of the Armenian Anti-Trafficking National Action Plan (NAP) for 2010-2012, with a specific focus on strengthening the capacity of the NRM. The Anti-Trafficking Support and Resource Unit (ATSRU), established as a joint project between the OSCE Office in Yerevan and the Ministry of Labour and Social Issues, has been actively involved in designing and conducting specialized trainings for all the NRM national actors throughout the country, focusing on labour trafficking, victim identification, and co-ordination and co-operation among agencies. Special attention was given to strengthening the capacity of State and NGO actors in the provinces of the country, facing active labour outmigration. In February 2011, the ATSRU in co-operation with the Czech NGO "People In Need" in Armenia organized a two-day training on "Essentials of Identification and Profiling of Trafficked Individuals" in Yerevan. The training was conducted by an invited international expert with extensive experience in the field.

The ATSRU, in co-operation with the National Institute of Labour and Social Research of the Ministry of Labour and

Social Issues, conducted a pilot testing of the "Armenian Civil Servants' Training Module on Human Trafficking Issues" in April 2011. The Module has been developed within the OSCE Anti-Trafficking Project activities and will contribute to civil servants' awareness of, and capacity to respond to, victims of trafficking. The Module has been approved by the Civil Servants Council and was included in the Institute's Curriculum in September 2011.

In the future, the OSCE Office in Yerevan will continue to prioritize labour trafficking, internal trafficking and child trafficking as key areas for capacity building in Armenia. The Office will also continue to work closely with the media and civil society to promote a better understanding of all forms of trafficking, not only sexual exploitation, and to identify the links between trafficking and contributing factors such as poverty and corruption.

d. Central Asia

OSCE Centre in Ashgabat

The OSCE Centre in Ashgabat continues to support efforts aimed at raising awareness and preventing THB at the national level.

One project the Centre is supporting focuses on the risks and vulnerabilities of persons with disabilities to human trafficking, which is currently being implemented in five regions of Turkmenistan. The "Preventing of and raising awareness about trafficking of persons with disabilities" project is being implemented in co-operation with the civil society organization "Support Centre to People with Disabilities". The project foresees a train-the-trainers course on human trafficking with a focus on trafficking of persons with disabilities as well as seminars on human trafficking for teachers, staff and volunteers working at centres for persons with disabilities. The project will also conduct awareness raising sessions for persons with disabilities and their families.

OSCE Centre in Astana

The OSCE Centre in Astana has been contributing to the strengthening of the criminal justice sector response to trafficking in human beings. In November 2011, the Centre, together with the OSCE Office in Tajikistan and the OSCE Centre in Bishkek, in co-operation with UNODC, the US Embassy and IOM co-organized a fourth annual workshop on promoting international law enforcement and judicial co-operation among source, transit and destination countries. The two-day seminar gathered more than 50 representatives of law enforcement and judicial authorities from all

Central Asian countries, as well as international and non-governmental organizations. The event aimed to share best practices in effective joint investigations, including financial investigation techniques such as tracing, freezing and confiscating proceeds of crime. The OSR/CTHB contributed to this event by providing a broad overview of the OSCE activities in the fight against human trafficking.

In November 2011, the Centre, in co-operation with the Supreme Court and Academy of Public Administration, conducted a training seminar for judges from courts across Kazakhstan to discuss human trafficking from a judicial perspective. The Supreme Court presented a review of available criminal jurisprudence related to human trafficking for 2009-2010. Participating judges reviewed national legislation and international instruments, existing court practices to identify victims of trafficking, as well as issues of classification of crimes associated with human trafficking.

The Centre in Astana continued to work closely with its national and international partners to improve the co-ordination of anti-trafficking efforts in the country. One such activity in 2011 was a donor meeting, co-organized with the US Embassy, which provided relevant actors an opportunity to exchange information on human trafficking trends in the country as well as an outline of planned activities for 2011.

Throughout 2011, the Centre undertook several important projects in co-operation with civil society to improve the institutional and organizational response to trafficking. Together with the International Legal Initiative, the Centre implemented a six-month project to monitor detention and correctional facilities in four regions of Kazakhstan with the purpose of identifying possible victims of trafficking. The monitors interviewed detained adults and minors, informed police about individuals identified as victims and monitored the implementation of measures taken to ensure that victims were given the necessary protection and safely placed in shelters. This project helped authorities to identify and provide assistance and protection to 34 trafficking victims, and the project findings were compiled into a report and presented to relevant authorities at the roundtable. The Centre also worked closely with the Ministry of Justice and the NGO "Feminist League" in a capacity building project for staff from orphanages and vocational schools. Over the course of three regional seminars, 100 specialized staff (psychologists, social workers and teachers) from orphanages and vocational schools learned how to reduce the risks of trafficking and how to recognize cases of abuse. The roundtable discussions gathered up to 30 officials and NGO representatives to raise awareness on how to improve the protection of particularly vulnerable children, such as those in orphanages and mentally disabled children.

OSCE Centre in Bishkek

Throughout 2011, the Centre in Bishkek supported the Government of the Kyrgyz Republic to uphold its national and international commitments. This included support to proposed legislative reform, "On Amendments to the Law on Prevention and Combating Trafficking in Human Beings", which was adopted by the Parliament in April 2011 and entered into force on 24 May 2011.

Further, the Centre in Bishkek continued to work closely with its international partners, including UNODC, IOM, and ABA ROLI. In close co-operation with these partners, the Centre provided support to the Working Group tasked with drafting the new Action Plan on Combating Trafficking in Human Beings (2012-2015), led by the Ministry of Youth, Labour, Employment and Migration. The Centre in Bishkek facilitated the meetings of the Working Group (WG) and provided expert and technical assistance. The OSR/CTHB also contributed to the draft Action Plan upon the request of the authorities. The first draft Action Plan was presented on 13 September 2011 at the WG meeting, and is currently being placed on the Government's website to facilitate the discussion and collect public opinion.⁸¹ The Action Plan is expected to be adopted by the end of 2011.

In view of the June 2010 violence, which caused thousands of citizens from Osh and Jalal-Abad to migrate in-country and abroad, an important focus of the Centre in Bishkek's Osh Field Office in 2011 has been to address risk factors towards human trafficking as a consequence of the increased vulnerability of the local population. To this end, the Osh Field Office implemented a research project in the South of Kyrgyzstan that provided a baseline survey of data from local governmental and non-governmental agencies. The survey provides information which allows relevant stakeholders to assess the level of risk towards human trafficking in the South of the country. The data analysis will contribute towards raising awareness of all stakeholders, and will also constitute the basis for recommendations on policies of prevention to national and regional stakeholders.

A further aim of this project was to enhance capacity among law enforcement in the detection and investigation of trafficking through the use of proactive methods of investigation, i.e., not solely relying on victims' depositions. Border guards also received training on early identification at border-crossing points. Finally, the project also shared the collected knowledge among relevant stakeholders through the organization of a roundtable for governmental and non-governmental agencies. The results of the project will be used to facilitate dialogue on, and recommendations

81 <<http://www.gov.kg/?p=4483>>, accessed 18 November 2011.

and proposals to, the upcoming National Action Plan, expected to be launched by the end of 2011.

In the future, the Centre in Bishkek's Osh Field Office will prioritize regional co-operation to improve the investigation of trafficking in human beings with a particular focus on the CIS area by strengthened information sharing on human trafficking and migration data. The Office will also continue to strengthen the criminal justice response in order to address the issue of under-reporting of human trafficking offences and to maximize the prosecution of crimes under the human trafficking penal provisions. Lastly, the Office will address work in co-operation with its partners to prevent the criminalization of victims.

OSCE Office in Tajikistan

During the reporting period, the OSCE Office in Tajikistan continued to provide support to government institutions to strengthen the country's response to trafficking in human beings. Given the impending expiry of the previous National Action Plan at the end of 2010, and upon the request of the Government of Tajikistan, the Office participated in the Working Group tasked with the development of the country's second NAP. The 13-member Working Group includes Government representatives who have previously taken part in OSCE anti-trafficking training and, for the first time, also included civil society representatives. The Office submitted detailed recommendations for the new draft Action Plan, based not only on international best practices but also on the expertise of a legal consultant who had represented trafficked labourers at trial. In November 2010, the Office organized a meeting between the Working Group and instructors and participants from a training course on THB held at the Border Management Staff College. The instructors and participants shared their practical expertise which ultimately informed the National Action Plan 2011-2013, which was adopted on 3 March 2011. Moreover, the Office contributed to the translation and publication of the NAP in Russian and English.

The Office continued to support the creation of an NRM, identified as a key priority in the NAP. Together with the Inter-Agency Commission on Trafficking in Human Beings and civil society representatives, the Office organized a workshop in June 2011 to discuss the creation of an NRM for human trafficking victims. Representatives of different government structures as well as civil society and international organizations participated in the workshop which provided a platform for exchange of views on support mechanisms, as well as an opportunity to review case studies and to map the way forward.

The Office also continued to facilitate high-level sessions of "Dialogue on Human Trafficking", supported by the

Government of Tajikistan. Dialogue sessions are held quarterly and are co-chaired by the Deputy Foreign Minister of Tajikistan, the head of the Tajik State Inter-Agency Committee on Trafficking in Human Beings, and the OSCE Head of Office. Sessions were convened in November 2010, as well as February, March and June 2011 during this reporting period. Participants included senior officials from the Ministries of Justice, Interior, Education, Social Affairs and Labour, as well as the First Deputy Prosecutor General, the First Deputy of the National Security Committee, representatives of civil society, international organizations and diplomatic missions. In April 2011, the Dialogue was convened for the first time in Sughd, Northern Tajikistan, with members of local government, international organizations and civil society. Recent discussions in the Dialogue sessions have addressed issues such as child labour during the cotton harvest, labour practices and employment solicitation and their links to labour exploitation.

Throughout the reporting period, the Office's Human Dimension Department worked closely with the Police Academy to develop a 26-hour anti-trafficking course that was incorporated into the standard curriculum. The course focuses on co-operative and proactive investigation of transnational human trafficking cases and on the protection of victims. Special attention was devoted to interactive, student-centred teaching methodology, as well as to testing and adapting materials in classroom conditions.

The Office continued to facilitate participation in several domestic and international forums on anti-trafficking, including support to the participation of six Tajik representatives in the continuation of the Human Dimension Review Meeting in Astana devoted to intolerance against migrants and combating trafficking in human beings. In March 2011, the Office supported the participation of three Tajik lawyers at an international meeting of experts organized by ODIHR on how to improve access to justice for victims of trafficking. The Office also supported the participation of three representatives from the Inter-Agency Committee on Trafficking in Human Beings in the 11th *Alliance* Conference on Trafficking for Labour Exploitation. Lastly, in July 2011 the Office organized and hosted the "Preparatory Human Dimension Implementation Meeting" in co-operation with the Office of the Human Rights Ombudsman and the Executive Office of the President. The meeting brought together diverse stakeholders ahead of the annual Human Dimension Implementation Meeting in Warsaw, and served as an open forum to examine topical issues in the areas of human rights and rule of law, including issues related to human trafficking.

Finally, the Office continued its work to raise awareness of trafficking issues. On 15 May, nearly 300,000 people

participated in a national running event held across Tajikistan with the slogan “No to Human Trafficking”. The event was organized in co-operation with the Inter-Agency Commission against Trafficking in Human Beings, IOM, USAID, and the Bureau of International Narcotics and Law Enforcement Affairs.

OSCE Project Co-ordinator in Uzbekistan

In 2011, the OSCE Project Co-ordinator in Uzbekistan assisted the Government of the Republic of Uzbekistan in increasing its efforts to combat human trafficking in two priority areas.

The first priority was promoting a human rights-based approach to combating trafficking in human beings, including a series of specialized workshops for law enforcement officers, as well as customs officers and the judiciary. Some 120 police officers from specialized anti-trafficking units representing 12 regions of Uzbekistan were trained on operational tactics to investigate human trafficking while at the same time promoting a victim-centred and human rights-based approach. In order to promote better co-operation between law enforcement and civil society and a more effective victim referral mechanism, anti-trafficking NGOs were included in the training seminars, where they were invited to present their work and voice their concerns. The Project Co-ordinator also delivered training for law enforcement and criminal defence lawyers aimed at promoting a better understanding of the human rights of victims throughout the identification, referral and protection phases. NGOs were also included in this training, and further promoted dialogue and co-operation between law enforcement and the civil society sector.

Throughout 2011, the Project Co-ordinator continued to implement the third phase of the joint project “*To Assist Uzbekistan in Increasing Effectiveness of Combating Human Trafficking, Labour Exploitation and Illegal Migration*” in co-operation with the Inter-agency Commission on Counteracting Human Trafficking and the anti-trafficking NGO “Istiqbolli Avlod”. Working in co-operation with ODIHR and the Anti-Trafficking Governmental Commission, the Project Co-ordinator will also promote more efficient and sustainable national referral mechanisms by ensuring the protection of human rights of survivors of trafficking of human beings. The Project Co-ordinator aspires to continue working with the Chamber of Industry, the Chamber of Commerce, the National Trade Unions Federation, and a number of private employers as well as trade unions, on how to improve corporate social responsibility among the private sector so as to respect the fundamental rights of workers.

In the future, the Project Co-ordinator in co-operation with trade unions also hopes to undertake a pilot project in the

Tashkent oblast on the creation of small scale businesses where at-risk groups could be educated and employed. This vast geographical area was formerly an industrial zone but currently is characterized by unemployment and high vulnerability to human trafficking. Also in this vein, the Project Co-ordinator expects to provide a series of trainings on business entrepreneurship skills for at-risk groups in Tashkent, Samarkand, Bukhara and Andijan oblasts, areas from which the highest number of victims originate.

2. STEPPING FORWARD: CHALLENGES AND FUTURE PERSPECTIVES

Despite significant progress in anti-trafficking efforts and a strong commitment from participating States, trafficking in human beings remains a grave human rights violation and a serious transnational threat throughout the OSCE region and beyond. The scale of human trafficking is massive. There are no reliable estimates of the numbers of trafficked persons because most of it simply remains invisible and unrecorded in official criminal and administrative registers. Unfortunately, the numbers which are available are likely to be underestimated and are out of date. Nonetheless, they provide a notion of the size of the criminal industry of trafficking. In 2005, the ILO estimated a minimum of 12.3 million persons trapped in forced labour worldwide and annual profits of approximately USD 32 billion.⁸² In contrast, the 2011 U.S. *Trafficking in Persons Report* reported that there were 3,619 prosecutions of human trafficking recorded globally, which actually reflects a decrease from the previous reporting period.⁸³

Nevertheless, the struggle against trafficking in human beings has clearly evolved from the margins of international law, as demonstrated by the national, regional and international instruments adopted since 2000, including notably the 2000 Trafficking Protocol supplementing the United Nations Convention against Transnational Organized Crime. Participating States of the OSCE have been among the first to address the issue and to take action, including through the adoption of the 2003 OSCE Action Plan to Combat Trafficking in Human Beings. At the national level, numerous participating States have created National Action Plans and co-ordination mechanisms, and some have also established National Rapporteurs or equivalent reporting mechanisms, and National Referral Mechanisms. Joint investigation teams are proving to be a best practice among law enforcement agencies and many participating States are seeking to improve such co-operation across borders to reign in transnational criminal networks. Training modules have been developed on leading investigative practices as well as for capacity building with the judiciary, prosecutors,

border agencies and all persons involved in identifying, assisting and empowering trafficked persons. Civil society actors, especially NGOs, have been at the forefront of anti-trafficking efforts contributing to identification, assistance and protection of trafficked persons, and also to awareness raising and other activities targeted at the prevention of trafficking in the first place. We now have at our disposal the necessary tools needed to combat human trafficking. The challenge is to fully use these tools, putting them into practice, through the adequate allocation of financial and human resources to build on the strong foundation laid in the past decade.

In order to make this framework more effective, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings has sought throughout 2011 to deepen the dialogue on human trafficking with governments, parliaments, NGOs, businesses and international organizations to promote a broad strategic approach to the prevention of THB. Therefore, a recurring theme in 2011 was how to enhance and promote policy coherence among related spheres, such as law enforcement and criminal justice, labour and migration, and this is an area which the Office will continue to develop and explore in the coming year. Furthermore, the SR/CTHB and her Office will examine how weak rule of law and lack of access to justice contribute to the increasing trend of trafficking in human beings.⁸⁴

Such a multidimensional approach is in fact in line with the OSCE anti-trafficking commitments, reflecting the Organization's concept of common and comprehensive security which addresses the human, economic, political and military dimensions of security as an integral whole. The OSCE was the first to place human rights and security as equal and intrinsically-linked issues in the fight against THB. The human rights approach was clearly affirmed in the first OSCE Ministerial Council Decision on THB adopted in 2000 and then strongly reiterated in the 2002 OSCE Ministerial

⁸² ILO, *A Global Alliance against Forced Labour* (Geneva, 2005).

⁸³ The 2010 US TIP Report reported a figure of 4,166 convictions for human trafficking globally. See U.S. Department of State, *Trafficking in Persons Report*, 10th Edition (June 2010) and U.S. Department of State, *Trafficking in Persons Report*, 11th Edition (June 2011).

⁸⁴ G. Haugen, V. Boutros, "And Justice for All: Enforcing Human Rights for the World's Poor", *Foreign Affairs*, Volume 89, Number 3 (2010).

Council Declaration on Trafficking in Human Beings.⁸⁵ This human rights-based approach, which requires that the rights of trafficked persons are respected at all times, and are thus integrated in all three OSCE dimensions, is also fully reflected in the OSCE Action Plan, which targets the so-called “three Ps”: prevention of trafficking, prosecution and criminal justice response to trafficking, and protection of trafficked persons. In 2011, the SR/CTHB has continued to emphasize and value a fourth “P” – partnership, as was clearly evident on the occasion of the enlargement of the *Alliance against Trafficking in Persons* at the 11th *Alliance Conference on “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”*, hosted in Vienna on 20-21 June. For the first time, the Conference brought together new partners, notably trade unions, employers’ associations and the private sector, along with high-level delegations from participating States, international organizations and NGOs. A renewed and reinvigorated partnership with civil society was also one of the priority areas of the 2011 Lithuanian OSCE Chairmanship.

2.1 Thematic Priorities

Child Trafficking

As a follow-up to the 2010 *Alliance Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking*⁸⁶, the SR/CTHB continued to dedicate special attention to the prevention of child trafficking throughout 2011. Child trafficking is widespread in the OSCE region and is reported by Europol to be a growing area of organized crime.⁸⁷ It affects many vulnerable groups of children such as migrant children, undocumented, separated, unaccompanied, asylum-seeking and refugee children. There is also evidence of child trafficking involving other vulnerable children such as those living in institutions or children with drug addictions, and children in abusive and dysfunctional families, as well as other children left behind, among others. In these situations, children are vulnerable to a range of risks that may make them easy targets for traffickers. More precisely, a child’s vulnerability is the result of the interplay of various individual, interpersonal, family, social and economic factors that influence the risk of

their being abused and exploited, as well as their capacity to manage these risks. The SR/CTHB will thus continue to call for the strengthening of child protection systems, especially social welfare systems, as an important first step in terms of preventing child trafficking, as well as protecting trafficked children who may not have yet been identified. In addition to promoting the full protection of the human rights of children, the SR/CTHB will advocate concrete measures such as improving birth registration systems, equal access to education, quality standards of care, and non-discrimination in the provision of care to all children, regardless of their nationality and/or status. A further challenge will be to promote partnerships and multidisciplinary teamwork at national and international levels.

The SR/CTHB will continue to call on participating States to step up the implementation of their OSCE commitments to ensure a thorough and individual best interests determination process for each trafficked child or child at risk in order to identify a durable solution.⁸⁸ A further consideration for such vulnerable children is their access to free and independent legal aid. Vulnerable children, including migrant children and trafficked children, should have access to free and independent legal guardians when appropriate, who can act to represent their best interests in any proceedings as well as child-friendly measures to ensure their participation in the process. The SR/CTHB stresses that children are holders of rights, and should be encouraged to contribute to the design of policies that affect them, taking into account their views and experiences.

In addition, the OSR/CTHB continues to strengthen child protection systems at a concrete level through the implementation of specific projects aimed at better protection of the rights of children on the move as well as children left behind. The OSR/CTHB received information on the situation of unaccompanied minors leaving Afghanistan with the hope of rejoining family members in Europe⁸⁹ and in particular how these children become vulnerable to human traffickers along their transit route, frequently in the Balkans and/or in the first EU countries of entry. In response, the OSR/CTHB is developing a project aimed at the protection of these children. In addition, with the support of the Principality of Monaco, Liechtenstein, Andorra and San Marino, the OSR/CTHB will continue to implement a project to contribute to the prevention of child trafficking in Moldova, together with a local NGO partner and in co-operation with Moldova’s national and local authorities, as well as with the OSCE Mission to Moldova.

85 OSCE Ministerial Council, *Decision No. 1 Enhancing the OSCE’s Efforts to Combat Trafficking in Human Beings* (Vienna, 28 November 2000), paras. 1, 9, 10; OSCE Ministerial Council, *Declaration on Trafficking in Human Beings*, MC(10). JOUR/2 (Porto, 7 December 2002): “The dignity and human rights of victims must be respected at all times”.

86 *Alliance against Trafficking in Persons Expert Co-ordination Team (AECT), Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking* (Warsaw, 8 October 2010).

87 Europol, “Children Trafficked and Exploited inside Europe by Criminal Gangs” (11 January 2011), <<https://www.europol.europa.eu/content/press/children-trafficked-and-exploited-inside-europe-criminal-gangs-501>>, accessed 18 November 2011.

88 See also Committee on the Rights of the Child, *General Comment No. 6 Treatment of Unaccompanied and Separated Children outside Their Country of Origin* (2005), <[http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/532769d21fcd8302c1257020002b65d9/\\$FILE/G0543805.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/532769d21fcd8302c1257020002b65d9/$FILE/G0543805.pdf)>, accessed 18 November 2011.

89 UNHCR, *Trees only move in the wind: A study of unaccompanied Afghan children in Europe* (2010), <<http://www.unhcr.org/4c1229669.html>>, accessed 18 November 2011.

Labour Exploitation

Trafficking for labour exploitation continues to be one of the least addressed forms of human trafficking. However, it is in fact a growing phenomenon which is increasingly linked with the global economy. Trafficking for labour exploitation often occurs in economic sectors that are labour-intensive, and unregulated or poorly regulated. In these sectors, demand for cheap labour has become endemic. Such demand is, in certain instances, fostered through criminal means, in the supply of the labour force, reducing the cost of labour dramatically or even entirely. This criminal method has already deeply infiltrated various economic sectors such as agriculture, construction, mining, textiles and garments, hospitality, restaurants and domestic work. National investigations confirm that recruitment and job placement agencies, including through Internet services, are used for trafficking. Recruitment agencies often encourage migrants to borrow money to cover recruitment fees and expenses for their trip, and this is the beginning of abusive and fraudulent practices that either directly lead to trafficking or increase the vulnerability of workers to exploitation. Through a combination of wage deductions, payments in kind and debt manipulation, workers end up in situations of debt bondage in which they have no other option but to submit to their exploiter.⁹⁰

To this end, the SR/CTHB will continue to advocate stricter regulation and monitoring of private employment and recruitment agencies, in co-operation with civil society actors⁹¹, finding better ways to engage businesses and their associations and building on existing ILO standards, in particular on the 1997 Private Employment Agencies Convention No. 181⁹². Preventive measures should also embed the principle that fees for recruitment are never charged to workers, not even indirectly. In addition, the SR/CTHB will also continue to stress the importance of strengthening the labour inspectorate, amongst other administrative agencies which can take a leading role in detecting abusive and exploitative practices in the workplace through increased inspections and investigative powers.⁹³

Promoting decent work for all is one of the core elements of a strategy aimed at the prevention of labour trafficking. This demands that anti-trafficking actors join efforts more vigorously

I am more and more convinced that trafficking has become first and foremost a problem of social justice. In other words, the most vulnerable segments of the (migrant) population which are deprived of any rights and live outside the protection of the rule of law, are used as a source of cheap or unpaid labour in sectors which are labour-intensive, undervalued and underpaid. This is really the dark side of globalization.

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Maria Grazia Giammarinaro
EULEX Police Headquarters, Pristina, 19 April 2011

with the ILO, as well as with trade unions, migrant rights groups, employers' associations, and other organizations to promote decent work and encourage respect for fundamental rights at work, in particular with respect to migrant workers. Another powerful prevention measure is the promotion of workers' self-organization and representation. This includes providing information about workers' rights, as well as capacity and mechanisms to report abuses and suspected instances of labour exploitation so that interventions can be made. In this vein, the SR/CTHB will continue to stress the need for a much stronger and active engagement with trade unions to ensure full freedom of association, and to promote the establishment of complaint procedures which are available and accessible for all workers regardless of their status. The private sector cannot be underestimated as an important ally in combating labour exploitation. Building on research conducted in 2011 on the implementation of Codes of Conduct in the private sector,⁹⁴ the SR/CTHB will continue to develop synergies with leading businesses and private sector associations who are engaged in private-public partnerships to combat labour exploitation and reduce demand. The promotion of Codes of Conduct and international human rights standards in workplaces is an important measure to implement this commitment. The SR/CTHB will continue to explore the development of mechanisms and policies to better prevent abuse in labour recruitment and throughout supply chains of products and services, including through the promotion of the UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, endorsed by the UN Human Rights Council in June 2011.⁹⁵

90 OSCE OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for Domestic Servitude*, Occasional Paper Series no. 4 (2010).

91 The experience of some participating States clearly indicates that regulating, licensing, monitoring and establishing control mechanisms of recruitment activity is crucial to protect workers against fraudulent and abusive practices that can lead to trafficking. See for instance, the Gangmasters Licensing Authority in the United Kingdom, <<http://gla.defra.gov.uk/>>, accessed 18 November 2011.

92 ILO, *Private Employment Agencies Convention No. 181* (1997), <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C181>>, accessed 18 November 2011 and *Private Employment Agencies Recommendation No. 188* (1997), <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?R188>>, accessed 18 November 2011.

93 See M. Dottridge, "Methods to Prevent Labour Exploitation: What to Do and How" (December 2011), see verso.

94 See Section 1.1.6 on research.

95 UN Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (21 March 2011), <http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf>, accessed 18 November 2011.

2.2 Raising the Profile of Prevention

Throughout 2011, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings continued to build an agenda for the prevention of human trafficking. *An Agenda for Prevention of Human Trafficking* begins with raising the profile of trafficking as a human rights violation. Addressing trafficking in human beings as a human rights violation implies not only a negative obligation of the State to abstain from direct violations of human rights, but also a positive obligation to put in place protective measures addressing potential, presumed and actual trafficked persons. A human rights-based approach should be at the core of anti-trafficking policies and strategies, including systematic assessment of their human rights impact, mechanisms for follow-up, and accountability.

Prevention also entails addressing trafficking as a complex and massive phenomenon of modern-day slavery. Awareness raising should therefore continue to build support for the anti-slavery movement and especially to engage all potential actors in this abolitionist movement. The SR/CTHB will continue to initiate dialogue and discussion with a wide array of stakeholders, including NGOs, civil society groups, the private sector, government authorities, as well as intellectuals, academics, the media, educators, students and cultural actors.

The prevention of human trafficking is also premised on effective data collection and analysis. The OSR/CTHB promotes evidence-based policy and in doing so, identifies areas for further research and analysis. In the future, the SR/CTHB will continue to work on several research studies, which will help raise the understanding and visibility of trafficking in human beings and provide qualitative analysis to better inform and tailor effective policy responses. For example, the OSR/CTHB is working in co-operation with the Ludwig Boltzmann Institute of Human Rights in Vienna, as well as with the Helen Bamber Foundation in London, on a study analysing how and when trafficking in human beings amounts to torture.⁹⁶ The study will be published in 2012. The clinical analysis will examine the effects of torture and/or ill-treatment on trafficked persons and draft recommendations based on the findings. The study, in addition to enhancing qualitative research on trafficking in human beings and promoting evidence-

based policy initiatives, will also contribute to strengthening available channels for the protection of trafficked persons and improving the understanding of the effects of long-term trauma on trafficked persons.

The OSR/CTHB will also continue its research into trafficking in human beings for the purpose of the removal of organs, which is one of the least visible forms of trafficking. The research study will help identify crime patterns and the *modus operandi* of criminal networks engaged in this crime, as well as profiles of trafficked persons and perpetrators. It will also disclose obstacles preventing effective investigation and prosecution of this crime, including the lack of sufficient witness protection systems. The qualitative study will include in-depth analysis of available case studies in the OSCE region and information on the complex relationships between brokers, medical personnel, clients/recipients of organs, and any patterns between origin-transit-destination countries.⁹⁷

Prevention also means addressing long-term measures aimed at the economic empowerment in addition to the legal empowerment of trafficked persons. As early as 2002, the OSCE participating States, in the Porto Declaration on Trafficking in Human Beings, stated that they “*recognize the need to address root causes of trafficking and to reduce the economic and social inequalities and disadvantages, which also provoke illegal immigration, and which may be exploited by organized criminal networks for their profit*”⁹⁸. The OSCE Action Plan in its Chapter on Prevention, addressed this crucial issue and recommended to take action at the national level by, *inter alia*, enhancing job opportunities for women by facilitating business opportunities for small and medium-sized enterprises (SMEs) amongst others.⁹⁹ To facilitate the implementation of this recommendation, in 2011, the OSR/CTHB began to elaborate a project concept aimed at the economic empowerment of women and the development of social business both as a measure to prevent human trafficking and re-trafficking, as well as for the long-term viability of NGOs providing assistance to trafficked persons.

⁹⁷ See Section 1.1.6 on research.

⁹⁸ OSCE Ministerial Council, *Declaration on Trafficking in Human Beings, MC(10). JOUR/2* (Porto, 7 December 2002).

⁹⁹ The OSCE Action Plan also recommended organizing SME training courses and targeting particularly at high-risk groups. The Action Plan called for the liberalization of labour markets, with a view to increasing employment opportunities for workers with a wide range of skill levels; tackling underground economic activities which undermine economies and enhance trafficking; taking measures to raise levels of social protection and to create employment opportunities for all; and taking appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of gender equality, the right to equal pay for equal work and the right to equality in employment opportunities. Other recommended measures included development programmes that offer livelihood options and include basic education, literacy, communication and other skills, and reduce barriers to entrepreneurship.

OSCE Ministerial Council, *Decision No. 15/05 Preventing and Combating Violence against Women, MC.DEC/15/05* (2005): it called upon participating States to take measures to strengthen the economic independence of women, including ensuring non-discriminatory employment policies and practices, providing equal access to education and training, equal remuneration for equal work, increased work and educational opportunities, equal access to and control over economic resources with a view to reducing women's vulnerability to all forms of violence, including domestic violence and trafficking in human beings.

⁹⁶ See Section 1.1.6 on research; also note that this follows on important work done by others on the issue, see UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3* (15 January 2008); Committee against Torture, *Conclusions and recommendations of the Committee against Torture: Japan*, Thirty-eighth session, CAT/C/JPN/CO/1 (3 August 2007); C. Zimmerman (et al), London School of Hygiene, “The Health of Trafficked Women: A Survey of Women Entering Posttrafficking Services in Europe”, Vol. 98, No. 1, *American Journal of Public Health* (January 2008).

The impetus for this project is even more relevant given the fact that women are likely to bear a disproportionate burden in the financial and economic crisis. Women are likely to suffer largely due to imbalanced gender policies in the education and labour sectors which result in higher unemployment rates for women in export-oriented countries and the increased exploitation of women in both the licit and illicit economy.¹⁰⁰

Demand is one of the root causes of trafficking in human beings and the SR/CTHB is committed to addressing ways to target and lessen demand as a preventative measure. The SR/CTHB undertook a research study on “The Implementation and Enforcement of Codes of Conduct in the Private Sector to Reduce Demand for the Services of or Goods Produced by People who have been Trafficked”, which will be published in 2012. At the same time, the OSR/CTHB is also examining the implementation and enforcement of codes of conduct, zero tolerance and other policies addressing the demand for exploitative labour and commercial sex in military and international organizations working in post-conflict and humanitarian disaster situations, in line with the 2005 Ministerial Council Decision on Ensuring the Highest Standards of Conduct and Accountability of Persons Serving on International Forces and Missions¹⁰¹.

2.3 Prosecution: Stepping up the Criminal Justice Response

Prosecution is integral to combating trafficking in human beings because only when there is a serious possibility of imprisonment and confiscation of assets will there be a real deterrent effect for perpetrators. Most participating States have adopted comprehensive penal provisions incorporating the Palermo Protocol definitions. Due to the very low number of human trafficking investigations and even lower number of successful prosecutions, governments are realizing that they need to devote specific attention and resources to effectively combat this crime. Experience to date in participating States and beyond, reveals that even when governments create specific anti-trafficking investigation and prosecution units, they still often are left to grapple with the broader challenge

of co-operation and co-ordination. Thus an important priority area for future work for the OSR/CTHB will be assisting participating States and other stakeholders, upon request, to enhance co-operation among law enforcement both at the national and international levels and the judiciary of different countries.

At the national level, there is a need for information sharing and resource-pooling among different units and agencies, for example between financial intelligence units (FIUs), organized crime units and THB units, as well as border agencies. Such co-operation at the operational level was a subject of discussion during the *Alliance* Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking” (3-4 October, Vienna), and the SR/CTHB will continue to explore ways to further develop these synergies. In addition to money laundering, there is a need to improve our knowledge of the connections between trafficking in human beings and other crimes, including other forms of financial crime and corrupt practices. Given that trafficking in human beings is profit-driven, it is imperative to find, freeze and forfeit the proceeds of crime. This requires the use of financial investigations on a routine basis as well as on a large scale. So far this investigative tool has been underutilized or almost never applied in cases of trafficking in human beings. The use of financial investigation is particularly important to trace the proceeds of crime in a country in which such proceeds are usually reinvested and laundered, most notably in countries of origin.¹⁰² This requires decisive improvements in law enforcement and judicial co-operation, especially between the country in which exploitation takes place and the country where profits are reinvested. This would also entail encouraging the banking sector to investigate and build controls concerning money laundering, and other illegal money transfers related to trafficking cases. A first important step in this direction was the *Alliance* Expert Seminar on Money Laundering/THB, which saw *inter alia* the participation and contribution of Raiffeisen Bank International AG, JP Morgan Chase & Co and Western Union International Bank GmbH.

The link between trafficking in human beings and corruption is a further challenge that the OSR/CTHB will address in 2012. To date, corruption has been underestimated as both a causal factor and a consequence of human trafficking. Trafficking in human beings simply could not occur on such a massive scale if it was not facilitated by corrupt public officials. The OSCE Action Plan specifically called on the OSCE participating States to target corruption and ensure that disciplinary and criminal proceedings are undertaken against authorities

100 UN WOMEN, *Women, Poverty and Economics* (2011), <http://www.unifem.org/gender_issues/women_poverty_economics/>, accessed 18 November 2011; “The importance of sex”, *The Economist* (12 April 2006), <<http://www.economist.com/node/6800723>>, accessed 20 November 2011; GLOBAL POVERTY PROJECT, *Global Poverty Info Bank: Women and Poverty*, <<http://www.global-povertyproject.com/infobank/women>>, accessed 18 November 2011.

101 OSCE Ministerial Council, *Decision No. 16/05 Ensuring the Highest Standards of Conduct and Accountability of Persons Serving on International Forces and Missions* (Ljubljana, 6 December 2005).

102 Financial Action Task Force (FATF), *Money Laundering Risks Arising from Trafficking in Human Beings and the Smuggling of Migrants* (July 2011).

found to be engaged in corrupt practices.¹⁰³ Research on trafficking in human beings and corruption reveals that corruption may influence the routes that traffickers take, their *modus operandi*, and also contribute to the “breeding grounds” for trafficking in persons.¹⁰⁴ Corruption also has a direct impact on the human rights of trafficked persons. The costs of corrupt practices need to be recuperated by traffickers, and so are passed on to trafficked persons, which exacerbates debt bondage. The criminal behaviour of corrupt public officials may include direct involvement in the perpetration of trafficking crimes, such as conscious participation in organized crime operations, but it may also include cases of turning a “blind eye”. Different kinds of officials or private individuals can be involved in a corruption scheme, from police, customs, visa offices/embassies, border control immigration services, travel and recruitment agencies, transportation sector, financial institutions, law enforcement agencies, government officials, notaries, lawyers, prosecutors and judges, and persons involved in civil society organizations. Against this scenario, we have to conclude that risks for corrupt officials are still very limited. There have been relatively few reports or investigations into corruption offences relating to trafficking, with virtually no cases leading to convictions.¹⁰⁵ Following on work this year on money laundering and trafficking in human beings, the SR/CTHB will continue to co-operate with participating States and partners to transform trafficking and corruption into high-risk/low-profit activities for perpetrators.

At the level of the judiciary, the SR/CTHB has identified a tendency for narrow or restricted interpretation of the criteria defining THB contained in international, regional and national instruments. She will thus further engage with the judiciary and prosecution services so that the potential of the Palermo Protocol and its national implementation legislation is fully realized. The Palermo Protocol remains a valid and useful tool to combat trafficking, provided that it is interpreted and implemented according to the intentions of its drafters. The SR/CTHB has argued that part of the challenge in the interpretation and application of the legal framework is actually the cultural background of practitioners – a sort of cultural lens through which the provisions in the Protocol – and especially the definition – are interpreted and implemented according to narrow criteria. Thus the OSR/CTHB will

continue to work with prosecutors and judges through training, awareness raising and capacity building activities to address potential biases which may be inadvertently contributing to the low prosecution and conviction rate for human trafficking cases. The SR/CTHB will also continue to promote a better understanding of the abuse of a position of vulnerability as a frequent but often misunderstood means of exploitation of trafficked persons.

While strengthening prosecution, the SR/CTHB has identified a need to activate complementary tools to the criminal justice response by mobilizing other institutional and civil society resources. Given the evolving *modus operandi* of criminal networks, relying increasingly less on physical violence and more so on abuse and psychological control, it is especially important to work with a full range of partners to gather information and react to exploitation and abuse at the earliest indication. The OSR/CTHB recommends to address a larger spectrum of exploitation, including those scenarios of abuse which may not amount to trafficking or another serious crime but must be dealt with appropriately and robustly through civil and labour law remedies.

2.4 Protection of the Rights of Trafficked Persons: Beyond Victimization

Throughout the year, the SR/CTHB continued to advocate an understanding of trafficked persons as legal and economic actors in their own right. Too often, trafficked persons are seen as instruments in a criminal justice process and not as human rights holders entitled to make vital decisions affecting their well-being and future. A crucial component of assistance to trafficked persons is the provision of legal aid to ensure access to justice. Trafficked persons have the right to seek legal redress and compensation for the violation of their rights, and for harm suffered. Nevertheless, in most national jurisdictions throughout the OSCE region and the world, very few trafficked persons have in fact received information or legal assistance to claim compensation, and even fewer have actually received financial compensation or other kinds of remedies for the abuse endured. Many trafficked persons are detained or expelled as irregular migrants before they have an opportunity to seek remedies.¹⁰⁶ Compensation allows trafficked persons to rebuild their lives

¹⁰³ OSCE Permanent Council, *Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings*, PC.DEC/557/Rev.1 (7 July 2005); The Action Plan specifically calls on the OSCE: “to combat corruption, by passing legislation criminalizing acts of passive or active corruption of public officials, to target corruption of law enforcement, ensuring that appropriate disciplinary and criminal proceedings are undertaken against law enforcement authorities who are found to be engaged in corrupt practices related to THB; by building the capacity to fight corruption and promote rule of law, and to address all economic aspects of THB”.

¹⁰⁴ Background Paper for the Vienna Forum to Fight Human Trafficking, 020 Workshop: *Corruption and Human Trafficking: The Grease that Facilitates the Crime* (February 2008), p. 5.

¹⁰⁵ Anti-Slavery International, Transparency International and UNODC, *The Role of Corruption in Trafficking in Persons* (2009), p. 6.

¹⁰⁶ For more information on these issues, see for example United Nations Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Ms. Joy Ngozi Ezeilo, A/HRC/17/35 (13 April 2011); OSCE ODIHR, *Compensation for Trafficked and Exploited Persons in the OSCE Region* (Warsaw, 2008). See also I. Orfano, “Protection of the Rights of Migrant Workers Trafficked for Labour Exploitation through Support Measures and Access to Social Inclusion and Remedies” (December 2011), see verso.

and start a process of social inclusion, either in the country of origin or destination, and can be even more crucial for trafficked children. When enabled to claim compensation through appropriate measures, such as timely legal aid and representation, trafficked persons become real actors in criminal proceedings. In this sense, the right to claim compensation is a means towards a fair trial, in which the rights of all actors, both victims and defendants, are equally and effectively protected. Lastly, the effective implementation of compensation measures creates a deterrent effect for the criminal networks involved in this multibillion dollar business, especially when the profits and luxury items that drive them in their crime are traced, seized and confiscated as proceeds of crime.

In addition to access to compensation in the framework of the criminal justice system, OSCE participating States should ensure that trafficked persons are informed of, and have access to, available civil remedies. Experience to date has revealed that labour courts, mediation and collective action are often more timely, less expensive and less traumatizing for trafficked persons seeking redress.¹⁰⁷ Irrespective of their migration status, trafficked persons should have access to information, in a language that they understand, about all existing civil, administrative and labour procedures available to them. Trade unions and anti-trafficking NGOs have proved to be crucial partners in facilitating access to compensation mechanisms for trafficked persons.¹⁰⁸

The protection of the rights of trafficked persons and the provision of appropriate assistance – including their identification and access to justice – remain among the most pressing challenges to anti-trafficking policy and action worldwide. In line with the human rights-based approach adopted in the OSCE commitments, assistance to trafficked persons should not be made conditional on their willingness to act as witnesses.¹⁰⁹ This principle is affirmed also in other international instruments such as the Council of Europe Convention on Action against Trafficking in Human Beings. Moreover, it is also stated in the CIS Model Law¹¹⁰ and has been recently confirmed in the new Directive 2011/36/EU on preventing and combating trafficking in human beings and

protecting its victims.¹¹¹ Furthermore, recent jurisprudence of the European Court of Human Rights has reiterated the State obligation to ensure the practical and effective protection of the rights of victims, presumed victims or potential victims of trafficking.¹¹²

Against the background of these legal developments, the SR/CTHB will carefully consider and discuss the possibility of establishing grounds for assistance and support that are not necessarily linked to the legal qualification of a case as a trafficking case, and with the related criminal proceedings. These grounds, which should include exploitation and coercion or abuse, could be evaluated by local authorities or social services, with a recognized role for NGOs. As a matter of fact, there are often numerous challenges that may impact on the decision to initiate criminal proceedings for THB or on their final outcome; however, such challenges should not negatively affect the rights and legitimate expectations of trafficked persons.

The SR/CTHB will also continue to stress that the ultimate goal of assistance and support measures should be the social inclusion of the trafficked person. In the vast majority of countries, national regulation provides for repatriation of the trafficked person after the end of criminal proceedings. However, a human rights-based approach should primarily focus on the legitimate interests of trafficked persons, and lead to better regulation, providing for job opportunities in the country of destination, or in the country of origin in case of voluntary return. In simple words, trafficked persons should have a real chance to rebuild their life.

Too often, trafficked persons are penalized for violations of administrative law or treated as criminals and denied access to vital physical, legal, social and psychological assistance and services. In line with a human rights approach and the OSCE commitments, the SR/CTHB will continue to work with participating States to ensure that victims of trafficking are not penalized for their involvement in unlawful activities, to the extent that they have been compelled to do so.¹¹³ For this reason, in all her engagements with participating States and civil society, the SR/CTHB emphasizes the importance of

107 I. Orfano, Op. Cit.

108 Ibid.

109 OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005): Chapter IV paras. 4.1 and 4.2.

110 CIS, *Model Law on Providing Assistance to the Victims of Trafficking* (2008), available at <<http://www.durex-promo.ru/index.php?ds=1424100>>, accessed 15 November 2011, Chapter 1 Art. 5.

111 The new EU Directive *inter alia* establishes that assistance and support shall be provided to victims before, during and for an appropriate period of time after criminal proceedings, in order to enable them to exercise their rights. Most importantly, assistance and support shall not be made conditional on the victim's willingness to co-operate in the criminal investigation, prosecution or trial. See EU, *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (5 April 2011).

112 ECHR, *Case of Rantsev v. Cyprus and Russia* (Application no. 25965/04), Judgment (Strasbourg, 7 January 2010), in particular paras. 284 and 286.

113 OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation* (Madrid, 2007); OSCE Ministerial Council, *Decision No.1 Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings* (2000) and OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005), Chapter III para. 1.8.

including and applying provisions for the non-punishment of trafficked persons within the legal and policy framework for THB. Moreover, the implementation of the non-punishment clause should not only imply the non-application of sanctions but also prevent detention and prosecution of trafficked persons. This has important consequences for trafficked persons, not only in terms of criminal law, but also in terms of trafficked persons' access to administrative services and wider access to justice.¹¹⁴

levels, protecting the most invisible and vulnerable trafficked persons. In this light, the SR/CTHB will continue to advocate for strengthened partnerships between governments and NGOs, and importantly, increased government funding to civil society organizations in order to ensure a continuity of services for trafficked persons. Furthermore, in line with the OSCE/ODIHR concept of National Referral Mechanisms, NGOs should have an appropriate and recognized role in the identification of victims of trafficking in human beings.

2.5 Partnership: Engaging with Old and New Partners

Since the creation of the *Alliance against Trafficking in Persons* in 2004, the SR/CTHB has been engaging with partnerships as an integral component of anti-trafficking action. This year, she called for an enlarged and renewed partnership to combat trafficking in human beings through this platform for co-operation with more than 30 international organizations and NGOs. Through the annual *Alliance* conference,¹¹⁵ and other regular events such as the *Alliance* Expert Co-ordination Team Meetings, the *Alliance* has become a rich forum for debate and discussion and allows for stock-taking of the achievements as well as the challenges which lie ahead. Following the enlargement of the *Alliance* in June this year, the SR/CTHB and her Office are committed to valuing and further developing the potential of the *Alliance*, including old and new partners, international organizations and civil society organizations, to engage in joint advocacy and joint action. Simultaneously, the SR/CTHB and her Office will continue to strengthen partnerships with UN Agencies, the Council of Europe and other international organizations in the many fields in which such partnerships have been established and have shown important added value.

The SR/CTHB will also continue to renew co-operation and dialogue with human rights NGOs both at the national level in all OSCE participating States, as well at the international level. NGOs provide critical information from the ground up, and are often the first to identify trafficked persons as well as trends indicating the changing nature of human trafficking. Partnerships with NGOs allow for vital feedback on draft policies and programmes of action. NGOs are also very involved in the provision of an array of assistance and protection services, including legal assistance and psychological support. Such organizations are often filling gaps in policy delivery and implementation at the national and international

¹¹⁴ Ibid.

¹¹⁵ See Section 1.1.6 on the *Alliance against Trafficking in Persons* Conference: "Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice" for further details.

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ANNEX 2: LIST OF KEYNOTE ADDRESSES AND INTERVENTIONS IN CONFERENCES, SEMINARS AND OTHER EVENTS BY THE SR/CTHB AND HER OFFICE

- I reati con vittima vulnerabile: indagini e giudizio* ([Crimes with vulnerable victims: investigation and judgment]), high-level roundtable, Italian National Judicial Council (31 January – 2 February 2011, Rome)
- International Seminar on Trafficking in Human Beings in Finnish Work Life*, Central Organisation of Finnish Trade Unions (SAK) and European Institute for Crime Prevention and Control (HEUNI) (3 February 2011, Helsinki)
- Conference on Media Development: Roundtable on Combating Trafficking and Role of the Media*, Russian Union of Journalists and Moscow State University (7 – 13 February 2011, Moscow)
- OSCE Human Dimension Committee* (2 February 2011, Vienna)
- Public Launching of the Project JLS/2009/ISEC/AG/207 Integrated Approach for Prevention of Labour Exploitation in Origin and Destination countries*, Ministry of Administration and Interior, General Inspectorate of Romanian Police and National Agency Against Trafficking in Persons (22 February 2011, Bucharest)
- International Reporting System for Human Trafficking Cases*, Expert Group Meeting, UNODC (21-22 February 2011, Vienna)
- New challenges in investigation and prosecution of sexual abuse of children on the Internet*, OSCE POLIS Online Workshop (21 February – 4 March 2011, Vienna)
- Applying FRA's indicators on the rights of the child: policy priorities for data collection*, EU Fundamental Rights Agency's (FRA's) Stakeholder's Meeting (22-23 February 2011, Vienna)
- Trafficking in Human Beings Training – Start-up Conference*, FRONTEX (22-25 February 2011, Cesena)
- Meeting of the Project Team on Money Laundering of Criminal Assets from Human Trafficking and Smuggling of Migrants*, FATF Project Team (23 February 2011, Paris)
- General Committee on Economic Affairs, Science, Technology and the Environment*, OSCE Parliamentary Assembly Winter Session (24 February 2011, Vienna)
- Launch of publication "Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude"*, OSCE/OSR CTHB (28 February 2011, Vienna)
- SMi 4th Annual Conference on Border Security*, SMi and BORDERPOL (28 February – 1 March 2011, Sofia)
- Conference on Women's Entrepreneurship in the OSCE: Trends and good practices*, OSCE (3-4 March 2011, Vilnius)
- Launch of publication "Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude"*, OSCE/OSR CTHB and Representation of the European Commission in the UK (3 March 2011, London)
- Lecture on International Implications of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, over the 10 years since its enactment*, London School of Economics and Political Sciences (7 March 2011, London)
- Placing Victims at the Heart of an Anti-Human Trafficking Response: Launch of a Small Grants Facility*, United Nations Voluntary Trust Fund for Victims of Human Trafficking (8 March 2011, London)
- Regional Conference on Refugee Protection and International Migration in Central Asia*, UNHCR, IOM and UNRCCA (15-16 March 2011, Almaty)
- First Regional Seminar on Enhancing Transnational Cooperation on Trafficking Cases in South-Eastern Europe (TRM-II)*, International Centre for Migration Policy Development (ICMPD) and USAID (16-18 March 2011, Budapest)
- Hearing before the Permanent Committee for Human Rights of the III Commission for Foreign and European Affairs of the Italian Chamber of Deputies, Parliament of Italy* (29 March 2011, Rome)
- Meeting of the IBPC (International Border Police Conference) Working Group "Combating Illegal Migration" on Combating Illegal Migration at the Border Crossing Points*, State Border Committee of Republic of Belarus (30-31 March 2011, Minsk)
- Seminar on Penal System, Migratory Flows and International Cooperation*, Italian National Judicial Council (4-6 April 2011, Rome)
- 857th Meeting of the OSCE Permanent Council* (7 April 2011, Vienna)
- Trafficking in Human Beings for Domestic Servitude*, Expert Consultation Meeting, OSCE/OSR CTHB (11 April 2011, Vienna)
- Regional Meeting of Heads of Field Operations in Central Asia*, OSCE (12-13 April 2011, Tashkent)
- La Traite des Mineurs et la Criminalité Transnationale Organisée: un Défi Mondial*, UNODC side event (12 April 2011, Vienna)
- Training Conference on Trafficking in Human Beings*, European Union Rule of Law Mission in Kosovo (EULEX) (18-19 April 2011, Pristina)
- Seminar on «Improvement of the quality of protection and rehabilitation of children-victims of commercial sexual exploitation in the Russian Federation»*, Committee on Legality, Public Order and Security of the Government of Saint Petersburg and the NGO Stellit (27 April 2011, Saint-Petersburg)
- International Roundtable on Violations of Domestic Workers' Rights in the Context of Diplomatic Immunity*, German Institute for Human Rights and OSCE OSR/CTHB (2-3 May 2011, Berlin)
- First Development Workshop on Trafficking in Human Beings Training for Border Guards*, FRONTEX (9-13 May 2011, Luban)
- Regional Meeting of Heads of Field Operations in South Eastern Europe*, OSCE (10-11 May 2011, Tirana)
- Regional Conference on Building Partnership to Combat Human Trafficking and Forced Labour*, ILO, ICMPD, IOM and OSCE (18-19 May 2011, Tbilisi)
- Boat of legality: Round Table*, Giovanni and Francesca Falcone Foundation (22-23 May 2011, Civitavecchia, Palermo)
- 1st Expert Group Meeting on the Development of a Digest of Transnational Organized Crime Cases*, UNODC in cooperation with the Governments of Italy and Colombia and INTERPOL (23-26 May 2011, Rome)
- International Workshop "Trafficking in Human Beings: The case of Nigerian Women"*, University of Roma, La Sapienza (26 May 2011, Rome)
- Workshop on developing OSCE field activities*, Centre for OSCE Research (CORE) and German Federal Foreign Office (26-27 May 2011, Vienna)
- Meeting with AICHR (ASEAN Intergovernmental Commission on Human Rights)* (27 May 2011, Vienna)
- Sensitization seminar on Human Trafficking and Forced Labour for Regional Law-Enforcement Agencies in Lankaran*, OSCE Office in Baku (31 May-1 June 2011, Baku)

Festival of Economics: Seminar on Immigration and Fight against Trafficking in Human Beings. Security, Rights and Labour Market, FLARE (Freedom Legality And Rights in Europe) (3 June 2011, Trento)

Forced Labour Exploitation and Counter Trafficking in the Baltic Sea Region, DEFLECT Project Expert Conference, The Council of the Baltic Sea States' Task Force against Trafficking in Human Beings (CBSS TF-THB), The Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) and the Norwegian Ministry of Justice And The Police (7-8 June 2011, Oslo)

Second Development Workshop on Trafficking in Human Beings Training for Border Guards, FRONTEX (7-8 June 2011, Traiskirchen)

Meeting of the National Coordinators of Combating Trafficking in Human Beings, Ministry of Interior of the Republic of Serbia with the support of ICMPD (8 June 2011, Belgrade)

Alliance against Trafficking in Persons Conference - Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice, OSCE OSR/CTHB (20-21 June 2011, Vienna)

Stanford-Vienna Human Rights Conference "US-American and European Approaches to Contemporary Human Rights Problems", University of Vienna (20-22 June 2011, Vienna)

Equity Focused Child Protection Conference in lieu of the 20th Anniversary of Kazakhstan's Independence, Parliament of Kazakhstan in collaboration with Ministry of Foreign Affairs, Ministry of Labour and Social Policy, Ministry of Emergency Simulation, Ministry of Justice, Ministry of Health and Ministry of Interior and with the support from EU and UNICEF (23 June 2011, Astana)

Symposium "To serve – precarious living and working conditions for domestic workers", Solidar Suisse (25 June 2011, Zurich)

Meeting of the World Economic Forum's Global Agenda Council on Organized Crime (28 June 2011, The Hague)

Transnational Workshop on Labour Exploitation (TRM-II), Bulgarian National Anti-trafficking Commission and ICMPD (28-29 June 2011, Sofia)

6th Ministerial Meeting "Community of Democracies: Empowered, Energised, Engaged", Lithuania's Presidency of the Community of Democracies (1 July 2011, Vilnius)

COMPACT Seminar "Compensation of Victims of Trafficking for Damages Suffered: a Possible Right?", Hogan Lovells and On the Road (1 July 2011, Rome)

Expert Meeting on Prosecution of Trafficking Cases, UN OHCHR (4 July 2011, Geneva)

Eastern Europe Regional Heads of Field Operations Meeting 2011, OSCE (4-5 July 2011, Chisinau)

International Conference "Globalization of Crime: Criminal Justice Responses", International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) and International Society for the Reform of Criminal Law's (ISRCL) (7-11 August 2011, Ottawa)

Alpbach Political Symposium 2011: Global Equity and International Justice, European Forum Alpbach (28-30 August 2011, Alpbach)

Third Development Workshop on Trafficking in Human Beings Training for Border Guards, FRONTEX (5-8 September 2011, Lyon)

OLE - Otranto Legality Experience: The Forum on Illegal Economy, Organised Crime and Financial Globalisation, FLARE (Freedom Legality and Rights in Europe) (5-6 September 2011, Otranto)

Launch of the documentary film "Io sono. Storie di schiavitù" (I am. Tales of Slavery) at the Venice Film Festival (10 September 2011, Venice)

Preventing Human Trafficking in Children Without Parental Care in the Republic of Moldova: Kick off meeting, Centre for Information and Documentation on Child Rights in Moldova (CRIC) and OSCE (13 September 2011, Chisinau)

Regional Meeting of Heads of OSCE Field Operations in the South Caucasus, OSCE (13-14 September 2011, Yerevan)

Meetings with External Stakeholders on an Upcoming Communication on a New Integrated Strategy on Tackling Trafficking in Human Beings and on Measures to Protect and Assist Victims, The European Commission (13-15 September 2011, Brussels)

"All Russia 2011" Journalist Festival and International Discussion: Roundtable "Stop Human Trafficking: the Role of the Media", The Russian Union of Journalists (RUJ) (25-30 September 2011, Sochi)

Regional Round Table "From Theory to Practice: Identifying – Combating – Preventing Human Trafficking for Labour Exploitation and Domestic Servitude in Europe", Austrian Institute for International Affairs (oiip) in cooperation with the International Organization for Migration (IOM), (26-27 September 2011, Vienna)

Regional Round Table "Challenging Data on Human Trafficking via Common Internet Platform", Austrian Institute for International Affairs (oiip) in cooperation with the International Organization for Migration (IOM), (28 September 2011, Vienna)

Alliance against Trafficking in Persons Expert Seminar - Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking, OSCE (OSR/CTHB - OCEEA-SPMU) and UNODC (3-4 October 2011, Vienna)

Human Dimension Implementation Meeting, Working Session 17, Humanitarian issues and other commitments II, OSCE (6 October 2011, Warsaw)

Second Regional Conference of Presidents of Supreme Courts and State Prosecutors on Co-operation in Criminal Matters, the highest Court of Bosnia and Herzegovina in co-operation with OSCE Mission to Bosnia and Herzegovina (6-7 October 2011, Sarajevo)

OSCE Human Dimension Committee (11 October 2011, Vienna)

EU-Anti-Trafficking-Day, Austrian Federal Ministry for European and International Affairs (17 October 2011, Vienna)

CTHB Training provided to NATO officials and representatives of NATO Partnership for Peace countries, PfP Training Centre in Ankara (20 October 2011, Ankara)

14th Meeting of the OSCE – Council of Europe Co-ordination Group, Council of Europe and OSCE (21 October 2011, Vienna)

The Launching of the Recommended Principles and Guidelines on Human Rights and Human Trafficking Conference, Government of the Republic of Moldova, OHCHR, UNDP (2 November 2011, Chisinau)

L'impact des politiques migratoires sur la lutte contre la traite des êtres humains (The impact of migration policies on the fight against trafficking in human beings), Collectif "Ensemble contre la traite des êtres humains" (7 November 2011, Paris)

Hearing before the Committee for Human Rights and Humanitarian Aid of the German Bundestag of the German Bundestag (9 November 2011, Berlin)

Russia-US TIP Forum, initiated by the U.S. Department of Justice (8-9 November 2011, Moscow)

Annual Interregional workshop on promoting law enforcement and judicial cooperation among source, transit and destination countries in response to human trafficking and migrant smuggling in Central Asia, OSCE Centre in Astana in co-operation with Kazakhstan's Interior Ministry, UN Office on Drugs and Crime, IOM, U.S. Embassy in Kazakhstan, the OSCE Centre in Bishkek, and the OSCE Office in Tajikistan (9 November 2011, Almaty)

Launch of Inquiry into Human Trafficking in Scotland, Equality and Human Rights Commission (28 November 2011, Edinburgh)

Expert's Seminar on "Management models within the field of combating and preventing trafficking in human beings present in EU countries and countries of the Eastern partnership. Possibilities of co-operation development", Polish Presidency of the European Union (30 November 2011, Warsaw)



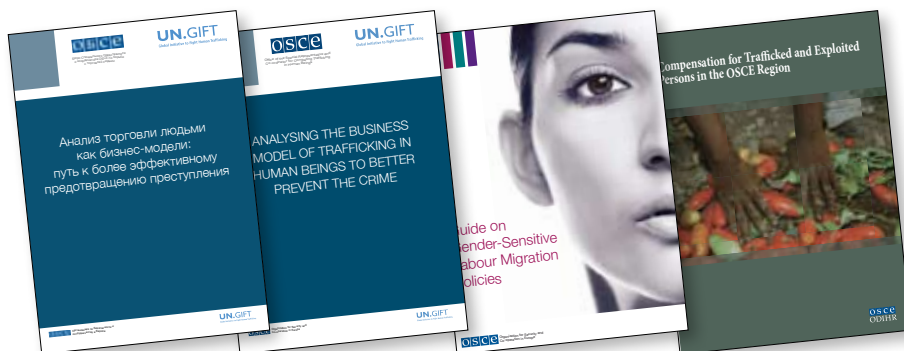
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- 2011: An Agenda for Prevention: Trafficking for Labour Exploitation
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Other Publications:

- 2010: Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime, OSR / UN.GIFT (EN/RU)
- 2009: Guide on Gender-Sensitive Migration Policies, Gender Section / OCEEA / OSR
- 2008: Compensation for Trafficked and Exploited Persons in the OSCE Region, ODIHR

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AN AGENDA FOR PREVENTION: TRAFFICKING FOR LABOUR EXPLOITATION

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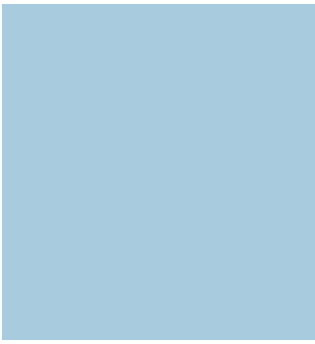
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AN AGENDA FOR PREVENTION: TRAFFICKING FOR LABOUR EXPLOITATION



FOREWORD

Since I took office in March 2010, one of my first commitments has been to raise awareness about the massive scale of trafficking, especially – but not only – for the purpose of labour exploitation. According to the most reliable estimates, we have to face a phenomenon of new slavery which involves many millions of people worldwide, including in the OSCE region which comprises various origin and destination countries. Needless to say, if this is the scale of the issue, prevention is key to combating trafficking in human beings. In the field of trafficking for labour exploitation, at the *Alliance Conference* held by my Office in June on Decent Work and Social Justice – two crucial concepts first developed by ILO – we explored actions aimed at promoting the respect of workers' rights in every workplace as the best means to preventing trafficking for labour exploitation. Building on the outcomes of the Conference, on the occasion of our Annual Report, we asked three of the most experienced experts in different areas of anti-trafficking policy – Roger Plant, Mike Dottridge and Isabella Orfano – to help us identify a conceptual framework and concrete measures to develop an agenda for prevention. This first paper is devoted to the prevention of trafficking for labour exploitation; we will subsequently explore further areas of prevention policy.

Preventive actions are not at all new in the spectrum of anti-trafficking activities of international organizations (IOs), governments and non-governmental organizations (NGOs). However, prevention remains a problematic area. For example, preventive policies tend to target mainly countries of origin, and in the vast majority of cases, focus on information and awareness raising, whose impact is always difficult to assess. Moreover, many suggestions addressed to governments by experts, IOs and NGOs identify systemic issues such as poverty reduction, which are of course not easy to tackle; therefore recommended preventive measures are often perceived as vague, and ultimately ineffective in the short-medium run.

In this paper, with the help of our experts, we want to take a different path. Our goal is to identify – building upon the OSCE Action Plan and relevant commitments, and good practice existing in OSCE participating States – a set of concrete and feasible measures, to be implemented both in countries of origin and destination. Such measures could

form an integral part of the political agenda of governments, parliaments, governing judicial bodies, the private sector, and civil society organizations. Therefore I will be advocating for their adoption in my work which I carry out through country visits and on the occasion of meetings with government authorities of the OSCE participating States.

The first key message I want to convey is that **people seeking a better job and finding themselves in a situation of social vulnerability and trafficking** – be they irregular/regular migrants or people who are vulnerable for different reasons such as age or disability or discrimination – **should be seen first and foremost as workers**. They would not fall prey so easily to traffickers if they were granted a decent salary and decent working and life conditions. They are not only men but also women, looking for better opportunities abroad to support their families and ensure education and health care for their children. They are children trying to reach a country where they hope to find a gainful job and subsequently reunite their family. Irrespective of their migration status, they should be considered rights holders as workers whose rights must be protected and promoted. This is the reason why we built upon the ILO Agenda on Decent Work and Social Justice as the main conceptual framework for the prevention of trafficking for labour exploitation. On this basis, we identified concrete action to be adopted with a view to promoting the protection of workers' rights, such as self-organization of migrant workers with the crucial contribution of trade unions, and a wider and stronger role for labour inspectors whose activity should strengthen and complement the criminal justice response to trafficking, as highlighted in Roger Plant's paper.

The second key message comes from Mike Dottridge's paper: regarding prevention, **it is necessary to address** not only immediate factors which cause or facilitate trafficking but **a larger spectrum of exploitation**, involving especially migrant workers. To this end, it is necessary to put in place tailored measures to respond to the different needs of workers, aimed at reducing their vulnerability to trafficking. In this light, trafficking should be considered as a severe form of exploitation of workers in a position of vulnerability, by debt bondage or threats or multiple dependency or psychological constraint.

Exploitation is indeed at the core of the notion of human trafficking. A trafficking case could start with travel across a border – in a regular or irregular situation – facilitated by a smuggler or made in a situation of complete autonomy. However, there is a trafficking case whenever the person gets exploited by means of coercion or abuse of a position of vulnerability, regardless of whether the person had migrated irregularly. If means of coercion or abuse have been used, the person should be considered as a trafficked person even if there is no connection between the first phase – transfer – and the second phase – exploitation, or even if the person finds herself/himself in a situation of vulnerability and is exploited *in loco*. According to an advanced interpretation of the international instruments, which is consistent with the spirit of the 2000 Palermo Protocol, trafficking is the “umbrella” notion comprising all forms of new slavery, including trafficking for labour exploitation and other forms of new slavery such as trafficking for the removal of organs, for forced begging and forced criminality, in addition to various forms of trafficking for sexual exploitation.

In this context, the criminal justice response should be more robust and effective in terms of deterrence, also through the use of financial investigation, freezing, seizure and confiscation of the proceeds of crime, including in the field of labour exploitation. Simultaneously, it is necessary to address a wider area of exploitation, and ensure that vulnerable workers are identified before being subjected to worse forms of exploitation that amount to trafficking. To this end, it is necessary to ensure **policy coherence** – this is my third key message – **between anti-trafficking action and related policy areas such as migration and labour market policy**.

Mike Dottridge identified in his paper a range of prevention measures which are particularly effective to prevent labour exploitation such as the licensing/regulation/monitoring of recruitment agencies. Such regulation should include, *inter alia*, that no fees are deducted, directly or indirectly, from the workers’ salaries, to avoid that situations of debt bondage are established by this means. Dottridge also addressed the issue of the mandate of labour inspectors, which should include, in addition to safety and health issues, monitoring contractual relations often placing the workers in debt bondage or other situations of forced labour/trafficking. In addition, Dottridge highlighted the importance of codes of conduct, which should be complemented by transparent and independent verification procedures, and complaint procedures to be filed by workers. Moreover, in the field of child protection, further prevention measures should be taken in countries of origin, to address groups at risk such as children leaving orphanages and children left behind by migrant parents, and in countries of destination, to protect vulnerable children, especially those who are not nationals of the country where they are located. In all participating States, competent authorities should take responsibility for the potential vulnerability of every child, with a view to preventing abuse and exploitation, and promoting the

mobilization of community-based child protection systems, in particular.

In her paper, Isabella Orfano identified old and new problems related to the assistance and social inclusion of people trafficked for labour exploitation. Concerning trafficked persons – this is my last key message - we should promote a **language and policy switch: from the notion of victims to the notion of holders of rights**. In this light, many issues should be tackled in a different and more strategic way. For example, outreach work and drop-in centres should address a broader area of exploitation, and therefore targeted workplaces, in sectors and areas known for being prone to exploitation; moreover, tailored solutions should be available to every worker found in hazardous/exploitative situations, not necessarily amounting to trafficking, or not easily identifiable as trafficking. Civil and labour law procedures, or mediation with the assistance of trade unions and NGOs could in certain cases be used as a more appropriate means to achieve the payment of salaries and/or compensation. Orfano also identified issues which have not received sufficient attention thus far. This implies that tailored solutions should be found for unaccompanied/trafficked children put in detention facilities, and for older children - children close to adulthood - disappearing from facilities and subsequently found in situations of hazardous work also related to trafficking. Assistance and social inclusion measures for people trafficked for labour exploitation should always aim to identify sustainable solutions in terms of employment. Therefore the payment of wages and compensation play a pivotal role, giving the workers concerned the basic means to rebuild their labour/migration project. The most difficult problem, however, is still the irregular status that in many countries hampers, *de jure* or *de facto*, workers’ access to justice and remedies.

More generally, trafficking is not a marginal phenomenon, limited to sexual exploitation or to victims of a certain profile. Moreover, trafficking is more and more linked with economic trends, especially in certain sectors such as agriculture and construction, where exploitation of migrant workers is becoming endemic. Therefore, trafficking tends to become a crucial social and political problem, although it is not yet recognized as such. For this reason, to prevent and fight against trafficking means to build a society which does not tolerate exploitation, and is inspired by the idea of social justice. Every government or social actor, every private individual has a role to play in this struggle.



Maria Grazia Giammarinaro
OSCE Special Representative and Co-ordinator for
Combating Trafficking in Human Beings

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Isabella Orfano

ACRONYMS

CIS	Commonwealth of Independent States	NRM	National Referral Mechanism
CEDAW	Convention on the Elimination of Discrimination against Women	OCLTI	Office central de la lutte contre le travail illégal (France)
DWA	Decent Work Agenda	OSR/CTHB	Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
EC	European Commission	UK	United Kingdom
EU	European Union	UN	United Nations
GLA	Gangmasters Licensing Authority (UK)	UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
ILO	International Labour Organization	USAID	United States Agency for International Development
IO	International Organization		
IOM	International Organization for Migration		
MRCI	Migrant Rights Centre Ireland		
NAP	National Action Plan		
NGO	Non-Governmental Organization		

Chapter 1

COMBATING TRAFFICKING FOR LABOUR EXPLOITATION: A DECENT WORK APPROACH

Roger Plant

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EXECUTIVE SUMMARY

In action against human trafficking, there appears to be growing consensus on several points. First, trafficking for labour exploitation is as serious a problem in the OSCE region as trafficking for sexual exploitation, and needs to be addressed as an urgent concern. Second, this issue affects children, women and also men. Third, trafficking for labour exploitation needs to be addressed through the instruments of labour justice as well as criminal justice, and a range of different government authorities need to co-ordinate their efforts. Fourth, broad partnerships are needed, with the involvement of different civil society groups as well as governments, to come up with effective strategies that tackle the roots of this complex problem, with meaningful approaches to prevention of trafficking especially for labour exploitation, protection of its victims as well as effective law enforcement and prosecution of the perpetrators.

While the awareness of trafficking for labour exploitation is growing, and almost all countries have law and policy instruments in place against it, one thing stands out. There has been very little criminal law enforcement against trafficking offences, with very few prosecutions and convictions throughout the OSCE region, especially if you compare it with the estimated massive scale of the problem and even with the number of identified trafficking victims.

Examining recent trends in trafficking for labour exploitation in the OSCE region, and action to prevent and combat it, the author asks why this is the case. There is certainly a need for clear indicators, to capture the various forms of often subtle abuse that comprise trafficking for labour exploitation. But there is also a need for more co-operation between the different agencies of government (as well as civil society groups including business and recruitment agencies, labour unions and NGOs) in order to identify and apply the best remedies. The main needs of the victims of trafficking for labour exploitation must also be considered, including monetary compensation for lost wages and other damages and protection of their basic human rights.

Beyond law enforcement in individual cases of abuse, effective action against trafficking for labour exploitation requires a sound legal framework, addressing the gaps and loopholes which permit unscrupulous persons to make exorbitant profits through exploiting the labour of vulnerable persons. This entails particular attention to labour market regulations, including those on recruitment and temporary work agencies, and fee-charging;

and also the linkages between migration policies or visa arrangements, and labour market practices. It is imperative that migration and visa policies should not have the unintended effect of exacerbating clandestine employment and labour exploitation.

The chapter examines the concept of *decent work*, originally pioneered by the ILO, but now endorsed by a wide range of international agencies, for more effective action against trafficking for labour exploitation. It argues that the concept is of value, in both conceptual and organizational terms. First, by seeing decent work as a “ladder” with different rungs, it can help concentrate minds on the response to different degrees of labour exploitation, and the appropriate remedies. Cases of trafficking for labour exploitation need to be addressed with the full force of criminal law enforcement. But systemic problems of labour markets also need to be addressed, to prevent and combat the creeping forms of labour exploitation which now appear to be growing throughout the OSCE region. In organizational terms, the decent work approach can help build partnerships (particularly between governments, employers’ and workers’ organizations, but also with wider groups of civil society), enabling each of these to take on their respective roles, with regard to action against trafficking for labour exploitation.

1.1 Introduction: Scope and Purpose

This chapter explores the value of a *decent work approach* for more effective action against trafficking for labour exploitation.

What do we mean by such an approach? The *decent work agenda* (hence, DWA) was first pioneered by the ILO, as part of its efforts to address the social dimensions of globalization. The concept has both conceptual and organizational value to action against human trafficking. In *conceptual* terms, it sees trafficking not only as a criminal offence, but as an extreme violation of labour rights, and the complete antithesis of the decent and acceptable working conditions to which all human beings should aspire. It provides a way of tackling trafficking as a social justice and labour market concern, and examining ways in which the application of different labour standards can provide greater protection for vulnerable workers, and also address the root causes of trafficking in human beings for labour exploitation. In *organizational*

terms, the value of the DWA is to harness the efforts of different governmental and non-governmental actors for comprehensive action against trafficking for labour exploitation. This can combine measures for prosecution, protection and prevention; and it also has implications for effective partnerships, in particular through a tripartite involvement of governments, employers' and workers' organizations.

While there has been growing general awareness about the problem of trafficking for labour exploitation in the OSCE region – and the serious risk that it could increase sharply, at a time of serious economic and financial crisis, and pressures to reduce production including labour costs in the interests of greater competitiveness – available statistics indicate that there has been very little criminal law enforcement against it. This raises some important questions, which will be explored throughout this chapter. Is the incidence really quite small, in terms of the numbers affected? Or are the problems still hidden, and slipping through the cracks between criminal and labour justice? Is the burden of proof too great, when law enforcement attempts to punish trafficking for labour exploitation as a criminal offence? Are most national laws simply inadequate to capture quite severe forms of modern labour exploitation, when the borderline between lawful and unlawful practices can sometimes be difficult to determine? If so, how can other branches of law enforcement complement criminal justice?

The chapter begins with a brief explanation of the DWA concept, mainly as developed by the ILO, but also as reflected in Ministerial Council Decisions of the OSCE and its Action Plan to Combat Trafficking in Human Beings¹. It then reviews current trends in trafficking for labour exploitation in the OSCE region. This sets the stage for examining some of the main challenges in preventing and combating trafficking for labour exploitation, especially their underlying causes in labour market regulations and migration policies, and suggesting ways in which these could be met through a decent work approach.

1.2 The Decent Work Agenda: Vision and Parameters

The DWA, while originally developed by the ILO, has now been espoused by a wide range of international agencies, particularly within the United Nations system. Its purpose is primarily to address the social dimensions of globalization, and to ensure that fundamental principles of labour rights and social justice are not undermined by it. The concept is built around the four pillars of employment promotion; social security and protection; fundamental principles and rights at work (built around the ILO standards, and particularly the core labour standards in the 1998 ILO Declaration on the subject); and social dialogue and tripartite approaches through the involvement of governments, employers' and workers' organizations.²

It can be seen as a broad “umbrella” concept of an ideal labour market situation in which there is full, productive and freely chosen employment; and in which the working conditions themselves are fair rather than exploitative. It is very far from present-day realities. It can be seen as a response to the policies pursued by some development actors (notably the Bretton Woods institutions) in the 1980s and early 1990s, which placed their exclusive emphasis on economic growth at the arguable expense of social protection. This period also saw attempts to reduce public expenditure on matters like labour administration and expenditure, or public employment services. Free market economists also questioned such mechanisms as minimum wage fixing machinery, seen as “distortions” to market efficiency.

The DWA serves to challenge these economic theories, and to provide a package of policies and programmes for again emphasizing the social dimensions of development, and for reconstructing what may be termed a “social market economy”. The recent global financial crisis, which demonstrated the total chaos that can derive from unregulated markets with inadequate public oversight, has helped create a favourable environment for a renewed focus on the social dimensions of economic and labour market development.

Some key policy instruments related to DWA are the 1998 Declaration on Fundamental Principles and Rights

¹ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

² For more information, see ILO Decent Work Agenda available at <<http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm>>, accessed 3 November 2011.

at Work and the 2008 Declaration on Social Justice for a Fair Globalization.³ The 1998 Declaration established the principle of *core labour standards*, which should enjoy universal acceptance. These relate to freedom of association and collective bargaining, freedom from discrimination at work, and freedom from forced and child labour. The 2008 Declaration sets out how to achieve the basic principle of the ILO, essentially that labour “is not a commodity”, through the four strategic objectives and pillars of the DWA.

While a DWA is built around fundamental principles and rights at work, it also encompasses the means through which these rights should be realized through appropriate labour market regulations, inspection and monitoring of labour practices. Over the past century, a large number of International Labour Conventions have been adopted which, once ratified by a country, have force of law within it. These Conventions cover many issues of fundamental importance to the prevention of trafficking for labour exploitation, including: the protection of wages, equality of rights for migrant workers, labour inspection, the role and functions of private employment and recruitment agencies, and the protection of domestic workers.⁴

At the operational level, there has been ample research and data gathering, guidance and training documents, and partnership building, to emphasize the labour dimensions of human trafficking and what can be done about it. Three global reports on forced labour were issued by the ILO between 2001 and 2009. Guidance documents have been prepared for labour inspectors, judges and prosecutors, and business actors, among others. Alliances have been created among both business actors and trade unions, in partnership with international organizations of employers and trade unions, identifying what they can respectively do to prevent and eradicate forced labour and trafficking in human beings.

Within the OSCE, the need to address trafficking for labour exploitation and its underlying causes, and to involve labour actors and institutions in action against trafficking, has been increasingly recognized in major policy instruments and declarations. The OSCE Action Plan, adopted in 2003⁵, calls for economic and social policies aimed at addressing root causes of trafficking in human beings in countries of origin, destination, and transit. Countries of

origin should consider as priority goals the reduction both of migration caused by poverty and of supply factors of trafficking. Countries of destination should address the problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration. They should also tackle underground economic activities which undermine economies and enhance the environment for trafficking. Both origin and destination countries should undertake a range of measures to raise levels of social protection and create opportunities for all; to eliminate discrimination against women in employment and promote equal pay for equal work.

Moreover, in recent years, OSCE Ministerial Council Decisions have specifically addressed trafficking for labour exploitation. A 2006 Decision⁶ called for more proactive measures by participating States to combat trafficking for labour exploitation, by for example: enforcing labour laws; conducting training programmes for relevant officials; promoting outreach strategies to provide information on trafficking for labour exploitation to migrant workers; and ensuring that police working on trafficking in human beings have regular contact with their counterparts in other agencies responsible for investigating labour conditions, and using a multidisciplinary approach to identifying and protecting the rights of victims of trafficking for labour exploitation. A further 2007 Decision⁷ on the same subject went into considerably more detail, calling on participating States to adopt a wide range of legislative and practical measures. Emphasis was given to the role of employers and recruitment agencies. Among other things, states should: ensure effective and proportionate sanctions against those who facilitate trafficking for labour exploitation, including exploitative employers; ensure effective sanctions when employers or recruitment agencies create situations of debt bondage; develop programmes to curb the fraudulent recruitment used by some employment agencies that can make persons more vulnerable to being trafficked; and consider ensuring that contractors who knowingly use subcontractors involved in trafficking for labour exploitation can be held accountable for that crime.⁸

3 ILO, *Declaration on Fundamental Principles and Rights at Work and its Follow up* (1998); ILO, *Worst Forms of Child Labour Convention*, C182 (1999), available at <<http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm>>, accessed 3 November 2011; ILO, *Declaration on Social Justice for a Fair Globalization* (2008), <http://www.ilo.org/wcmsp5/groups/public/@dgreports/@cabinet/documents/publication/wcms_099766.pdf>, accessed 3 November 2011.

4 ILO, *ILO Action against Trafficking in Human Beings* (Geneva, 2008).

5 OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005).

6 OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach*, MC.DEC 14/06 (Brussels, 5 December 2006).

7 OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation*, MC.DEC/8/07 (Madrid, 30 November 2007).

8 The OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) issued various publications to support participating States in the implementation of these commitments including OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010); OSR/CTHB, *A Summary of Challenges on Addressing Human Trafficking for Labour Exploitation in the Agricultural Sector in the OSCE Region*, Occasional Paper Series no. 3 (Vienna, April 2009); OSR/CTHB, *Human Trafficking for Labour Exploitation/Forced and Bonded Labour: Prosecution of Offenders, Justice for Victims*, Occasional Paper Series no. 2 (Vienna, November 2008).

1.3 Addressing Trafficking for Labour Exploitation: Outstanding Challenges

Throughout the OSCE region, there has been a steady growth in attention to the phenomenon of trafficking for labour exploitation. A useful overview was provided by Europol in September 2011.⁹ As it observes, since the most recent expansions of the European Union and the lifting of restrictions on employment in many EU Member States, instances of situations which amount to forced labour have increased. Typical examples of the industries and areas where trafficking for labour exploitation will be found are: agriculture and farming; the construction industry; the service sector, including hotels and restaurants and cafeterias (HORECA); the manufacturing sector; and domestic service. An increasing number of children are also being trafficked through the EU. Social security, welfare and benefits systems are being targeted by traffickers using trafficked children to support and justify claims linked to family and housing benefits. Trafficking for welfare benefit fraud is likely to expand, because of the large profits amounting to as much as EUR 125,000 per month for single trafficking groups, as well as the low levels of perceived risk of detection.

As for the *modus operandi*, many persons are lured with bogus offers of legitimate employment: others agree on the type of work they are expected to perform, but are deceived as to the actual circumstances in a destination country. Meanwhile, some victims do not realize they are being exploited, particularly those who have worked in exploitative conditions such as agriculture or textile manufacture in their countries of origin.

Of the criminal networks, there appears to be extensive involvement of Chinese criminal groups in labour exploitation in Europe, including Asian restaurants, textile sweatshops and tanneries. However, a lack of awareness of exploitation on the part of the victims, and the high level of seclusion typical of Chinese communities in some Member States, mean that the trafficking of Chinese nationals often goes unreported.

As more proactive research has been undertaken in recent years, there is growing awareness of the existence of severe forms of labour exploitation which might fall within national legal definitions of trafficking for labour exploitation. Throughout the OSCE region, the main focus of research and data gathering has been on forced

Labour exploitation and Chinese migrants in Europe

Chinese workers are often perceived to be uniquely vulnerable to trafficking for labour exploitation in European and other destination countries. Yet their communities are difficult to penetrate; and it can be particularly hard to determine whether their legal situation is one of trafficking, smuggling, or irregular migration in “overstaying” situations. An important study on the subject was published by the ILO in 2010.¹ It exposes the hidden world of Chinese irregular migrants in France, Italy and the United Kingdom, tracing the original recruitment methods in China, the relationship with traffickers, and the work experience in different sectors of the destination countries. Chinese migrants pay very large sums of money to intermediaries, leaving them trapped in debt before they even begin their journey. The research generated debate among researchers as to whether these conditions amounted to coercion and forced labour, or rather a voluntary “self-exploitation” in which the Chinese workers calculated the cost of their work experience, willingly submitting themselves to very long hours of work in poor conditions to pay off their high debts. The studies found that, at the time of departure from China, recruitment was rarely, if ever, involuntary. Most migrants were aware of the illegal nature of their clandestine entry into Europe, and of the duress that can result from this. The studies also highlighted the implications of the high fees paid to smugglers, and of the difficulties of repaying these debts. However, there was rarely a direct link between the person to whom the Chinese migrants were indebted, and the employer who exploited them. Instead, employers were taking advantage of vulnerable workers. While free consent and forced labour were at opposite ends of the spectrum, a broad range of employer practice lay in the middle of the spectrum. These included excessive overtime, low wages, exclusion from social welfare schemes and “self-exploitation”. Moreover, in both China and the destination countries, the study highlighted the need for special attention to the regulation and monitoring of labour brokers and intermediaries.

¹ ILO, *Concealed chains: Labour exploitation and Chinese migrants in Europe*, Gao Yun (Geneva, 2010).

labour and trafficking in human beings as the outcome of irregular migration processes. However, research indicates that regular migrants and country nationals can also be exposed to trafficking for labour exploitation. Women and girls are still the majority of victims of trafficking especially in some hidden forms of labour exploitation such as domestic servitude. However, it is now better understood that adult men can also be widely at risk.

This section discusses some of the outstanding challenges, if countries are to have a more comprehensive

⁹ Europol, *Trafficking in Human Beings in the European Union*, File No. 2565-84 (The Hague, 1 September 2011).

and also more realistic approach to tackling the severe problems of labour exploitation which, in the worst cases, can amount to the criminal offence of trafficking in human beings. It addresses both law and policy concerns; and also practical issues of law enforcement, protection, prevention and co-ordination. It begins with labour markets and their regulations, and the broader law and policy frameworks which may provide a breeding ground for labour exploitation. It then turns to the linkages between employment and labour policies, and the migration policies and visa arrangements which can often make it so difficult to identify situations of trafficking for labour exploitation and provide adequate protection for the victims. Next, it turns to enforcement and protection mechanisms, in particular the role of labour administration and inspection, and the guarantees that will be needed if these are to play a more significant role against trafficking for labour exploitation. Finally, it discusses challenges in the criminal justice response to trafficking for labour exploitation; and the means to complement this with other instruments of administrative, civil and labour justice.

1.3.1 Labour Markets and Regulations: General Issues

As is clear from the recent research¹⁰, there is a very large and probably growing problem of labour exploitation in the OSCE region, which is simply not being addressed adequately in the present circumstances. Proactive research is showing that vulnerable workers – women, children and increasingly men – are susceptible to various forms of labour exploitation, some of it quite severe, in a very large number of economic sectors. It is by no means only in the informal or clandestine economy. What matters is not so much whether the economic activity is legal or not, but rather the nature of the work, the way people are recruited into it, and the kind of contracts they have. And while irregular migrants without visas and work permits are at particular risk, lawful migrants (such as EU nationals in the case of EU countries, or persons with visa-free status in the CIS countries) can also be exposed to trafficking for labour exploitation. Furthermore, just about no country in the OSCE region now seems to be immune. The problems may be more serious in the southern European and CIS countries with extensive informal economies and a large influx of migrants doing seasonal work in agriculture

and other sectors. But berry pickers in the Scandinavian countries, with their well-established systems of social protection, are at risk as well as the fruit and tomato pickers of south European countries, or the construction workers of the CIS and Eastern Europe.

Many labour market regulations, together with generous social security and pension schemes, have been built largely around the notion of stable and perhaps life-long employment. They can be ill-adapted to a world where much of the work is seasonal and temporary, and where there are countless “atypical” forms of employment in which there can be endless chains of sub-contracting, and a large industrial enterprise may have no employment relationship with a worker hired to do its cleaning, catering, or food packaging and processing. So even in the countries with generous labour protections, a “two tier labour market” has emerged. One sector has clear protection (on wages, hours of work, safety and health, and much more), and most likely has additional protection through organized labour and collective bargaining.

On the contrary, so called “atypical” forms of employment vary greatly through the OSCE region. Many countries have official schemes for bringing in temporary labour, for the jobs which their nationals are generally unwilling to do. The labour can be brought in from Europe or other parts of the OSCE region, or from the developing countries outside it. Within Europe, a particular concern has been the employment conditions of “posted workers”, often brought in by temporary work agencies. At least half a million such temporary workers are posted abroad by their employer or employment agency, but remaining in the social insurance schemes of their home country. They are most commonly employed in the building and construction, public works, engineering and metalworking sectors. Dubious practices by the agencies have included opening subsidiaries in countries where wages and employers’ social security contributions are low, then deploying the workers to a third country or the agency’s country of origin.

Several countries have adopted measures to prevent abuses from such posting arrangements, while an EC Directive on the subject was adopted over a decade ago to prevent “social dumping”.¹¹ Belgium has prohibited all temporary agency work in construction, and Germany likewise unless the collective agreement for this sector applies also to them. Austria, France and Portugal all have some restrictions on the posting of temporary workers.

¹⁰ See: Europol, *Trafficking in Human Beings in the European Union*, File No. 2565-84 (The Hague, 1 September 2011); ILO, *Human Trafficking and Forced Labour: Case studies and responses from Portugal*, S. Pereira, J. Vasconcelos (Geneva, 2008); European Institute for Crime Prevention and Control (Heuni), *Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia*, A. Jokinen, N. Ollus, K. Aromaa, (Helsinki, 2011); IOM, *Trafficking of men – a trend less considered: The case of Belarus and Ukraine*, R. Surtees (Geneva, 2008); USAID, *Trafficking of Adult Men in the Europe and Eurasia Region*, R. Rosenberg (2010); Conny Rijken (ed.), *Combating Trafficking in Human Beings for Labour Exploitation* (Wolf Legal Publishers: The Netherlands, 2011).

¹¹ European Union, *Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services*, coming into force in December 1999.

The challenge is to extend at least minimum standards of protection to all workers, including migrants, and then to make sure that the laws are enforced.

1.3.2 Labour Protection and Migration Policies: the Linkages

This leads to the difficult issue of the linkages between systems of labour protection, on the one hand, and migration policies and visa arrangements, on the other. On the one hand, states have an obvious right to curb irregular migration, and will be reluctant to extend certain employment protections to irregular migrants on the grounds that this will further stimulate the problem. On the other hand, all migrants, whatever their legal status, should enjoy fundamental human rights.

Wider issues of migration policy are beyond the scope of this chapter. Some countries, in which important sectors of the economy have depended on the supply of workers with an irregular migration status, have seen the need for amnesties regarding their migration status. Moreover, as pointed out by speakers at the 11th High-level *Alliance against Trafficking in Persons* Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice” in June 2011¹², to criminalize the irregular migrants themselves or resort to their arbitrary deportation can have unintended negative consequences and actually exacerbate the problem. There have been too many cases where migration authorities (together with labour inspectorates, prosecutors or other officials) have rejected complaints from victims of abuse, citing either the infringement of migration laws or the absence of written employment contracts as grounds for refusing to investigate such claims. In the absence of any systematic investigations or prosecutions, a climate of impunity can prevail among unscrupulous employers. Moreover, the blindness of law enforcement authorities to these abusive conditions can further perpetuate the “two-tiered” labour market referred to above. When employment rights for one sector of the workforce are strictly enforced, and those of vulnerable sectors are basically ignored, this can create a strong incentive for some employers to hire irregular migrants.

A further pertinent issue is the use of visa arrangements that tie workers to one employer. Many countries have special visas for temporary work, intended for jobs such as harvesting, or other seasonal work in agriculture, and other sectors where there can be a high seasonal

demand. In some cases, the migrant labour is provided by “job brokers” who are poorly monitored if at all. This is where the spiral of excessive fee-charging and debt bondage can occur. There can be inflated charges for obtaining the visas in the first place, for travel and accommodation costs, and unexplained deductions from wages throughout the work period.

1.3.3 Recruitment Agencies and Fee-charging

This excessive fee-charging is at the root of much labour exploitation. It can be difficult to clamp down on unscrupulous behaviour when some agencies carry out a mix of lawful and unlawful activities. As seen in the trend analysis, many migrants respond to advertisements from agencies they believe to be operating legally, received some form of employment contract, but are later deceived, and find themselves saddled with a myriad of unexpected charges and unexplained deductions.

There are ways to clamp down on the worst forms of abuse, but a clear legal framework and enforcement structure is vital. A good example is the experience of the Gangmasters Licensing Authority (GLA), established in the United Kingdom in 2005 to protect workers in the sectors of agriculture, shellfish gathering, food processing and packaging. Its main task has been to license the labour providers, though it also has the powers to bring prosecutions in serious cases. It revoked almost 60 such licences in the first three years of its operations.¹³

Furthermore, governments, legislators, business and labour need to get together at the national level, agree to place a cap on fee-charging, and also agree on a supervisory framework to ensure that the cap is strictly enforced. There have been attempts to establish the principle that all costs related to recruitment should be incurred by the employer rather than the worker. In 1997, the ILO adopted its Convention No. 181 and Recommendation No. 188 on Private Employment Agencies.¹⁴ This was in response to a changing environment, recognizing the contribution of private rather than public employment agencies to flexible functioning of labour markets. The Convention provides (Article 7) that private employment agencies “*shall not charge directly, in whole or in part, any fees or costs to workers*” (though exceptions can be authorized, after

¹² See in particular statements by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings and by Human Rights Watch, available at <<http://www.osce.org/event/alliance11/speeches>>, accessed 15 November 2011.

¹³ For more information on this experience, see Chapter 2 (p. 15), “Methods to Prevent Trafficking for Labour Exploitation: What do Do and How”, Mike Dottridge.

¹⁴ ILO, *Private Employment Agencies Convention*, C181 (1997) (Date of coming into force: 10/05/2000), available at <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C181>>, accessed 3 November 2011; ILO, *Private Employment Agencies Recommendation*, R188 (1997), available at <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?R188>>, accessed 3 November 2011.

consultation with the most representative employers' and workers' organizations). Members should also provide protection for and prevent abuses of migrant workers recruited or placed in their territory by private employment agencies. These should include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses. Members are also encouraged to consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment. While the Convention had received a relatively small number of 23 ratifications by September 2011, 16 of these were in the OSCE region.

This is an area where business actors can take an important lead, preferably in consultation with trade union organizations. The International Confederation of Private Employment Agencies (CIETT) includes some of the world's largest manpower and recruitment agencies among its members. CIETT has committed itself to the prevention of human trafficking, and establishes in its own code of business practice that services should be provided free of charge to jobseekers.¹⁵ In late 2008, CIETT corporate members and the Union Network International (UNI) launched a global initiative to secure fair conditions for persons recruited by temporary work agencies, and to fight human trafficking by preventing unfair competition by fraudulent agencies. What is now needed is a major follow-up initiative to document fee-charging practices by these agencies, bringing to light any excesses.

1.3.4 Better Identification and Law Enforcement: The Role of Labour Inspectors

There is general consensus that labour inspectors need to be more involved in action against trafficking for labour exploitation. Some steps have been taken over the past couple of years, with several countries targeting their awareness raising and training programmes at labour inspectors. In January 2011, for example, the Austrian Government issued a decree instructing labour inspectors to pay particular attention to possible labour exploitation during their inspections, and report on cases to criminal justice. Bosnia and Herzegovina, Croatia, Germany, Montenegro and the United States are among the countries that have had specialized training on the identification of trafficking for labour exploitation victims, for law enforcement including labour inspectors.

¹⁵ See also OSCE OSR/CTHB, *The Implementation and Enforcement of Codes of Conduct in the Private Sector to Reduce Demand for the Services of or Goods Produced by People who have been Trafficked*, Occasional Paper Series (forthcoming).

It may seem obvious that labour inspectors should be at the forefront of these anti-trafficking activities. If properly trained, they can be the best early warning system, and are usually able to enter workplaces without a warrant. But there can be many problems, over their mandate, or over sharing of information with other law enforcement authorities. The normal mandate of labour inspectors is to monitor conditions in workplaces, and to ensure that national labour legislation is duly applied. In some countries, labour inspection can be an integral part of criminal law enforcement. In other cases, labour justice is separate from criminal justice, and applies penalties or fines provided for by labour law, including even the closure of enterprises. Conversely, there are countries where labour offences are specifically covered in penal law. An example is Spain, where there is a legal concept of *derecho penal de trabajo* or Criminal Labour Law. The Spanish Criminal Code has a special section covering crimes against the rights of workers, addressing such issues as exploitation by other human beings, and providing for penalties for these unlawful acts.¹⁶

In certain countries, labour inspectorates have a limited mandate, with regard to the kind of premise that they can inspect. An example is Serbia, where the competence of labour inspectors is limited to registered companies. Thus a recent policy document, concerned with action against irregular migration, has argued that the existing regulations should be amended, giving labour inspectors the legal powers to undertake measures against "*all legal and physical entities that illegally employ foreigners*".¹⁷

Yet the involvement of labour inspectors in action against clandestine or "undeclared" labour has its own risks, as far as victim protection is concerned. The issue was examined by the ILO, in a paper prepared for a recent Regional Conference for Europe.¹⁸ A rising challenge to effective labour inspection is the increasingly widespread imposition of measures that compel labour inspectors to conduct immigration enforcement activity as part of their workplace inspection agenda. This poses a challenge for effective enforcement of labour standards, as it has the inevitable effect of intimidating migrant workers from exposing or resisting abusive conditions. It also imposes law enforcement responsibilities for which labour inspectors are neither competent nor trained, and can ultimately drive an important portion of immigrant labour further into non-regulated and clandestine employment conditions.

¹⁶ For further information, see: "Combating Trafficking in Human Beings for Labour Exploitation in Spain", in Conny Rijken (ed.), *Combating Trafficking in Human Beings for Labour Exploitation* (Wolf Legal Publishers: The Netherlands, 2011).

¹⁷ *Strategy for Combating Illegal Migration in the Republic of Serbia*, cited in "Combating Trafficking in Human Beings for Labour Exploitation in Serbia", in Conny Rijken (ed.), Op. Cit.

¹⁸ ILO, *Labour inspection in Europe: undeclared work, migration, trafficking* (Geneva, January 2010).

Thus labour inspectors cannot be expected to do the job of migration or border police. Their basic functions are the protection of workers in accordance with the provisions of labour law, and the inspection of workplaces. With rare exceptions, they do not have the right to enter private households, and will be unable to address the exploitation of domestic workers. And if they are to penetrate into the informal economy or the isolated worksites where so much labour exploitation takes place, they will need to be greatly strengthened and endowed with more resources.

There have also been positive cases of international co-operation, such as that between the Bulgarian labour inspectorate and the UK government to identify cases of trafficking for labour exploitation. But because the role and mandate of labour inspectors can vary considerably within the OSCE countries, it is imperative to share the best practice, examine any national obstacles to greater involvement of labour inspectors, and see what can be done about them. A basic code of practice for labour inspectors, illustrated by country examples, could be a good start. This could be taken up by a body such as the International Association of Labour Inspection (IALI), which has already co-operated closely with the ILO in action against forced labour, and in 2008 adopted an action plan to this effect.

1.3.5 Complementing Criminal Justice

When so few offenders have been punished by criminal justice, what more can now be done? It is a mixture of better laws, better indicators, greater awareness among the public at large, and better co-ordination of anti-trafficking efforts.

In early 2011, an apparently well-founded criminal prosecution for trafficking for labour exploitation in the UK was dismissed by a jury. So it is not just a question of sensitizing police, prosecutors and judges. The public at large needs to understand that the various abusive or deceptive practices mentioned in the earlier trend analysis can amount to crimes, and should be punished as such. This requires targeted media efforts, well researched and balanced documentaries and a commitment to responsible journalism.

While judges will always have discretion in a democracy where the rule of law prevails, it helps them if the definition of an offence is not left too vague or abstruse. It certainly helps if the criminal and other legislation can capture the various forms of deceptive or fraudulent practices that can make up the offence of trafficking for labour exploitation, or at least contribute to it. In the United

States, for example, an important 2008 amendment to anti-trafficking legislation introduced the offence of “fraudulent recruitment”.¹⁹ Identifying the specific abusive practices along the trafficking chain can close down the possible loopholes, making life easier for prosecution and law enforcement.

Common sense still dictates that labour exploitation is a “continuum”, from lesser to more serious forms of abuse, and that there are different ways of dealing with all of these through the application of justice. This has been the advantage of the *Delphi* operational indicators of trafficking in human beings, jointly developed by the ILO and the European Commission.²⁰ The categorization of strong and weaker indicators (on such issues as coercive and deceptive recruitment, abuse of vulnerability, and exploitation and coercion at the place of destination) can help focus the minds of law enforcement as to whether or not to go down the route of criminal justice.

There are always other, or complementary, remedies. The profits from trafficking for labour exploitation, as from trafficking for sexual exploitation, can be very large. So a key issue is to “go after the money”, using the instruments of customs or tax enforcement to clamp down on unfair or undeclared profits.²¹ This is also important for the compensation of the persons affected by trafficking for labour exploitation. In many cases, their primary concern is to receive due monetary compensation for the wages out of which they have been unfairly cheated.²² Creative litigation and law enforcement is needed, to find the mechanisms through which the offenders are adequately fined, and the victims have some chance to receive due compensation even when (either voluntarily or not) they have returned to their countries of origin.

In conclusion, it is wrong to draw hard-and-fast distinctions between criminal justice on the one hand, and labour or other forms of administrative justice on the other. They can work together, sharing information and evidence, and jointly deciding on the appropriate methods of law enforcement or policy response. There have been cases, as in Italy, where special investigative and prosecution units have incorporated both police and labour inspection. In other cases, as in Austria, labour inspectors are obliged

¹⁹ Title 18 U.S. Code, Section 1351 (new statute) – Fraud in Foreign Labor Contracting.

²⁰ ILO, *Operational indicators of trafficking in human beings - Results from a Delphi survey implemented by the ILO and the European Commission* (2009), available at <http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf>, accessed 3 November 2011.

²¹ These issues were examined in the *Alliance against Trafficking in Persons* Expert Seminar on “Leveraging Anti-Money Laundering Regimes to Combat Human Trafficking” (Vienna, 3-4 October 2011), organized by the OSCE in partnership with UNODC. Presentations are available at <<http://www.osce.org/cthb/83276>>, accessed 3 November 2011.

²² See Chapter 3 (p. 32), “Protection of the Rights of Migrant Workers Trafficked for Labour Exploitation through Support Measures and Access to Social Inclusion and Remedies”, Isabella Orfano.

to share information on likely trafficking cases with criminal justice authorities.

All of this explains why partnerships are needed, not only between criminal law enforcement and other government agencies, but also between governments and civil society. Individual cases of severe labour exploitation can and must be dealt with through criminal justice. But they can be the tip of an iceberg of morally reprehensive practices which, if not addressed, can break down a social consensus that has been carefully constructed over a long period of time.

1.4 A Decent Work Approach: Moving Forward

The need for integrated action against trafficking for labour exploitation, with the involvement of the different actors identified in this chapter, now appears to be generally understood. At the same time, it is not easy to build the alliances required for an effective integrated approach. The author of this chapter is aware – from many years of experience heading the ILO’s programme against forced labour and trafficking – how difficult it can be to persuade labour inspectors, judges, business leaders and trade unionists that trafficking for labour exploitation is a matter of direct relevance to their own professional life.

The past few years have seen a considerable growth in knowledge of the phenomenon, and assessment of its underlying causes, throughout the OSCE region. But there is nothing to indicate that flagrant abuses are being stemmed. Instead, both region-wide and national studies in the OSCE region appear to indicate that the problems may be growing.

The value of the *decent work approach* is that it permits and promotes a broad vision – from the flagrant cases of forced labour and trafficking for labour exploitation, through to the systemic failings of labour markets and their regulations, or migration policies – and also brings in a wide range of actors to address these problems through different instruments. The decent work “ladder” is an important concept. At the bottom rung of the ladder, it helps concentrate minds on the practices which need to be punished with the full force of criminal law. It also serves to remind us that the law, policy and law enforcement response should not stop there. Incrementally, policymakers and activists must work out methods to tackle the creeping forms of exploitation in labour markets, which are denying social justice to an alarming number of children, women and men.

Chapter 2

METHODS TO PREVENT TRAFFICKING FOR LABOUR EXPLOITATION: WHAT TO DO AND HOW

Mike Dottridge

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EXECUTIVE SUMMARY

Effective measures to prevent trafficking in human beings address more than just the immediate factors which cause or facilitate trafficking and the exploitation associated with it. The International Labour Organization's agenda for promoting decent work and encouraging respect for fundamental rights at work, particularly for migrant workers, suggests a series of measures which have proved effective in preventing trafficking for labour exploitation.²³

The principle issues on which OSCE participating States can take effective preventive action concern:

- migration policy, including policies on work permits for migrants;
- the recruitment process for temporary and long-term migrant workers (notably the regulation of recruitment agencies and labour suppliers);
- the enforcement of the rule of law in the workplace, often requiring the modification of the mandates or procedures of labour inspectorates, so that they can carry out preventive checks to ensure that trafficking for labour exploitation does not occur;
- promotion of respect for human rights by businesses and investors (in the workplace and supply chain), both by voluntary codes adopted by businesses themselves and by support for such measures by states;
- elimination of both corruption and abuse of power by state officials;
- the mobilization of community-based child protection systems to protect all vulnerable children, especially those who are not nationals of the country where they are located.

With respect to the sensitive issue of migration policy, it would be helpful for governments to recognize what jobs in their country tend not to be filled by nationals, but rather by migrants, so that adequate numbers of work permits are issued for unskilled jobs and these can be filled by regular rather than irregular migrants. It is also good practice to avoid issuing visas or work permits which tie a worker to a specific employer (who, if abusive, they are unable to leave).

As new sectors of economies are developed and a greater proportion of workers in both new and old sectors are migrants from other countries, often employed on a sub-contracted basis, there are numerous opportunities for abuses to occur, including trafficking for labour

exploitation. Unless the authorities' response has been proactive and they have extended the mandate of labour inspectors (or other law enforcement officials) to scrutinize the places where people work in these new sectors, it is likely that such abuses occur without law enforcement officials being aware and without them enforcing the law. If labour inspectorates' powers are limited to occupational safety and health issues and investigating whether the hours that employees work are too long, their mandate needs to be modified if they are to investigate whether labour providers are respecting the law and whether their contractual relationship places workers in debt bondage or another form of forced labour. Similarly, their mandates may require modifying for them to be entitled to check particular economic sectors where trafficking has been reported.

In sectors of the economy where it is routine for workers to be recruited and paid by labour providers on a sub-contracted basis, non-migrants as well as migrants are dependent on labour providers for their wages, their working conditions and sometimes also their accommodation. This degree of dependency makes them vulnerable to abuse, particularly when migrant workers have parts of their wages deducted to pay for services such as accommodation or transport - and have no control over the amounts they are charged. The rapid informalization of employment has meant, once again, that existing systems of checks and balances for the labour market are inadequate and abuses are likely to occur unless an appropriate agency is given a mandate to stop them. The solution is to introduce a system for regulating employment agencies and labour providers.

Governments can galvanize a wide range of agencies, at both the national and local levels, to look out for indicators that trafficking for labour exploitation is taking place.²⁴ Relevant agencies include fire inspectors, housing services or health and safety inspectors concerned with health or building safety (who may have cause to notice that migrant workers are housed in sub-standard accommodation), health services or the income tax authority.

Opportunities to prevent young people under 18 years of age from being trafficked or forced to work also occur mainly at local level, involving front-line professionals in the children's areas of origin who may become aware of young people dropping out of school or leaving home in

²³ See Chapter 1 (p. 5), "Combating Trafficking for Labour Exploitation: A Decent Work Approach", Roger Plant.

²⁴ Some useful indicators have already been developed such as ILO, *Operational indicators of trafficking in human beings - Results from a Delphi survey implemented by the ILO and the European Commission* (2009), available at <http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf>, accessed 3 November 2011.

worrying circumstances. They include social workers (in government-run social services or child protection units), health professionals, teachers, and police and other law enforcement officials who come across adolescents and younger children in a variety of contexts. By themselves, they may not realize what is happening, but co-ordinated in a child protection system they can be more effective. The same applies in the places to which children are trafficked, although numerous obstacles have been reported that inhibit front-line professionals from identifying and assisting trafficked children.

In countries where significant numbers of children arrive from abroad, whether trafficked or not, there is a need for the authorities responsible for child protection at national level to adapt the instructions given to child protection professionals and law enforcement officials whenever new patterns of abuse are detected or likely to occur, such as female genital mutilation, early marriage, sexual exploitation and children working full-time while they are still of compulsory school age (or spending so much time working that it interferes with their education), including when they earn money begging or work outside their own family as a domestic.

A range of non-state actors have a potential to contribute to prevent trafficking for labour exploitation. They include employers and businesses, trade unions and non-governmental organizations. For their work to be effective, it helps for the state to establish a mechanism for co-ordinating preventive measures, as well as to ensure that a National Rapporteur or equivalent mechanism (on trafficking in human beings), which is an independent body, has the authority to monitor and evaluate anti-trafficking measures on a regular basis and to recommend changes when these are considered to be needed.

2.1 Introduction

An important lesson learned from efforts to prevent trafficking in human beings over the past decade is that effective prevention measures often do more than just try to stop people being trafficked. This means they should address more than just the immediate factors which cause or facilitate trafficking. A related lesson is that effective prevention usually involves achieving something positive, rather than focusing narrowly on stopping abuse (in this case, trafficking) from occurring. A positive agenda that contributes to preventing trafficking in human beings involves promoting decent work and encouraging respect for fundamental rights at work, in particular with respect

to migrant workers from other countries, who are routinely treated as if they had fewer rights than other workers.²⁵ The advantage of this agenda is that it also reduces other forms of abuse.

This chapter identifies how various measures which are not designed uniquely to stop trafficking for the purpose of labour exploitation can nevertheless achieve concrete results in terms of prevention. It explores what needs to be done in practice to mainstream the fight against trafficking in human beings across a wider set of government policies, plans and programmes. It focuses in particular on the situation of migrant workers. This is partly because a large proportion of those known to have been trafficked for labour exploitation were exploited in a country other than their own. It is also because a great deal remains to be done almost everywhere to improve respect for the rights of such workers.

The principle policy fields involved concern:

- migration policy, including policies on work permits for migrants;
- the recruitment process concerning temporary and long-term migrant workers (notably the regulation of recruitment agencies and labour suppliers);
- the enforcement of the rule of law in the workplace, including access to justice and stopping discrimination;
- promotion of respect for human rights by businesses and investors (in the workplace and supply chain);
- elimination of both corruption and abuse of power by state officials;
- and the mobilization of community-based child protection systems to protect all vulnerable children, especially those who are not nationals of the country where they are located.

Modifying policies in these fields to ensure they contribute to the goal of stopping trafficking requires planning and effective co-ordination between different parts of government - and also co-ordination with other key actors. It also requires regular monitoring, so that the impact of changes on people who have been trafficked and others known to fall into categories who might be trafficked is identified and understood, and policies adjusted accordingly.

²⁵ See Chapter 1 (p. 5), "Combating Trafficking for Labour Exploitation: A Decent Work Approach", Roger Plant.

2.2 Addressing Migration Policy

No government wants its labour market upset by unplanned mass arrivals of migrant workers. However, it is vital that the migration policy responses do not make migrants even more vulnerable to exploitation and abuse. All OSCE participating States have policies limiting immigration, but many allow some migrant workers to enter their country on a temporary or long-term basis to undertake certain kinds of jobs. Current inconsistencies between labour migration policies and anti-trafficking action mean there is a significant potential for stronger policy coherence and effectiveness.²⁶

2.2.1 Demand for Migrant Workers and Allowing Them to Migrate and Work Legally

A recent study of irregular immigration into the European Union, where it is a policy priority to stop such immigration, concluded that, “*Despite the political intention of preventing and reducing irregular migration various legislations instead contribute to its emergence*”.²⁷ In numerous cases, national policies allow for the employment of well-qualified migrants, but not of manual or unskilled workers. The discrepancy (between the intention of policy and its actual effect) in this case is not only that there is tremendous demand for cheap labour in industrialized countries, but that demographic changes are causing an increase in demand for certain workers, such as care workers. The economic development of certain sectors of the economy, such as commercial agriculture and construction, has also depended in some countries on a migrant workforce.

Already in 2004, a group of experts observed that, “*In these unskilled sectors, there is often little regulation or organisation and often occupations that are by their nature isolated and not conducive to organisation and collective negotiation (for example home workers or*

domestic workers who are isolated in the house)”.²⁸ Their concern, echoed by others over the past decade, was that migration policies have created a favourable environment for abusive and exploitative criminal practices such as trafficking.²⁹ In particular, the irregular employment or migration status of some migrants makes them easier to exploit and creates barriers to their accessing legal redress, in effect placing them outside the rule of law. There is a major gender dimension to this impact, as large numbers of the migrants in unskilled and unregulated sectors are women.

Policies can be changed in various ways in response. At a pragmatic level, it would be helpful for governments to recognize what jobs in their country tend not to be filled by nationals, but rather by migrants, so that adequate numbers of work permits are issued for unskilled jobs and these can be filled by regular rather than irregular migrants. The Council of Europe’s Commissioner for Human Rights has confirmed that this approach is based on a human rights perspective, as well as pragmatism.³⁰

2.2.2 Work Permits

Recent experience shows that regular migrants who are given work permits can nevertheless be trafficked, particularly when their work permit ties them to a single employer or when the immigration authority has not scrutinized the genuineness of job offers. For example, in the United Kingdom, issuing migrant domestic workers with a visa that restricted them to working for a single employer was found in the 1990s to contribute to cases of forced labour and servitude that would now be categorized as trafficking for labour exploitation.³¹ Further, the Council of Europe Commissioner for Human Rights repeatedly criticized the visa and temporary work permit regime used in Cyprus for “*artistes*” (dancers and entertainers). In 2006, he criticized “*the system whereby cabaret managers were required to make the application for an entry permit for the artiste as rendering the artiste dependent on her employer or agent and increasing the risk of her falling into*

26 The benefits stemming from effective migration management were also emphasized by OSCE Ministerial Council, *Decision No. 5/09 Migration Management*, MC.DEC/5/09 (Athens, 2 December 2009). See also OSCE Ministerial Council, *Decision No. 2/05 Migration*, MC.DEC/2/05 (Ljubljana, 6 December 2005).

27 CLANDESTINO Project, *Undocumented Migration: Counting the Uncountable. Data and Trends across Europe - Final Report* (Hellenic Foundation for European and Foreign Policy, 2009), <http://www.epim.info/wp-content/uploads/2011/01/clandestino-final-report_-_november-2009.pdf>, accessed 15 November 2011. The study attributed this discrepancy to several factors, including policies which were intended primarily to win political support from the country’s voters, but which were not actually implemented, and the adoption of “*regulations that intend to limit migration but instead contribute to irregular migration*” (page 15).

28 “*Trafficking in human beings, migration and informalisation of the workplace: Combating trafficking through protection of migrants’ human rights*”, Explanatory Paper 4, in the European Commission, *Report of the Experts Group on Trafficking in Human Beings* (Brussels, 2004).

29 See also UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants*, Jorge Bustamante, A/65/222 (2010); Council of Europe: Commissioner for Human Rights, *Criminalisation of Migration in Europe: Human Rights Implications* (2010).

30 Council of Europe: Commissioner for Human Rights, *Europe must respect the rights of migrants*, Thomas Hammarberg, CommDH/Speech(2009)7 (2009), on the occasion of the 70th anniversary of the CIMADE (Strasbourg, 26 September 2009): The Commissioner urged that, “*Political decision-makers should not lose sight of the human rights perspective in this discussion and should formulate a rational long-term strategy*”.

31 Anti-Slavery International and Kalayaan, *Britain’s Secret Slaves, An Investigation into the Plight of Overseas Domestic Workers in the United Kingdom*, Bridget Anderson (London, 1993).

the hands of traffickers".³² In 2008, the Cypriot authorities abolished the "artiste" work permit, replacing it with one for artists and musicians. They reported that the number of people entering Cyprus with such a visa had declined by February 2010 to only one quarter (300) of the previous total.³³ Later in 2010, the Council of Europe Commissioner welcomed the abolition of the "cabaret artist visa", but noted that, "other types of work permits, such as the one for bar maids, might be used to circumvent the law" and urged the authorities to look out for this.³⁴

Concerning the gender dimension of the jobs for which women migrants are granted work permits, the OSCE *Guide on Gender-Sensitive Labour Migration Policies* suggests important ways in which gender should be taken into account in migration policies, both in the countries from which women migrate and those where they seek work, to reduce the likelihood that women migrants are trafficked. The recommendations include a model employment contract for domestic workers, as well as ethical recruitment codes for use in the health sector. The Guide suggests that, "The validity of a work visa should not be limited to a specific employer and migrant workers should be allowed to change their place of employment to reduce dependency on a particular employer".³⁵

When evidence is available that temporary work permits have been abused to exploit migrants, the applicable regulations can be changed. For example, in Canada, amendments to the Immigration and Refugee Protection Regulations which came into force in April 2011 changed the Temporary Foreign Worker Program in several respects. They authorize government officials to formally assess the genuineness of the job offer to a migrant worker and to review an employer's previous record employing temporary migrant workers (specifically to check if employers provided migrant workers with "substantially the same" wages, working conditions and occupation as set out in the offers of employment).³⁶

32 Council of Europe: Commissioner for Human Rights, *Follow-Up Report on Cyprus (2003 – 2005). Assessment of the Progress Made in Implementing the Recommendations of the Council of Europe Commissioner for Human Rights*, CommDH(2006)12 (March 2006), para. 290.

33 Group of Experts on Action against Trafficking in Human Beings (GRETA), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus, First evaluation round*, GRETA (2011)8 (12 September 2011), para. 20.

34 Cyprus: "Eradicating trafficking in human beings is a pressing need", Council of Europe Press release 585(2010) (26 July 2010), <<https://wcd.coe.int/wcd/ViewDoc.jsp?id=1653957&Site=DC>>, accessed 4 October 2011.

35 OSCE, *Guide on Gender-Sensitive Labour Migration Policies* (Vienna, 2009), p. 3. The OSCE Ministerial Council also encouraged "the participating States to incorporate gender aspects in their migration policies, noting the recommendations of the OSCE-produced Guide on Gender Sensitive Labour Migration Policies". See OSCE Ministerial Council, *Decision No. 5/09 Migration Management*, MC.DEC/5/09 (Athens, 2 December 2009).

36 See Green and Spiegel LLP, *New Temporary Foreign Worker Program Regulations Now In Effect* (7 April 2011), <<http://gands.com/uncategorized/new-temporary-foreign-worker-program-regulations-now-in-effect/>>, accessed 25 August 2011.

In response to reports of abuse concerning temporary workers in Sweden (see 2.3 below), the Swedish Migration Board (*Migrationsverket*) established more rigorous work permit requirements to ensure that temporary foreign workers received a basic salary and were given sufficient information about the job they were taking on and about Swedish regulations.

Measures to protect domestic workers employed by diplomats in Switzerland

Due to their concern that migrant domestic workers employed by foreign diplomats in Switzerland were experiencing abuse in part because they did not understand a language in which they could obtain help or advice, the Swiss authorities have chosen to insist that candidates for this type of work understand one of the languages in which advice is available in Switzerland.¹ The same Ordinance on Conditions for Entry, Stay and Work for Private Household Employees of Individual Beneficiaries of Privileges, Immunities and Facilities specifies that domestic workers to be employed by diplomats must apply in person for their visa and that the competent Swiss official must be "satisfied that the private household employee has understood the conditions of his/her employment contract".² The Ordinance also specifies what minimum standards for working conditions and salary are acceptable. After their arrival in Switzerland, future employees have to pick up a "legitimation card" in person, which is valid as a residence permit, at the Federal Department of Foreign Affairs. This has to be renewed annually. These procedures create opportunities for the Swiss authorities to talk to domestic workers employed by diplomats and to inform them of their rights.

1 *L'Ordonnance sur les domestiques privés* (Ordinance on Private Domestic Workers) (6 June 2011, which entered into force on 1 July 2011) specifies Switzerland's three official languages (German, French and Italian) and also English, Spanish and Portuguese. Danielle Werthmueller, Presentation to the OSCE Alliance Conference "Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice", 20-21 June 2011.

2 Unofficial translation of Switzerland's *Ordinance on Conditions for Entry, Stay and Work for Private Household Employees of Individual Beneficiaries of Privileges, Immunities and Facilities*, <<http://www.eda.admin.ch/etc/medialib/downloads/edazen/topics/intorg/chres.Par.0037.File.tmp/Ordonnance%20Domestiques-version%20anglaiseOK.pdf>>, accessed 4 October 2011

2.2.3 Decriminalizing Migration-related Offences

The principle that trafficked persons, adults as well as children, should not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination is well established.³⁷ It is time to start analysing how migration policy impacts on anti-

37 See OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005) on the issue of criminalization, which recommends, "Ensuring that victims of trafficking are not subject to criminal proceedings solely as a direct result of them having been trafficked".

trafficking policies, and identify which components may have a negative impact on measures that are intended to prevent trafficking. The policy of criminalization of irregular migration - which exposes a migrant who enters irregularly, or remains in the territory of a state contrary to an expulsion order, to arrest and prosecution - almost certainly has a detrimental impact on the willingness of traffickers' victims to co-operate with the authorities because, in addition to being afraid of expulsion, they are also afraid of being prosecuted and imprisoned." With respect to children aged under 18, crimes such as irregular entry or stay should certainly be decriminalized.

2.3 Extending the Rule of Law to Cover the Recruitment and Employment of Migrant Workers

2.3.1 The Challenge

The way that legal standards in many countries are enforced in the world of work, including labour rights, often reflects relationships between employers and employees that have developed over decades. They sometimes limit the role of labour inspectors to monitoring occupational safety and

Examples from commercial agriculture: unregulated and un-policed

Numerous participating States have seen migrant workers recruited for labour-intensive agricultural work, who have subsequently been subjected to a range of abuses, from degrading living conditions and pushing them into debt, to outright forced labour and captivity. Sweden and Finland witnessed abuse when temporary migrant workers from Asian countries were recruited to collect wild berries in the far north of both countries. Four years ago, the scandal was in the United States, in Florida State's tomato industry, when migrant tomato pickers were imprisoned in a locked truck against their will by their employers (labour providers).¹ In the Florida case, a private professional auditing group had guaranteed there was no "slave labour" on tomato farms, but due to the "imperfect nature of their knowledge" and being unaware of the "shortcomings of their monitoring protocols", carried out its checks without interviewing workers in ways that would ensure they could talk openly and truthfully.² Three captive workers escaped and went to the police. Two labour providers from the same family were charged with conspiracy, holding workers in involuntary servitude and peonage and in February 2008, they were convicted and sentenced to 12 years imprisonment.³

In the case of Sweden, between 2007 and 2010, there were estimates that up to 30,000 Asian workers travelled to Sweden to harvest berries.⁴ Thai migrant workers are reported to have financed their own flights to and

from Sweden by taking loans in Thailand on the basis of their expected income in Sweden. In 2009, hundreds from Thailand found they were out of pocket at the end of the berry picking season and protested. Recruitment agents had led them to expect they would harvest larger quantities and generate a higher income than proved to be the case. As a result, they were unable to repay the loans taken to finance their trips.

Sweden has no general minimum wage, but relies on negotiations between trade unions and employers to reach agreements. The migrants were unrepresented and had fallen through the net. However, following this crisis, the Swedish Trade Union Confederation (LO) negotiated a minimum monthly wage for the berry pickers for the following season and the country's health and safety authority (the Work Environment Authority) announced limits on the hours that berry pickers could work. Nevertheless, in reality berry pickers were still to be paid on a piece-work basis for the quantity of berries they picked. In 2010, when only 4,000 berry pickers arrived from Asian countries, Chinese and Vietnamese workers protested publicly in northern Sweden that they had been deceived about the income they would earn. The element of deception suggested that fraud was taking place, but not necessarily that the migrants were being trafficked by recruitment agents. In 2011, the number of temporary migrant workers from Asia fell again, to less than 2,500.⁵ This year too, the Swedish authorities charged two Bulgarian men with trafficking. In this case, the alleged traffickers not only persuaded other Bulgarians to come to pick berries by exaggerating their potential earnings, but were also reported to have used violence to stop them escaping.⁶

1 A. Bennett Williams, 'Immokalee family sentenced for slavery', Ft. Myers News-Press, 28 February 2008, <<http://sanders.senate.gov/newsroom/news/?id=517f1da1-8900-40ee-b650-b3acd6ff8efe>>, accessed 27 January 2011.

2 CIW, 'Fresh allegations of "human slavery" emerge from the tomato fields of Immokalee', 7 December 2007, <http://www.ciw-online.org/no_slave_labor.html>, accessed 28 January 2011.

3 A. Bennett Williams, Op. Cit.

4 C. Woolfson, C. Thörnqvist and P. Herzfeld Olsson, *Forced Labour in Sweden? The Case of Migrant Berry Pickers. A Report to the Council of Baltic Sea States Task Force on Trafficking in Human Beings: Forced Labour Exploitation and Counter Trafficking in the Baltic Sea Region* (2011), p. 10.

5 'Fewer foreign berry pickers in Sweden', *The Local*, 13 August 2011, <<http://www.thelocal.se/35528/20110813>>, accessed 5 October 2011.

6 Olof Jönsson, 'Bärplockare kan ha utsatts för människohandel' (Berry pickers may be victims of human trafficking), *Svenska Dagbladet*, 23 September 2011, <http://www.svd.se/nyheter/inrikes/i-dag-vacktes-atal-mot-manniskohandlare_6492738.svd>, accessed 6 October 2011.

health issues and responding when a problem occurs. This means that, as new sectors of the economy are developed and as a greater proportion of workers in both new and old sectors are migrants from other countries, often employed on a sub-contracted basis, the relationships between employers and workers have not been scrutinized adequately by law enforcement officials or other effective monitors. There are consequently opportunities for abuses to occur, including trafficking and forced labour, without law enforcement officials being aware.

In both Sweden and neighbouring Finland, where Asian temporary migrants also pick berries, the piece-work system meant that migrants from poor backgrounds took on the responsibility (and liability) for all their risks, rather than the relatively wealthy businesses which paid them for the berries they picked. Cases like this reveal that the authorities have been slow to recognize the existence of unregulated sectors of their economies, yet alone to check if trafficking for labour exploitation and other abuses of workers' rights are occurring and to take relevant preventive action. OSCE participating States have responded in a variety of ways, but it is high time that responses were proactive, rather than only responding once a pattern of abuse is revealed publicly, as was also the case in the UK after the drowning of 23 Chinese shellfish collectors in 2004. Several proactive responses are described in the following sub-sections.

2.3.2 Regulation of Private Employment Agencies and Labour Suppliers

The way that employment agencies and labour suppliers go about their work has a direct bearing on the employment experience of workers who use their services. The OSCE Ministerial Council has urged participating States to, *“Develop programmes to curb the fraudulent recruitment used by some employment agencies that can make persons more vulnerable to being trafficked”*.³⁸

An international labour convention, the ILO's Private Employment Agencies Convention, 1997 (Convention No. 181), ratified by 16 OSCE participating States, requires states to operate a system of licensing or certification to regulate such agencies.³⁹ The ILO Multilateral Framework on Labour Migration (2006), a set of non-binding principles and guidelines for a rights-based approach to labour migration, suggests this measure

³⁸ OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation*, MC.DEC/8/07 (Madrid, 30 November 2007), para. 16.

³⁹ ILO, *Private Employment Agencies Convention*, C181 (1997) (Date of coming into force: 10 May 2000), available at <<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C181>>, accessed 3 November 2011. See also Chapter 1 (p. 5), “Combating Trafficking for Labour Exploitation: A Decent Work Approach”, Roger Plant.

Regulation of labour providers (“gangmasters”) in the United Kingdom

The drowning of 23 Chinese workers in the UK, referred to above, reinforced calls for regulation of labour suppliers in the UK (where they are known as “gangmasters”). Five months later the UK adopted the Gangmasters (Licensing) Act 2004. The law created a compulsory licensing system for labour providers and employment agencies operating in agriculture, forestry, horticulture, shellfish gathering and food processing and packaging. It applies to companies, unincorporated associations and partnerships active in these sectors. The law also established a special agency, the Gangmasters Licensing Authority (GLA), to issue licences and investigate possible violations of the Act. In 2006 it was made an offence for companies to use an unlicensed gangmaster.

The GLA is not a law enforcement agency, but an administrative one. This means it has powers of entry for inspection and search, and to intercept communications, but not to conduct criminal investigations. In 2009, the UK introduced a law making it an offence to hold someone in slavery or servitude or to require a person to perform forced or compulsory labour (the Coroners and Justice Act 2009, section 71), whereas previously this was not a specific offence. This undoubtedly complements the work of the GLA.

By 2007, the recruitment industry in the UK was estimated to have a turnover of more than GBP 27 billion (USD 50 billion at the time) and between 1.1 and 1.5 million agency workers.¹ By June 2011, 1,160 labour providers had GLA licences, while 109 requests for licences had been refused and 145 licences revoked.² Since 2005, there have been numerous calls in the UK for the GLA's mandate to be extended to other sectors of the economy where migrant and contract labour is common (and abuses are also reported), notably in the construction, catering, cleaning and care sectors.³ However, the Government has not yet responded positively.

¹ The REC Annual Industry Turnover & Key Volumes Survey 2007/08, quoted in [UK] Equality and Human Rights Commission, *Inquiry into recruitment and employment in the meat and poultry processing sector* (London, 2010).

² Darryl Dixon, *Innovative Tools to Combat Labour Exploitation*, Presentation at the OSCE Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, 20-21 June 2011, Vienna.

³ Contemporary Slavery Research Centre (CRSC), The Wilberforce Institute for the Study of Slavery and Emancipation, University of Hull, *Forced labour in the UK and the Gangmasters Licensing Authority*, M. Wilkinson, G. Craig and A. Gaus (2010).

be taken by governments of both origin and destination countries. One purpose is to check that employment agencies do not require migrant workers to pay fees or other charges for their recruitment and placement.⁴⁰ A particular measure to ensure that migrant workers are not put into debt bondage is to ensure that fees charged by private employment agencies are not deducted from the

⁴⁰ ILO, *Multilateral Framework on Labour Migration* (2006), Guideline 13.7. The same provision is stated by ILO, *Private Employment Agencies Convention*, C181 (1997), art. 7.1, <<http://www.ilo.org/ilolex/english/convdisp1.htm>>, accessed 15 November 2011.

remuneration of migrant workers (either directly, by the agency, or indirectly, by an employer who is responsible for paying the agency).

In Canada, Manitoba Province introduced a Worker Recruitment and Protection Act in 2009, which prohibits charging fees to workers as part of their recruitment process. Employers have to be registered by the provincial authorities before they can employ temporary migrant workers and their legal representatives and all employment agencies have to be licensed to recruit migrant workers. Labour providers that hire workers themselves and make them available to different businesses have to register as if they were a regular employer.⁴¹

In sectors of the economy where it is routine for workers to be recruited and paid by labour providers on a sub-contracted basis, non-migrants as well as migrants are dependent on these labour providers for their wages, their working conditions and sometimes also their accommodation. This degree of dependency makes them vulnerable to abuse, particularly when migrant workers have parts of their wages deducted to pay for services such as accommodation or transport - and have no control over the amounts they are charged. The rapid informalization of employment has meant, once again, that existing systems of checks and balances for the labour market are inadequate and abuses are likely to occur unless an appropriate agency is given a mandate to stop them.

2.3.3 Strengthening the Powers of Labour Inspectors

Labour inspectorates whose powers have been limited to occupational safety and health issues and investigating whether the hours that employees work are too long require their mandate to be amended if they are to investigate whether labour providers are respecting the law and whether their contractual relationship places workers in debt bondage or another form of forced labour. Similarly, their mandates may require adjustment for them to be entitled to check particular economic sectors where trafficking has been reported.

The ILO published a handbook in 2008 about forced labour for labour inspectors, which explains the proactive approach required by labour inspectorates to detect

cases of trafficking and forced labour.⁴² Some inspection services, for example in Poland, have integrated the handbook into standard training curricula. In Europe, the ILO's Special Action Programme to Combat Forced Labour has supported the training of more than 300 labour inspectors and convened four regional workshops for labour inspectors and law enforcement.

An alternative approach is to develop the expertise in workplace-related offences of a specialist police unit. This option has been taken in countries such as France, where the National Gendarmerie has a special *Office central de lutte contre le travail illégal* (OCLTI), Central Office to Combat Illegal Employment,⁴³ and Italy, where a Carabinieri Command for the Protection of Labour is responsible for investigating a variety of labour-related offences, including trafficking and "reducing a person to slavery".⁴⁴

The OCLTI in France has jurisdiction over all forms of illegal employment, including the offence mentioned earlier of putting someone into "working conditions which are contrary to human dignity". The OCLTI does not have the mandate to investigate cases of trafficking for sexual exploitation but can investigate reports of forced labour in all other sectors of the economy. It deploys mixed inspection teams consisting of labour inspectors and Gendarmes. The European Commission anti-trafficking portal reported that the OCLTI investigated some 100 cases each year in 2006 and 2007 "for various forms of labour trafficking".⁴⁵

There is evidently a risk that law enforcement officials whose mandate also includes investigating employers that commit migration-related offences (by employing irregular migrant workers) may not obtain the co-operation of workers (who fear that their own livelihood is at risk) in their investigations. The OSCE Ministerial Council has urged participating States to, "Ensure effective complaint procedures where individuals can report in a confidential manner circumstances that might be indicative of a situation of trafficking for labour exploitation, such as exploitative working and living

41 Human Resources and Skills Development Canada, *Manitoba's "Worker Recruitment and Protection Act" and Changes to HRSDC/Service Canada's Labour Market Opinion Application Process*, <http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/questions-answers/manitoba.shtml>, accessed 25 August 2011.

42 ILO, *Forced labour and human trafficking. Handbook for labour inspectors*, Beate Andrees (Geneva, 2008).

43 See Décret n°2005-455 du 12 mai 2005 portant création d'un Office central de lutte contre le travail illégal, <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000631861&dateTexte=>>, accessed 23 August 2011.

44 See, *Carabinieri Command for the Protection of Labour*, Presentation at the OSCE Alliance Conference "Human Trafficking for Labour Exploitation/Forced and Bonded Labour. Prosecution of Offenders, Justice for Victims", 16-17 November 2006, PC.DEL/1086/06 (16 November 2006).

45 European Commission, *Fight against Trafficking in Human Beings - France*, <<http://ec.europa.eu/anti-trafficking/showNIPsection.action;jsessionid=1ptnNngN1Cvv8P4jGThj9Qy9j8dmY7QKZhWKWvSSMKQJYVh7f8v6l-403728570?sectionId=a943bac4-ec15-4b05-b88b-4bc6ed5cebcc>>, accessed 23 August 2011.

conditions”.⁴⁶ Consequently, it is probably good practice to keep investigations of offences against workers separate from investigations concerning the workers’ possible irregular migration status.

2.3.4 Suppression of Discrimination and Enabling Migrant Workers, Including Irregular Migrants, to Get Access to Justice

All states are committed to the principle that, “*All are equal before the law and are entitled without any discrimination to equal protection of the law*” (Article 7 of the Universal Declaration of Human Rights). However, practical obstacles amount to discrimination as far as migrant workers’ access to justice is concerned.

The Convention on the Elimination of Discrimination against Women (CEDAW)⁴⁷ has noted that gender-based discrimination sometimes excludes certain occupations “*from legal definition of work, thereby depriving women of a variety of legal protections*”.⁴⁸ Domestic work is one example, involving many migrant women workers, some of whom are trafficked or held in servitude.⁴⁹ CEDAW called for such discrimination to be ended. CEDAW also noted the need to end the immunity of diplomats who have perpetrated sexual abuse, violence and other forms of discrimination against women migrant domestic workers.⁵⁰

One obstacle - when irregular migrants fear that contacting the police or seeking access to justice will cause them prejudice rather than helping them - has already been mentioned. A second is a relatively banal one: if migrant workers are not provided with information about their rights in a language they understand, they are unlikely to be able to exercise these rights. The provision of advice in relevant languages can be regarded as an obligation for states which have ratified the Council of Europe Convention on Action against Trafficking in Human Beings (2005) and which have agreed to “*take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices,*

on the conditions enabling the legal entry in and stay on its territory” (article 5.4).⁵¹

A third obstacle concerns the situation of temporary migrants who either opt to return to their home country or are obliged to do so and who are not physically present in the country where they have been exploited to pursue claims through the courts. Suspending deportations (or granting “reflection delays” to presumed trafficked persons) to allow migrant workers to pursue cases is one option. A second is to modify court procedures to allow foreign citizens who have been victims of crime to continue pursuing claims even after they have left the country. This might include taking evidence before or during a trial from a victim-witness who is no longer situated in the country. An important lesson is that victims’ rights have to be taken into account from the beginning of any criminal investigation, including when money and objects of value are seized and sequestered during criminal proceedings.

2.3.5 Obligations on the Authorities in Migrants’ Countries of Origin

While the exploitation of people who are trafficked from one country to another for the purpose of labour exploitation usually occurs in the destination country, a recent judgment of the European Court of Human Rights confirmed the legal obligation of the authorities in countries of origin to investigate the circumstances of recruitment and departure of an individual who is subsequently shown to have been trafficked. The Court noted that, “*The failure to investigate the recruitment aspect of alleged trafficking would allow an important part of the trafficking chain to act with impunity*” and that, in the particular case of a Russian woman recruited in the Russian Federation to work in Cyprus, “*The Russian authorities therefore had an obligation to investigate the possibility that individuals or networks operating in Russia*” were involved in trafficking a particular person to Cyprus.⁵²

⁴⁶ OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation*, MC.DEC/8/07 (Madrid, 30 November 2007), para. 11.

⁴⁷ Established by the UN, *Convention on the Elimination of All Forms of Discrimination against Women* (1979).

⁴⁸ UN, *General recommendation No. 26 on women migrant workers*, UN document CEDAW/C/2009/WP.1/R (5 December 2008), para. 14.

⁴⁹ For further information on this form of trafficking see OSCE OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010).

⁵⁰ UN, *Op.Cit.*, para. 21.

⁵¹ OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach*, MC.DEC/14/06 (Brussels, 5 December 2006), para. 6 (e): The OSCE Ministerial Council has urged participating States to promote “*outreach strategies, including in co-operation with relevant NGOs, to provide information on trafficking in human beings for labour exploitation to migrant communities and to persons working in low wage labour and particularly vulnerable sectors such as agriculture, construction, garment or restaurant industries, or as domestic servants, in order to improve victims’ access to assistance and justice and encourage persons with information on possible trafficking situations to refer victims to such assistance and to report to appropriate authorities for investigation when there are reasonable grounds to believe that a crime has occurred*”. Furthermore, OSCE Ministerial Council, *Decision No. 15/05 Preventing and Combating Violence against Women* (Ljubljana, 6 December 2005) calls on participating States to consider signing and ratifying, where appropriate, the Council of Europe Convention on Action against Trafficking in Human Beings.

⁵² European Court of Human Rights, *Case of Rantsev v. Cyprus and Russia*, Application no. 25965/04, Judgment (Strasbourg, 7 January 2010), para. 306.

2.4 Mobilizing Statutory Agencies which are not Directly Involved in Law Enforcement

It is relatively rare that governments have galvanized all the relevant agencies, both national and local, into looking out for cases of trafficking or labour exploitation - or strong indicators that trafficking is occurring. Researchers collecting data about the experiences of workers trafficked for labour exploitation have found that those housed by employers or labour providers are routinely put in sub-standard accommodation, which might come to the attention of fire inspectors, housing

services or health and safety inspectors concerned with health or building safety.⁵³ In different circumstances, health services or the income tax authority may come across indicators of trafficking. However, there are sometimes obstacles to mobilizing agencies at local level, for some officials in charge of local government services have expressed concern (off the record) that they will have to provide trafficked persons with alternative housing or other services and see this as a disincentive to identifying workers as “trafficked”.

The next example also focuses on action at local level, this time concerning children. In both cases, organizing multi-agency co-operation and co-ordination is a challenge, one which is reviewed in 2.7 below.

2.4.1 Developing the Capacity of Existing Child Protection Mechanisms

Opportunities to prevent young people under 18 years of age from being trafficked or forced to work also occur mainly at local level, involving front-line professionals in the children’s areas of origin who may become aware of young people dropping out of school, leaving home in worrying circumstances or leaving orphanages. They include social workers (in government-run social services or child protection units), health professionals, teachers, and police and other law enforcement officials who come across adolescents and younger children in a variety of contexts.

In the countries and cities to which children are trafficked, the situation is more complicated, because the same front-line professionals may feel little sense of responsibility for young people who have arrived from elsewhere (and who may have a label placed on them suggesting they are someone else’s responsibility, such as “unaccompanied foreign minor” or “asylum seeker”).

When young children (under the minimum age for entry into employment) were noticed during the 1990s moving from one European country to another to earn money on the streets, law enforcement and child protection officials appeared unsure whether they needed to react unless the children were committing overt crimes such as theft. In one country, Greece, where children from neighbouring Albania were to be seen begging, washing car windscreens or playing music to tourists to earn money, evidence was

The “shrimp cracker” case prosecuted in the Netherlands in 2010¹

This case concerned 11 Indonesian irregular migrant workers who lived and worked, preparing food, in the same house in extremely harsh conditions. They were obliged to pay a high rent to sleep on a mattress on the floor. However, it was not their abusive working conditions that brought the case to light, but a tip-off about the fire hazard in the place they lived and worked. The city housing department visited the house and found it dirty, infested with vermin and with exposed electric wires. In addition, it was apparent that shrimp crackers (“kropuk”) were being cooked in temperatures sometimes exceeding 50 degrees Celsius.

Instead of restricting their interest to the fire hazard or overcrowding, the housing department sought the co-operation of the police and other agencies and a clear division of responsibilities between the agencies was established. Once it was clear that the circumstances in which the migrants were working amounted to labour exploitation, the public prosecution service took the lead. To provide evidence of the abusive working conditions, the Labour Inspectorate produced an official report documenting the working environment with photos and films. The Health and Safety Inspectorate prepared a report on the working conditions.

Such investigations in the Netherlands are helped by the existence of a special investigation unit, the *Sociale Inlichtingen- en Opsporingsdienst* (SIOD), Social Intelligence and Investigation Service, with a mandate to carry out criminal investigations concerning rules and regulations adopted by the Ministry of Social Affairs and Employment (SZW).

¹ Presentations by Corinne Dettmeijer-Vermeulen and Conny Rijken at the OSCE Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, 20-21 June 2011.

⁵³ See, for example, “Accommodation” in Contemporary Slavery Research Centre (CRSC), The Wilberforce Institute for the Study of Slavery and Emancipation, University of Hull, *Forced labour in the UK and the Gangmasters Licensing Authority*, M. Wilkinson, G. Craig and A. Gaus (2010).

eventually published that some of the children had been trafficked, while others handed over the money they earned from begging to their parents.⁵⁴

However, by no means all unaccompanied or separated children who move from one country to another are trafficked. Over the past decade, the puzzle about how to respond appropriately has continued, even in cases where children have been deployed by adults to pick pockets or steal and particularly when the children concerned are below the age of criminal responsibility. The principle that trafficked persons, adults as well as children, should not be detained, charged or prosecuted for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons (just as the illegality of their entry into or residence in countries of transit and destination, mentioned earlier, should not) is well established.⁵⁵ However, as a matter of principle, states should also, “take all necessary measures to establish effective procedures for the rapid identification of child victims” (of traffickers) and law enforcement officials have a duty to protect such children.⁵⁶ This implies that they should not hand children over to an adult who claims to be their parent or guardian (but who may be exploiting them) without first verifying the relationship, nor without checking for other indicators that the child may have been trafficked.⁵⁷ At present, it is far from clear that police or other law enforcement officials routinely observe such procedures in all OSCE participating States.

Virtually all participating States have a set of laws and regulations to protect children from exploitation (and stopping them working full-time before they reach the

minimum age for entry into employment). These are relevant, not just as a point of reference in possible trafficking cases, but because the responsibilities of law enforcement and child protection officials concern the protection of young people from abuse and exploitation of any sort.

In countries where significant numbers of children arrive from abroad, whether trafficked or not, there is a need for the authorities responsible for child protection at national level to adapt the instructions given to child protection professionals and law enforcement officials whenever new patterns of abuse are detected or likely to occur, such as female genital mutilation, early marriage, sexual exploitation and children working full-time while they are still of compulsory school age (or spending so much time working that it interferes with their education). For the purposes of child protection, in this context “work” includes unremunerated activities, such as domestic chores for a household other than their parents’ or guardian’s, and income-generating activities which may not be categorized as “work”, such as begging.

The front-line professionals who are likely to benefit from training in how to respond in such cases come from all the professions mentioned earlier. The experience in the last decade shows that anti-trafficking professionals who focus mainly on adults also require training, for in several countries officials who were familiar with the cases of adult trafficked women dismissed the notion that child beggars might have been trafficked, as they did not conform to stereotype images of victims of trafficking. A general training about human rights for such professionals may also be inadequate, for some well-trained individuals have concluded that, to respect the principal of non-discrimination, it is necessary to respect ethnic or cultural traditions which, in practice, result in violations of children’s rights. It is therefore important that the authorities responsible for child protection at national level give a lead to all relevant professionals on how they should respond to a variety of cultural practices, including those that may be associated with trafficking.

54 Oak Foundation, Terre des hommes Foundation, UNICEF, *The trafficking of Albanian children in Greece* (Lausanne, 2003). In 2006, Greek and Albanian Government ministers signed a bilateral agreement for the protection and assistance of children victims of trafficking. This was ratified by Albania in May 2006 and by Greece in 2008. It includes the provision that, “Police, social services, medical care services, educational establishments, local authorities, international organisations and non-governmental organisations, as soon as they become aware of the presence of a potential child-victim on the territory of one of the Contracting Parties, shall immediately notify the Responsible Authority of their country, which shall coordinate the actions with competent bodies and social services” and appoint a provisional guardian for the child (Agreement between the Government of the Hellenic Republic and the Council of Ministers of the Republic of Albania for the protection and assistance of children victims of trafficking, arts. 8 and 10, <<http://legislationline.org/documents/action/popup/id/5856>>, accessed 4 October 2011).

55 See OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005) on the issue of criminalization, which recommends, “Ensuring that victims of trafficking are not subject to criminal proceedings solely as a direct result of them having been trafficked”.

56 See UNICEF, *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, UNICEF Regional Office for CEE/CIS (Geneva, 2006), pp. 43-45. UNICEF’s *Guidelines for the Protection of Child Victims of Trafficking* (2006) list states’ obligations concerning “pro-active identification measures”.

57 Such as the indicators of trafficking of children for labour exploitation developed by the ILO and European Commission in 2009, published as: International Labour Office, *Operational indicators of trafficking in human beings - Results from a Delphi Survey implemented by the ILO and the European Commission* (Geneva, 2009), <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105023.pdf>, accessed 5 October 2011.

2.5 Other Practical Measures to Reduce Abuse

2.5.1 Extending the Scope of Punishment as a Means of Deterrence

Within the limits of its powers under the law and Constitution, a government can take measures to punish business entities which are found to have trafficked workers for the purpose of labour exploitation or to have used forced labour. This can include publishing the names of such businesses (a strategy of “name-and-shame”) and depriving them of access to certain facilities, such as government-backed loans or subsidies. Since 2003, the Ministry of Labour and Employment in one South American country (Brazil) has published a ‘dirty list’ every six months of individuals or entities which have been found exploiting workers in what is referred to as ‘slave labour’. After two years, their names are removed, provided they have paid any fines imposed by labour inspectors or courts and any compensation due to workers. In June 2010, a Government agency banned rural credit payments to anyone named on the list. A number of private banks also decided to refuse credit and other banking benefits to those named on the list.⁵⁸ Of course, businesses other than banks can also put pressure of this sort on other businesses which they suspect of allowing exploitation to occur: some options and country experiences are mentioned in 2.6 below.

Another example is the 2009 EU Directive which specifies the sanctions and measures to be taken against employers who are found to be employing workers from outside the EU who have no work permit or legal right to be in the country concerned (which it refers to as “illegally staying third-country nationals”).⁵⁹ The penalties for employers who employ non-EU nationals illegally include financial sanctions such as being excluded from public benefits, aids or subsidies (e.g., agricultural subsidies) and from public procurement procedures. They also include paying the costs for returning the illegally employed non-EU nationals to their own country. However, these provisions have been criticized by non-governmental organizations (NGOs), which considered that the Directive failed to recognize that undocumented workers had labour rights and that priority needed to be given to enforcing such rights.⁶⁰

58 See ILO, *Fighting Forced Labour. The Example of Brazil*, P. Trindade Maranhão Costa (Geneva, 2009), p. 89.

59 EU, *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals* (2009), available at <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>>, accessed 14 November 2011.

2.5.2 Addressing Corruption and Abuse of Power

According to one OSCE report, “*There is a very strong correlation between trafficking and corruption*” and “*the trafficking in persons...flourishes in part through the corruption of public officials*”.⁶¹ In 2002, OSCE participating States recognized the need to fight corruption, which was regarded as facilitating the operation of trafficking networks.⁶² The level of the officials who are reported to connive with traffickers or accept bribes from them is reported to vary from minor officials to highly placed ones. For example, in one country, it was a relatively low level railway station worker who was said to have informed pimps when girls whom they had trafficked escaped and tried to catch a train home at the station in the capital city, where he worked. In another, it was a former police chief who was alleged to be involved in trafficking young women to other countries.

While corruption at any level can benefit traffickers, when corruption specifically links traffickers or employers of trafficked persons with law enforcement officials, virtually all anti-trafficking methods based on the rule of law can be undermined. In several countries, the influence of powerful business interests over local law enforcement officials has meant that traffickers or employers were tipped off before labour inspectors or other law enforcement officials visited a workplace where trafficked workers would have been found. In such situations, it proved vital to establish a centralized anti-trafficking police unit or labour inspection team which bypassed this nexus, for example carrying out checks without informing their professional colleagues at local level.

A specific measure that is reported to have proved successful in some countries involves modifying the gender balance in any relevant agency where corrupt officials are believed to be abetting trafficking, so that there are roughly equal numbers of men and women in the agency.⁶³

60 See European Network against Racism (ENAR), European Women’s Lobby (EWL), Platform for International Cooperation on Undocumented Migrants (PICUM) and SOLIDAR, *Employers’ sanctions directive: Migrant workers, not employers, will pay the price of their exploitation* (2009), <<http://lastradainternational.org/Isidocs/Joint%20Statement%20Employer%20Sanctions%20Directive%204%20Feb%202009.pdf>>, accessed 15 November 2011.

61 OSCE ODIHR, *OSCE Trial Observation Manual for the Republic of Moldova*, L. Mann, I. Dolea (Chisinau, 2006), quoted in L. Holmes, ‘Human Trafficking & Corruption: Triple Victimization?’, in C. Friesendorf (ed.), *Strategies against Human Trafficking: The Role of the Security Sector*, Study Group Information (Vienna, 2009).

62 OSCE Ministerial Council, *Declaration on Trafficking in Human Beings*, MC(10). JOUR/27 (Porto, 7 December 2002).

63 Leslie Holmes, Op. Cit., p. 113.

2.6 The Role and Potential Contribution to the Prevention of Labour Trafficking of Other Actors in Civil Society, such as Business, Trade Unions and Non-Governmental Organizations

2.6.1 The Role for Business, Business Organizations and Employers' Organizations

Business managers and owners, including shareholders and investors, can take a range of actions to ensure that trafficking for labour exploitation does not occur in their workplaces or supply chains. The most common method reported so far involves businesses committing themselves to respect voluntary codes of conduct guaranteeing minimum standards on labour rights and other human rights (and also other issues, such as respect for the environment). Governments can encourage businesses based in their country to take action of this sort, while businesses and business organizations (such as trade associations, representing businesses which usually compete, but which operate in the same sector) are well positioned to put peer pressure on others.

Action by the state concerning businesses

The United Nations (UN) has endorsed what is called a “protect, respect and remedy framework” concerning business and human rights. This was proposed by the UN Secretary-General’s Special Representative (from 2005 to 2011) on the issue of human rights and transnational corporations and other business enterprises, Professor John Ruggie. A set of Guiding Principles for the Implementation of the United Nations ‘Protect, Respect and Remedy’ Framework, including a commentary on

the principles, was endorsed by the UN in June 2011.⁶⁴ It reaffirms the state’s duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication. It also emphasizes the corporate responsibility (of businesses) to respect human rights, which requires them to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur, whether they affect employees or others.

On the question of the duties of states, the *Guiding Principles* specify that, “States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations” (Principle 2). The *Guiding Principles* also contain a clear message that businesses must exercise due diligence in checking whether the standards they say they will respect are indeed respected in reality, while leaving them a choice about what methods to use to carry out checks. The term “due diligence” is a critical one. It refers to the process that a business must undertake “to identify, prevent, mitigate and account for how they address their impacts on human rights” (Principle 15).

The official commentary on the responsibilities of states points out that, “Guidance to business enterprises [by states] on respecting human rights should indicate expected outcomes and help share best practices. It should advise on appropriate methods, including human rights due diligence...”. States have an option to go further and to require that businesses do this, as indicated by one example cited at the end of this section.

Voluntary codes

The key actions that businesses can take, based on codes of conduct or other procedures, to stop people being trafficked or subjected to labour exploitation centre on recruitment procedures and on ensuring that workers are free to leave their jobs if they wish. By itself, however, the adoption of a code by a business may be little more than window dressing. So systems must be put in place to check what happens in reality (acting with ‘due diligence’) and to remedy abuses or practices which could result in abuse.

Most codes of conduct and related initiatives by businesses include an explicit commitment to avoid the

⁶⁴ UN Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework: Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises*, A/HRC/17/31 (March 2011), <http://www.ohchr.org/Documents/Issues/Business/A-HRC-17-31_AEV.pdf>, accessed 15 November 2011; endorsed by UN Human Rights Council Resolution 17/4 *Human rights and transnational corporations and other business enterprises*, A/HRC/RES/17/4 (16 June 2011).

use of forced labour, but many do not mention trafficking in human beings. Some codes have been adopted by individual companies, some by trade associations (such as those involved in recruitment described below) and some known as 'multi-stakeholder' initiatives, which require independent verification by a quality standard organization of the standards specified. There is little consensus about precisely what verification procedures are best, but it seems essential to recognize that a declaration of good intentions (in the form of a code) may be little more than window-dressing if it is not supported by some form of verification.⁶⁵ Increasingly, private investors and other companies that buy a business' products insist that verification procedures should be transparent and independent.

Voluntary codes of conduct for private employment agencies

The close link between recruitment procedures and trafficking for labour exploitation means that private employment agencies have a key role to play in preventing trafficking. In many OSCE participating States, associations have been formed to represent some agencies and to develop professional standards. For example, in the Russian Federation, the International Association of Labour Migration (IALM) was established in 2004. By 2007, it included over 70 private recruitment agencies from the Russian Federation, Moldova, and Tajikistan. IALM members adopted a Code of Business Ethics which guides their work.⁶⁶ Elsewhere, associations of employment agencies have adopted voluntary codes of conduct which include provisions that are designed specifically to prevent workers suffering abuse in the process of recruitment, for example by guaranteeing that they be provided with contracts and full details of their working conditions before taking up a job. The question of fees and of avoiding workers being charged for the agency's services is crucial. For example, a voluntary code adopted in 2010 by Armenia's association of private employment agencies⁶⁷ guarantees that, "*Members shall not charge directly or indirectly, in whole or in part, any fees or costs to jobseekers and workers, for the services directly related to temporary assignment or permanent placement*". The code was developed with technical assistance from the ILO, which has developed manuals

indicating what represents good practice as far as voluntary codes adopted by associations of private employment agencies are concerned and how governments can monitor or regulate their activities.⁶⁸

As in the case of other voluntary codes developed for business, the best ones specify how their provisions are to be monitored or contain a grievance procedure that can be used by both workers and their employers. In Ireland, for example, an Ethics Committee is responsible for examining all grievances brought before the National Recruitment Federation, particularly concerning breaches of its Code of Conduct, which its 200 member agencies are required to respect.⁶⁹ If a complaint is well founded, the committee is empowered to take sanctions against a member, including a fine, suspension or expulsion.

Businesses applying pressure on other businesses

Much of the pressure to adopt and conform to voluntary codes of conduct relies on peer pressure from other businesses. In some countries, businesses have faced public protests after revelations that they were selling products that had benefited from labour exploitation at some point in their supply chain. Investors are wary of this. They generally use their influence to persuade businesses to reduce risk and thereby secure sustainable profits in the long term. The reputation of companies which are exposed as tolerating forced labour (or other violations of human rights) in their supply chains can be seriously affected, reducing profits and leading to job losses. When determined to do so, businesses and investors acting together can go further, by refusing to do business with other businesses which are known to tolerate trafficking or labour exploitation in their workplace or supply chain.

In many countries, businesses operating in the same sector of the economy have worked together to agree what common standards they should adopt. In Brazil, where the authorities report that a combined team of labour inspectors and police have rescued more than 38,000 workers from forced labour since 1995, businesses have gone further and voluntarily signed a National Pact to Eradicate Slave Labour,⁷⁰ guaranteeing that they will not use forced labour or tolerate its use in their supply chains, or do business with companies which do. By 2011, the

65 UN Human Rights Council, *Business and human rights: towards operationalizing the "protect, respect and remedy" framework: Report of the Special Representative of the [UN] Secretary-General [to the Eleventh session of the UN Human Rights Council] on the issue of human rights and transnational corporations and other business enterprises*, A/HRC/11/13 (22 April 2009): The UN Secretary-General's Special Representative noted that, "Company claims that they respect human rights are all well and good. But the Special Representative has asked whether companies have systems in place enabling them to demonstrate the claim with any degree of confidence. He has found that relatively few do".

66 ILO, *Guide to Private Employment Agencies* (Geneva, 2007), p. 40.

67 Republican Union of Employers and Private Employment Agencies Sectorial Union, *Code of Conduct of Private Employment Agencies* (June 2010), <<http://www.pea.am/Standarts.aspx?lang=eng>>, accessed 19 August 2011.

68 See ILO, Op. Cit.; ILO, *Trafficking for forced labour - how to monitor the recruitment of migrant workers*, Training Manual (Geneva, 2006), translated into seven languages.

69 National Recruitment Federation of Ireland, *Code of Conduct for Recruitment Agencies*, <<http://www.nrf.ie/about.asp?p=code-of-conduct-for-recruitment-agencies>>, accessed 26 August 2011.

70 *Pacto Nacional pela Erradicação do Trabalho Escravo no Brasil*, <<http://www.reporterbrasil.org.br/pacto/conteudo/view/4>>: Forced labour in Brazil is routinely referred to as 'slave labour'.

Pact was reportedly backed by more than 220 businesses, business organizations or civil society organizations. The Pact is overseen by a Steering Committee (co-ordinated by the ILO) which can suspend or exclude businesses that have signed it but that fail to abide by its terms.

Government obliging businesses to report on their supply chains

So far, few governments have enacted legislation requiring businesses based on their territory to conform to standards such as those set out in the Guiding Principles. One state in the United States, California, has adopted such a law (in September 2010), but it has not yet entered into effect. The Supply Chain Transparency Act (SB657) requires companies operating in California that do business worth more than USD 100 million a year to disclose information upon request, from January 2012 onwards, about their efforts to ensure that their supply chains are free from slavery and human trafficking.⁷¹ It is estimated that more than 3,000 businesses will be covered by the requirement.

2.6.2 The Contribution to be Made by Trade Unions

Trade unions have an important role to play in preventing trafficking for labour exploitation at multiple levels. Migrant workers experiencing abuse are often wary of approaching the police. However, they are more inclined to report abuse and ask advice from a trade union. In Spain, trade unions have set up local advice centres for this purpose.

Trade unions also provide valuable advice to exploited workers about how to set up an organization of their own. By themselves, workers being subjected to coercion or threats of violence may be unable to take this course of action. However, once supported by a stronger national trade union, they may be successful. A lesson noted by the ILO is that, *“If workers or employers are denied the possibility of organizing, they will not have access to a range of other rights at work”*.⁷² It is therefore important that any legal restrictions on workers or employers exercising their freedom of association be lifted. In some countries, migrant workers face such restrictions.

For example, in Ireland the main workers reported to be picking mushrooms in the first decade of this century were women migrants, paid on a piece-work basis according to the amounts they harvested, rather than receiving an

hourly wage. The women worked in bad conditions, were paid EUR 4 per hour (approximately USD 5) and had little time off work to buy food.⁷³

The Migrants Rights Centre Ireland (MRCI) was approached by some of the mushroom workers and helped them establish their own migrant worker federation, the Mushroom Workers Support Group. They were provided with a government grant to finance the Group's initial development, but later became self-sustaining, with contributions from members. By November 2006, the Group reportedly had over 50 members, the majority of whom were women from Belarus, Latvia, Lithuania, Moldova, Ukraine, China and Thailand.⁷⁴ The Group was subsequently affiliated to one of Ireland's main trade unions, the Services, Industrial, Professional and Technical Union (SIPTU). The result was that workers were able to negotiate collective bargaining agreements, with improvements in wages and working conditions, at some 40 mushroom farms (out of over 100 in Ireland), involving over 1,000 workers.

Workers in some sectors have more difficulty in contacting each other and forming their own organizations, notably domestic workers.⁷⁵ In France, one of the main trade unions, the *Confédération française démocratique du travail* (CFDT), French Workers' Democratic Confederation, set up a union in the area of the capital for domestic workers, child minders and employees of companies providing personal services.⁷⁶ In other countries, NGOs have played a significant role in providing advice and other support to migrant domestic workers, including some who were trafficked.

In several OSCE participating States, workers' organizations have organized campaigns to stop workers harvesting tomatoes or other agricultural produce from being exploited. In Italy, the General Confederation of Labour (CGIL) and its affiliate, Federation of Agriculture and Food Workers (FLAI), launched a campaign entitled “Red Gold, from fiction to reality” to protest at the long hours of work and low wages of tomato pickers. In the United States, where tomato pickers were subjected to forced labour in Florida, a coalition of NGOs, faith-based organizations, student and worker coalitions, and

71 See California Senate Bill No. 657, <http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf>, accessed 2 February 2011.

72 ILO, *Decent work and the informal economy* (Geneva, 2002), p. 71.

73 J. Beirnaert, *Organising for change and equality: Mushroom workers in Ireland*, 17 February 2011, <<http://www.ituc-csi.org/organising-for-change-and-equality.html>>, accessed 5 August 2011.

74 MRCI, *The Mushroom Workers Support Group, Harvesting Justice. Mushroom Workers Call for Change* (Dublin, November 2006), <<http://www.mrci.ie/media/File/Harvesting%20Justice%20-%20Mushroom%20Workers%20Call%20for%20Change.pdf>>, accessed 26 August 2011.

75 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010).

76 Presentation by Zita Cabais-Obra at the OSCE Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, 20-21 June 2011.

anti-trafficking and anti-slavery campaigners, initiated a consumer boycott of Taco Bell, a food corporation that was purchasing tomatoes from Florida farm owners. The eventual result was that Taco Bell's parent company agreed to pay a wage increase to farm workers and establish a code of conduct for its grower-suppliers.

2.6.3 The Contribution of Migrant Rights Groups and NGOs Supporting Workers in Specific Sectors

The MRCI, mentioned in the previous sub-section, is one of many NGOs which provide practical support to exploited workers. Some NGOs focus on providing advice and support to workers in particular sectors, such as migrant domestic workers, while others focus on a specific pattern of abuse, such as trafficking. Many of the others also contribute to stopping trafficking by providing advice and other services.

Government officials in some countries have expressed their reservations from time to time about NGOs providing advice to migrants, apparently because they suspected it encouraged immigration. Providing suitable advice is known, however, to be a way of enabling migrants to avoid falling under the control of traffickers; cutting off advice, including accurate information about what happens to migrants, could be regarded as a measure to put some migrants into harm's way, whether the purpose was to deter other migrants or not.

Centres for migrant workers, whether dependent on government support or independent, can provide a range of services that help protect migrants from exploitation and other abuses. For example in the Russian Federation, where there are several millions of migrant workers (for example, the Federal Migration Service estimated in May 2010 that nearly four million migrants were employed as domestic workers by private individuals⁷⁷), a variety of services have been provided since 2007 by an Information-Resource Centre in Moscow, based at the offices of the IOM. The services available include a hotline, which is free to call from other parts of the Russian Federation, and advice from lawyers and counsellors.⁷⁸

77 'Medvedev signs law on permits for migrant domestic workers in Russia', *RIA Novosti*, 20 May 2010, <<http://en.rian.ru/russia/20100520/159094819.html>> accessed 30 August 2011; the title of the document which was signed by the President was "Amendments to the Law on the Status of Foreigners in the Russian Federation" providing new regulations for migrant workers employed by individuals. The amendments were adopted with a view to legalizing the workers' status.

78 International Organization for Migration (IOM), *Labour migration*, Central Asia Regional Migration Programme, Info-Centre <http://85.21.179.94/activities_labormigration_CARM_infocentre.html>, accessed 31 August 2011.

2.7 The Challenges of Co-ordination and Monitoring

2.7.1 Co-ordination of Prevention Initiatives

With so many methods available to prevent trafficking for labour exploitation, and most OSCE participating States still to try implementing them for the first time, there is an evident need at national level for co-ordination, particularly when the methods mentioned require a multi-agency approach. One framework for this is the country's national action plan against trafficking in human beings (if there is one) or a similar plan to stop forced labour. Those states with national roundtables or National Referral Mechanisms, established to organize services for individuals who have been trafficked,⁷⁹ could entrust these with the planning and co-ordinating prevention measures.⁸⁰ Either way, the co-ordination of prevention requires the involvement of a variety of government ministries, each with its own priorities and policies, to ensure that all are compatible with the objective of stopping trafficking. However, some prevention activities are best co-ordinated at local level, where there is knowledge about what sorts of labour exploitation have occurred and it is apparent which agencies can be mobilized. Further, effective co-ordination requires formal agreements to be signed between different agencies (including government agencies), to facilitate intelligence or data-sharing and to ensure that data protection systems or the confidentiality of information are not obstacles to effective action against trafficking.

2.7.2 The Importance of Monitoring and Evaluation

As said at the beginning of this chapter, modifying policies across a range of fields to mainstream anti-trafficking measures requires regular monitoring and evaluation, so that the impact of each change is understood and those which prove counter-productive (for example, because the very people whom they are designed to protect perceive them to be punitive) can be modified. While every organization involved has some responsibility

79 See OSCE ODIHR, *National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons A Practical Handbook* (Warsaw, 2004).

80 OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation*, MC.DEC/8/07 (Madrid, 30 November 2007), para. 5: The OSCE Ministerial Council has urged participating States to, "Support and promote partnerships between civil society, including NGOs, and State agencies with a labour protection mandate to monitor working conditions, to provide, among others, assistance to victims and prevent trafficking for labour exploitation and violation of labour laws, including through targeted awareness-raising programmes or voluntary codes of conduct".

to assess the impact of its own activities, so many factors of cause-and-effect are at work that individual agencies may find it difficult to assess their impact. For this reason, responsibility for monitoring and evaluation is best allocated to an agency (or to researchers) which is independent and adequately resourced. The OSCE Action Plan to Combat Trafficking in Human Beings (2003), in its section on Protection and assistance, recommended, at national level, *“Linking the activities of NRMs with those of inter-ministerial bodies, national co-ordinators, NGOs and other relevant national institutions to form a cross-sectoral and multidisciplinary team capable of developing and monitoring the implementation of anti-trafficking policies”* (emphasis added).⁸¹ In 2006, the OSCE Ministerial Council also recommended that participating States consider appointing National Rapporteurs or similar independent monitoring mechanisms.⁸²

The few OSCE participating States which have independent National Rapporteurs on trafficking in human beings can give monitoring responsibility to this institution. Others can entrust monitoring to a national human rights commission, if it has the required research expertise. If no independent statutory agency exists to monitor and report on the effects of prevention measures, academic researchers potentially have an important role to play, but they would need to be given a mandate and resources by their government.

⁸¹ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005), Part V, para. 3.6; See also OSCE OSR/CTHB, *Efforts to Combat Trafficking in Human Beings in the OSCE Area: Co-ordination and Reporting Mechanisms, 2008 Annual Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings* (Vienna, November 2008).

⁸² OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach*, MC.DEC/14/06 (Brussels, 5 December 2006), para. 3.

Chapter 3

PROTECTION OF THE RIGHTS OF MIGRANT WORKERS TRAFFICKED FOR LABOUR EXPLOITATION THROUGH SUPPORT MEASURES AND ACCESS TO SOCIAL INCLUSION AND REMEDIES

Isabella Orfano

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EXECUTIVE SUMMARY

Trafficking in human beings for labour exploitation is a serious crime affecting all countries, including those of the OSCE region. Trafficked persons are mostly migrants who end up working in labour sectors with poor labour standards, weak regulations, and lacking or insufficiently implemented monitoring systems. Their vulnerable position, which is often connected with restrictive migration regulations or policies and abusive labour practices, greatly contributes to making them easy prey for unscrupulous traffickers, recruiters, labour suppliers, and employers. Over the past two decades, many international bodies – including the OSCE – and national governments have developed and enforced anti-trafficking legislation and frameworks (e.g., National Co-ordinators, National Referral Mechanisms, Transnational Referral Mechanisms, National Action Plans) to prevent and fight trafficking as well as to protect trafficked persons' rights and grant them assistance. At the same time, international and non-governmental organizations as well as local authorities have developed various services to assist trafficked persons.

In spite of the anti-trafficking frameworks established, a lack of services specifically targeting the needs of victims of trafficking for labour exploitation is still reported in the OSCE region. The assessment, transfer and adaptation of many tools and practices developed for persons trafficked for sexual exploitation as well as for other vulnerable groups and policy areas (e.g., migration, refugees and asylum seeking, employment, social inclusion, etc.) can be very important steps to set up proactive measures to detect, identify, and assist victims trafficked and exploited in various economic sectors. Furthermore, in the past few years, scholars and anti-trafficking agencies have shed some light on the main economic sectors and workplaces involved in the exploitation of trafficked persons. It is necessary to make full use of the available information to improve the detection and identification of presumed victims of trafficking for labour exploitation.

As established by international human rights norms, presumed or identified victims of trafficking for labour exploitation should be entitled to full social assistance, protection and redress, irrespective of their decision to cooperate with the competent authorities or of the court's final determination. Instead, victims of trafficking are too often treated as mere witnesses of a crime they must prove and they are seldom regarded as workers whose human and labour rights have been or are severely violated. The full acknowledgement of the trafficked persons' right to redress is a crucial component of the anti-trafficking fight. Through compensation payments, the states recognize the rights' violations and damages suffered by victims of trafficking. Trafficked persons improve their possibilities

to access restorative justice by making full use of criminal, labour, and administrative tools to uphold their rights. Compensation payment is also a very important preventive and empowering tool for trafficked persons who can develop a new life project and significantly reduce the risk of being re-trafficked and exploited again. Partnerships between trade unions and NGOs have proved to be successful for settling cases through mediation, negotiation, legal assistance and representation.

The establishment of multi-agency partnerships is key to strengthening the detection and identification of victims of labour exploitation as well as the provision of general and specialized services. It is therefore crucial that the OSCE participating States formally include in their NRMs frameworks new agencies with different expertise, especially on labour and migration issues, and support the capacity building of all concerned actors to improve their skills to detect and identify victims and provide them with comprehensive support measures. Anti-trafficking stakeholders should also enlarge their networks by involving non-specialized organizations and other support agencies. Valuable anti-trafficking partners could include: trade unions; labour agencies; migrants' and diaspora associations; health services; faith-based associations; legal aid; municipal health, fire and safety, housing, construction checks departments; fiscal intelligence and investigation agencies; and employment insurance agencies.

Detection and identification of child victims exploited in the labour sectors are still poorly enacted in the OSCE region, where weak social protection and child protection systems can become contributing factors to the vulnerability of children to trafficking and exploitation. Effective child protection systems ensured by states and NGOs can play a significant role in granting children with an enlarged protective environment based on stable support networks and the provision of long-term measures and skills that foster their empowerment and lessen the risk of re-entering the cycle of trafficking.

Adequate responses cannot be accomplished with limited human and economic resources. Therefore, anti-trafficking funds must necessarily be increased but other solutions must be adopted in order to finally transform services chronically lacking sustainability into fully sustainable services. It is time to develop integrated funding strategies and policies to financially support assistance measures. Moreover, it is crucial to coherently mainstream anti-trafficking actions and issues in all relevant strategies and policies that may affect trafficked persons (e.g., welfare, labour, migration, child protection, health, education, gender issues...) to ensure more effective holistic and integrated interventions. This requires a real change in perspective and attitude by policymakers and anti-

trafficking actors as well as the full acknowledgment of trafficked persons as subjects of rights and as workers, regardless of their migration status. Most of all, building and strengthening “a national victims’ rights culture” is key to ensuring that trafficked persons fully access and enjoy their rights, including their right to adequate and effective remedies, and to allowing them to finally become fully-fledged citizens.

3.1 Introduction

Trafficking in human beings for labour exploitation is a serious crime affecting all countries, including those of the OSCE region. It violates the human rights, dignity and freedoms of men, women, and children who are exploited in various economic sectors. Trafficked persons are mostly migrants who end up working in labour sectors with poor labour standards, weak regulations, and lacking or insufficiently implemented monitoring systems. Their vulnerable position, which is often connected with restrictive migration regulations or policies and abusive labour practices, greatly contributes to making them easy prey for unscrupulous traffickers, recruiters, labour suppliers, and employers.

Over the past two decades, many international bodies and national governments have developed and enforced anti-trafficking legislation and frameworks. Through a significant set of Ministerial Council Decisions, Declarations and other instruments,⁸³ the OSCE has called on the participating States to comprehensively prevent, and fight trafficking in human beings, and to protect its victims by implementing a multi-agency response co-ordinated at the local, national, and international levels through National Co-ordinators, NRM and NAPs.

As concerns trafficking for labour exploitation, in 2003 the OSCE Action Plan called on the participating States to, *inter alia*, implement measures to address the problem

83 OSCE Ministerial Council, *Decision No. 1 Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings* (Vienna, 28 November 2000); OSCE Ministerial Council, *Declaration on Trafficking in Human Beings*, MC(10).JOUR/2 (Porto, 7 December 2002); OSCE Ministerial Council, *Decision No. 2/03 Combating Trafficking in Human Beings* (Maastricht, 2 December 2003); OSCE Ministerial Council, *Decision No. 13/04 the Special Needs for Child Victims of Trafficking for Protection and Assistance* (Sofia, 7 December 2004); OSCE Ministerial Council, *Decision No. 13/05 Combating Trafficking in Human Beings* (Ljubljana, 6 December 2005); OSCE Ministerial Council, *Decision No. 3/06 Combating Trafficking in Human Beings* (21 June 2006); OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach* (Brussels, 5 December 2006); OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation* (Madrid, 30 November 2007); OSCE Ministerial Council, *Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach* (Helsinki, 5 December 2008); OSCE Ministerial Council, *Decision No. 2/09 Further OSCE Efforts to Address Transnational Threats and Challenges to Security and Stability* (Athens, 2 December 2009); OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005); for a full list of commitments related to THB, see Annex 1 (see verso)..

of unprotected, informal and often illegal labour as well as the underground economic activities that foster trafficking.⁸⁴ It also urged the participating States to take a wide set of preventive measures to raise levels of social protection, create employment opportunities, eliminate discrimination, improve livelihood options and professional skills, and reduce barriers to entrepreneurship.⁸⁵ In 2006 and 2007, the OSCE participating States adopted two Ministerial Council Decisions on trafficking for labour exploitation that call on participating States to increase the multi-agency co-operation among labour and immigration institutions, law enforcement agencies, the judiciary and social services providers, to prevent and fight trafficking as well as to protect the trafficked persons’ rights and grant them assistance.⁸⁶ Moreover, the OSCE OSR/CTHB and the OSCE ODIHR, greatly supported the development of knowledge and frameworks on different forms of trafficking in human beings, including those aimed at labour exploitation⁸⁷, and on the full protection of trafficked persons’ rights⁸⁸.

Trafficked persons should be ensured – upon their informed consent – assistance, protection, and access to justice and redress. This principle is envisaged by the main anti-trafficking international instruments as well as by other related international instruments, including the abovementioned OSCE documents⁸⁹, the UN Palermo Protocol⁹⁰, the Council of Europe Convention on Action against Trafficking in Human Beings⁹¹, the Council of Europe Convention on the Compensation of Victims of Violent Crimes⁹², the EU Directive on preventing and combating trafficking in human beings and protecting its

84 OSCE Permanent Council, *Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005): chapter IV para. 3.2.

85 Ibid.

86 OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation*, MC.DEC/8/07 (Madrid, 30 November 2007); OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach*, MC.DEC/14/06 (Brussels, 5 December 2006).

87 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB), *Combating Trafficking as Modern-Day Slavery: A Matter of Rights, Freedoms, and Security*, 2011 Annual Report of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (Vienna, 2010); OSCE OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series No. 4 (Vienna, 2010); OSCE OSR/CTHB, *A Summary of Challenges on Addressing Human Trafficking for Labour Exploitation in the Agricultural Sector in the OSCE Region*, Occasional Paper Series No. 3 (Vienna, 2009); OSCE OSR/CTHB, *Human Trafficking for Labour Exploitation/Forced and Bonded Labour: Identification – Prevention – Prosecution*, Occasional Paper Series No. 2 (Vienna, 2008).

88 OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Compensation for Trafficked and Exploited Persons in the OSCE Region* (Warsaw, 2008); OSCE ODIHR, *National Referral Mechanism. Joining the Rights of Trafficked Persons. A Practical Handbook* (Warsaw, 2004).

89 See footnote 83.

90 UN, *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (2000), Art. 6.

91 Council of Europe, *Convention on Action against Trafficking in Human Beings* (2005), Art. 12 and 13.

92 Council of Europe, *Convention on the Compensation of Victims of Violent Crimes* (1983).

victims⁹³, the EU Framework Decision on the Standing of Victims in Criminal Proceedings⁹⁴, the EU Directive relating to compensation to crime victims⁹⁵, the CIS Model Law on Providing Assistance to the Victims of Trafficking⁹⁶, the ILO Conventions⁹⁷, and numerous international human rights treaties⁹⁸. Also many national anti-trafficking legal frameworks of the OSCE participating States stipulate the right of trafficked persons to be supported, assisted, and legally redressed, generally within the NRMs. In most legal frameworks, however, the granting of assistance and legal remedies for victims is made conditional on the victims' willingness to co-operate with the competent authorities and press charges against their traffickers and exploiters. Furthermore, many national laws require migrant trafficked persons who decide to participate in criminal proceedings to return to their home country once the trial is concluded. Besides, in some countries, compensation is available only to nationals and regular migrants.⁹⁹ Victims of trafficking are too often treated as mere witnesses of a crime they must prove. Moreover, people trafficked for labour exploitation are still poorly identified as victims and they are certainly seldom regarded "first and foremost as workers"¹⁰⁰ whose human and labour rights have been or are severely violated.

93 EU, *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings, and protecting victims, and replacing Council Framework Decision 2002/629/JHA* (2011), Art. 11-17.

94 EU: Council of the European Union, *Council Framework Decision 2001/220/JHA on the Standing of Victims in Criminal Proceedings* (2001), Art. 6, 8, 9.

95 EU, *Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims* (2004).

96 CIS, *Model Law on Providing Assistance to the Victims of Trafficking* (2008), available at <<http://www.durex-promo.ru/index.php?ds=1424100>>, accessed 15 November 2011, Chapter 1, Art. 5.

97 ILO, *Convention on Forced Labour, C29* (1930); ILO, *Migration for Employment Convention, C97* (1949); ILO, *Migrant Workers (supplementary Provisions) Convention, C143* (1975); ILO, *Abolition of Forced Labour Convention, C105* (1957); ILO, *Declaration on Fundamental Principles and Rights at Work and its Follow up* (1998); ILO, *Worst Forms of Child Labour Convention, C182* (1999); the newly adopted ILO, *Convention Concerning Decent Work for Domestic Workers* (2011).

98 The UN *Convention on the Elimination of All Forms of Discrimination against Women* (1979) and the UN *Convention on the Rights of the Child* (1989) contain specific references to trafficking and assistance measures to be provided to victims. Other international human rights treaties are applicable to trafficking cases because they stipulate the protection of rights relevant for victims of trafficking (e.g., the right to life, dignity, liberty and security; the right to be free from slavery, forced labour and servitude; the right to health; the right to equal protection of the law; the right to freedom of movement; the right to privacy and family life; the right to work, to free choice of employment and favourable conditions of working) or forbid practices related to trafficking and exploitation (e.g., gender, racial, ethnic discrimination; torture and inhumane treatment and punishment; forced marriage; forced labour and servitude; slavery; sale and sexual exploitation of children; exploitation of prostitution). They include the following: UN, *Optional Protocol to the International Covenant on Civil and Political Rights* (1966); UN, *International Covenant on Economic, Social and Cultural Rights* (1966); UN, *Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment* (1984); UN, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (2000); UN, *International Convention on the Protection of the Rights of Migrant Workers and Their Families* (1990); UN, *Convention relating to the Status of Refugees* (1951).

99 Anti-Slavery International, *Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK* (London, 2009), p. 20.

100 Maria Grazia Giammarinaro, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, at the OSCE *Alliance Conference "Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice"*, 20-21 June 2011.

3.2 Assistance and Support Measures for Persons Trafficked for Labour Exploitation

Over the past 20 years, a wide range of services targeting persons trafficked for sexual exploitation have been developed in the OSCE region. Specific measures have been established to contact, identify, and assist potential, presumed, and actual victims of trafficking exploited in the different sectors of the sex industry. Awareness raising and training modules for distinct anti-trafficking stakeholders have been produced and – in several but not all cases – used. Identification and support tools are also available, in many instances in several languages. Various accommodation options are offered, even though their availability is not always sufficient to shelter all victims. NRMs and NAPs are in place throughout the region. This is to say that a considerable level of expertise, tested procedures, and numerous tools are available for professionals working in the anti-trafficking field, specifically targeting children and adults trafficked for sexual exploitation. However, it is questionable to what extent they are actually implemented, enforced, and to what extent they are sustainable.

On the contrary, limited (but existing) practices and tools are available to support and assist persons trafficked for labour exploitation.

It is therefore important to make use of the valuable and rich existing toolbox to support victims of trafficking for sexual exploitation as a starting instrument to provide assistance to people trafficked for labour exploitation. Available human rights protection tools and other instruments developed in other relevant policy and interventions areas (e.g., migration, refugees and asylum seeking, employment, social inclusion, etc.) should also be considered. The transfer and adaptation of the practices metaphorically contained in the toolbox can then be very important steps to develop *ad hoc* measures to support victims trafficked and exploited in various economic sectors. In doing so, it is first necessary to perform a thorough assessment to identify the specific needs of people trafficked for labour exploitation and to evaluate the capacity of the support system to actually meet them. The findings of such a crucial assessment would greatly contribute to developing new measures and adapting and adopting some of the instruments currently contained in the anti-trafficking toolbox.

No extensive studies on the specific needs of victims of trafficking for labour exploitation based on their own viewpoints have been issued so far.¹⁰¹ This is a gap that should be promptly bridged. Yet, in the last few years, the general investigations on trafficking for labour exploitation identified some key features of the phenomenon that must be considered when drafting a comprehensive response. Moreover, some anti-trafficking professionals working in different OSCE participating States have developed valuable know-how that is very helpful to identify the services and activities specifically addressing persons trafficked and exploited in the economic sectors. Also, a few migrant rights groups and trade unions have started to develop important operational tools to reach out to, and support, through their services, potential and presumed persons trafficked for labour purposes.

Based on the available research findings and on the knowledge of anti-trafficking professionals and other activists, in the following paragraphs, assistance and support measures for victims of trafficking for labour exploitation are discussed along with their pros and cons. These are both specialized and general services which are or could be provided to potential and presumed trafficked persons (outreach work, drop-in centres, hotlines) and to identified trafficked persons (social protection programmes and access to justice). In some cases, they are measures or services resulting from the adaptation of those offered to people trafficked for sexual exploitation or to other vulnerable groups (e.g., irregular migrants).

3.2.1 Outreach Work: Proactiveness is the Key

In spite of its crucial role, outreach work specifically targeting migrant and national workers trafficked for labour exploitation is still rarely performed. Outreach work has a twofold purpose: to map the phenomenon, and provide information and support to potential and presumed victims of trafficking. Through regular mapping activity, essential data is gathered, such as: the economic sectors and actors involved in trafficking for labour exploitation chains; the means of exploitation; where exploitation takes place; the potential and presumed trafficked persons (background, gender, average age, nationality, type of trafficking); their basic needs; where they live and how. Gathering and analysing this information is instrumental to inform and orient the range of support measures and

the languages needed to interact with vulnerable workers who may be victims of trafficking.

Rights awareness raising, information delivery, counselling on health, social, and labour rights, and on legal issues, as well as accompanying the person to the local social and health services, are the “core business” of an outreach team, through which a relationship of trust can be built and, eventually, trafficking cases identified and properly referred. This process usually takes some time since trafficked workers generally are not able to immediately leave their exploitative situations. They tend to do so once their living and working conditions become unbearable, a work accident occurs, they become fully aware of their rights, and find or are offered a viable alternative to their exploitative situation.

The outreach team should consist of properly trained professionals, including cultural mediators, who should preferably meet the potential and presumed trafficked persons directly where they live or in other premises they are present at. In fact, it can be dangerous and counterproductive to meet the target groups in their workplaces, though this is actually too common a practice for outreach workers providing support to persons trafficked for sexual exploitation. The outreach team may also include – regularly or periodically – other important stakeholders, such as, for instance, trade unionists, lawyers, and migrant rights activists.

In the past few years, some economic sectors involved in the exploitation of trafficked persons have been identified, as well as specific workplaces where vulnerable (migrant) workers are employed and can fall prey to unscrupulous labour suppliers and exploiters. These are generally workplaces with poor labour standards, often in labour-intensive and unregulated sectors, where non-unionised workers are exploited, such as, for instance, in agriculture, horticulture, fishery, hospitality, restaurants, and construction. Due to the type of job performed, workers employed in many of these sectors are not



Comunità Oasi 2

Outreach work performed by NGO Comunità Oasi 2 “S. Francesco” in Apulia (Italy) in the places where vulnerable migrant workers live (2011)

¹⁰¹ The available studies are generally based on interviews with experienced anti-trafficking workers and stakeholders and, to a lesser extent, with trafficked persons, who are generally asked to provide information on the so-called “trafficking cycle” (recruitment-transport-exploitation-exiting) and only occasionally on their different needs when in the country of origin, transit and destination and about their experiences with anti-trafficking agencies encountered. On this issue, see also footnote 111 and 161.

hidden. Outreach work should then start by targeting these workplaces and these workers, whose presence in the fields, gardens, orchards, fishing boats, and construction sites is well known by many people, often even by agencies mandated to perform checks and fight irregular work and exploitation.

Le città invisibili* outreach work (Apulia, Italy)

In 2008, Comunità Oasi 2 “S. Francesco” (NGO) established an outreach unit and mobile drop-in centres to specifically map the working areas and conditions of migrant workers, who can be vulnerable to different forms of labour exploitation, also associated with trafficking in persons. The migrant workers are generally seasonal pickers of tomatoes, olives, grapevines and watermelons. The staff of the outreach unit and drop-in centres consists of specialized social workers and cultural mediators who constantly monitor the working and living places of migrant workers. Such places are often located in very isolated areas, in some cases not even found on official maps. The outreach workers then approach the migrant workers in their (often wretched) living places and provide them with social, legal, and health information and counselling and, upon request, accompany them to the local health services. The building of relationships of mutual trust allows for the identification of presumed victims of trafficking, who are eventually referred to the social protection programme. Since 2007, several victims of trafficking for labour exploitation have been identified and referred by the outreach unit and the mobile drop-in centres run by Comunità Oasi 2 “S. Francesco”.

* The invisible cities

[Source: <<http://www.oasi2.it>>]

Persons trafficked in other economic sectors are less visible and thus more difficult to approach since they perform jobs in isolated and hidden locations, in particular those working in private or diplomatic households, or those employed in closed premises (e.g., factories, sweat shops, etc.). Nevertheless, some practices to reach out to them have been successfully developed. For instance, outreach workers provide information and materials at places where potential and presumed victims can be found, namely, *inter alia*, shops, places of worship, markets, transportation areas, diaspora and ethnic community meeting places. Along with the more traditional means of information (e.g., multi-lingual leaflets, pocket guides, etc.), some organizations also use innovative instruments, such as soap bars, cleaning gloves, and candy boxes in which awareness raising messages in different languages and hotline numbers are hidden. It is more challenging to provide information to domestic workers who only sporadically (if ever) leave their employers’ household. Some experimental initiatives have been tested on this challenging problem, e.g., advertising the counselling

services with posters trailered by a motorscooter¹⁰² which drives through neighbourhoods where diplomats live. Several countries have also adopted special procedures to ensure that domestic workers employed by diplomats are fully informed about their rights and remain in possession of their passports and travel documents .¹⁰³ These workers are generally asked to periodically visit the competent Foreign Affairs office of the host country, where their documents are checked and updated, and where information and professional counselling are offered.¹⁰⁴



SCHIEBE PREIL BAYER / © Ban-Ying, Berlin / Photographs: Lars Jensen / www.sxc.hu, A.P. / www.photocase.de
Initiative promoted by NGO Ban Ying in Berlin (2010)

Migrant workers, who are potential or actual victims of trafficking for labour exploitation, can also be reached through local newspapers issued in their own languages. In several cities, in fact, papers are published and widely circulated among the ethnic or diaspora communities. However, relevant experience in this regard is still limited. On the contrary, exploiters have been found to use such media to recruit their victims.¹⁰⁵

The existing outreach experiences highlight that it is fundamental to develop proactive outreach methodologies to meet vulnerable (migrant) workers preferably where they live and to perform regular mapping activity of the labour sectors, working premises, and target groups concerned. They also underscore the need to “be creative” to successfully develop tools and methodologies to reach the potential and presumed victims, especially those whose freedom of movement is very limited.

¹⁰² See 2010 Ban Ying activities. This German NGO has been particularly active in developing innovative tools to reach out to vulnerable migrants, including victims of trafficking for labour exploitation, in co-operation with an advertising agency.

¹⁰³ OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010).

¹⁰⁴ See Chapter 2 (p. 15), “Methods to Prevent Trafficking for Labour Exploitation: What to Do and How”, Mike Dottridge.

¹⁰⁵ E. Bedin, C. Donadel, “I servizi erogati dal Comune di Venezia”, in F. Carchedi (ed.), *Schiavitù di ritorno. Il fenomeno del lavoro gravemente sfruttato: le vittime, i servizi di protezione, i percorsi di uscita, il quadro normativo* (Maggioli Editori: Sant’Arcangelo di Romagna, 2010).

3.2.2 Drop-in centres: Fixed or on the Move

In social work, drop-in centres have played and still play an important role in offering information and specialized counselling to a wide range of vulnerable groups and in eventually referring those needing special assistance. Drop-in centres can also be successfully used to provide information and professional advice to potential and presumed victims of labour trafficking, *inter alia*, on social and health services, labour legislation and rights, legal matters, migration regulations, social protection schemes, and compensation regimes. Drop-in centres should be located in accessible places and be open at convenient hours for their potential users. Some NGOs have also developed mobile drop-in centres, which are regularly moved in places where vulnerable workers live or in nearby places they attend. Some organizations are also allowed to set up a drop-in centre in detention facilities, where newly arrived irregular migrants and detected irregular migrants are held before being given a removal order or being deported, once identified. Especially in such cases, the drop-in centre can play a key role in identifying migrant persons who arrived in the country to be exploited or migrant workers who have been exploited but not identified as victims of trafficking by the competent authorities.

Cimade (France)

Cimade is a French NGO with a long-standing experience in working with undocumented migrants coming from many countries. Its mission is to protect their rights and fight against discrimination and racism. Cimade works in several French regions, also through collaboration with other organizations and with the help of many volunteers, with the common goals, *“to change the prospects of migration policies and suggest concrete alternatives, fair, responsible and respectful of human rights”*. Each year, Cimade provides social and legal counselling, support, and assistance to thousands of migrants, refugees, and asylum seekers. It also offers sheltering solutions and training opportunities to support the undocumented migrants' social and labour inclusion in France. Cimade workers are authorized to access the detention centres where they offer legal counselling and aid to the detained migrants. Through their work in the detention centres, Cimade workers have identified several trafficked persons who were then referred to anti-trafficking agencies for specialized support and assistance.

[Source: <<http://www.cimade.org>>]

Counselling centres run by diaspora and migrant associations, trade unions, health services, faith-based associations, legal aid, other civil society organizations but also by governmental agencies are crucial to

provide information and promote rights' awareness and access to remedies. The involvement of non-specialized organizations and services is in fact critical in reaching a larger group of vulnerable (migrant) workers as well as to sensitize a wider number of professionals who may come in contact with people trafficked for labour exploitation. The drop-in teams should consist of different professionals, including social workers, cultural mediators, lawyers, and labour issues experts. Written materials and counselling services should be free of charge and available in different languages.

Domestic Workers Action Group (Ireland)

The Domestic Workers Action Group (DWAG) was established by Migrant Rights Centre Ireland (MRCI) in 2004 to collectively respond to migrant domestic workers reporting exploitation and unfair working treatment to the MRCI drop-in centre. The employment complaints included: pay below the legal minimum hourly rate of pay for all the hours worked; excessive working hours (in some cases, more than 80 hours per week); no breaks; unfair and illegal pay deductions. Over time, the drop-in centre identified many cases of trafficking for domestic servitude involving migrant workers who were threatened and treated like slaves and too intimidated to report their employers for fear of reprisal. In order to improve their working conditions, a group of migrant domestic workers have come together to fight for their own rights and improved working and protection standards. DWAG has carried out many information and awareness activities, including campaigns, *inter alia*, to advocate for waiving diplomatic immunity in cases of diplomatic personnel severely exploiting workers and to support the development of an ILO Convention on Domestic Work. DWAG also co-developed with trade unions the Code of Practice for Protecting Persons Employed in other People's Homes. DWAG has 200 members across Ireland, mostly migrant women, working as cleaners, carers, and child-minders.

[Source: <<http://www.mrci.ie/Domestic-Workers>>]

3.2.3 Hotlines: Who's Answering?

In many countries, anti-trafficking hotlines are available to potential and presumed victims as well as to anti-trafficking professionals and the wider public. They are generally specialized in issues concerning trafficking for sexual exploitation and, therefore, their operators need to be trained to also provide accurate information and assistance regarding legislation and measures concerning trafficking for labour exploitation. In order to be truly effective, the hotlines need to be free of charge and grant the following services: 24/7 availability, multi-lingual staff, and be part of the national referral mechanism so as to be able to refer the presumed victims to the accredited organizations. Hotlines also need to be regularly and largely publicized at the local and national levels through

a wide range of media, namely television, radio, Internet, newspapers, magazines, posters, billboards, leaflets, and small token gifts. In practice, hotlines hardly manage to advertise their services on a regular basis and via different means due to economic constraints. Furthermore, in some OSCE participating States, different anti-trafficking hotlines are available but they do not co-operate in a systematic way. Co-ordinated action among the organizations and government actors running the different hotlines could actually improve their common goal – to provide information and support to victims of trafficking, anti-trafficking professionals, and other actors – thus, it should be encouraged.

National Hotline and online counselling (Moldova)

Since 2001, La Strada Moldova runs national toll-free hotlines on trafficking in persons and on prevention of violence and protection of children's rights. Specialized operators provide a wide range of information in Romanian, Russian and English. Callers may be persons who have been offered a job abroad or plan to go abroad for work, study, marriage, tourism purposes; relatives of persons trafficked and exploited abroad looking for help; trafficked persons who need assistance. Detailed information on the following topics is given: visa regime and procedures necessary to fulfil in order to expatriate to a given country according to the purpose of travel; checking the reliability of the tourism or employment agency; information on a specific foreign legislation on given matters (e.g., migration, labour, education, marriage, etc.); advice on how to identify and avoid risky situations that may lead to trafficking; advice on how to protect their rights as migrants. The operators also provide counselling on social assistance and reintegration services to returned trafficked persons and/or their relatives. Furthermore, they can establish contact with or be contacted by other agencies offering assistance in Moldova or abroad to presumed trafficked persons, trafficked persons, anti-trafficking actors and others. La Strada Moldova also offers online information and counselling through the use of Skype.

0 800 77777 for national calls
 (+373 22) 23 33 09 for international calls
 Skype id: HL 0 800 77777
 [Source: <<http://www.lastrada.md>>]

In 2009, the European Commission funded a feasibility and assessment study for the establishment of a European-wide hotline for victims of trafficking in human beings. The researchers identified many good reasons to set a single EU-wide hotline but also highlighted that numerous experienced anti-trafficking organizations were not in favour of its setting up. In fact they underlined that a properly functioning EU hotline could only be established provided that personal details revealed during the calls remain strictly confidential; that operators are suitably trained and qualified; that a solid referral system is in

place and multilingual services are provided.¹⁰⁶ Since such criteria¹⁰⁷ are not fully met yet, they concluded that an EU-wide hotline should not be created. The findings of this investigation pinpoint important principles that need to be addressed, but they also prove that co-ordination among different local and national hotlines would be very beneficial across borders.¹⁰⁸

In several OSCE participating States, hotlines targeting other vulnerable groups are available, such as hotlines for workers in general, migrant workers in particular, persons facing discrimination on the basis of religious belief, race, gender, age, sexual orientation, etc. Many hotlines also target a wide range of professionals, including – *inter alia* – anti-trafficking workers, law enforcement agencies, lawyers, labour officers, employers, and the general public. In some cases, the hotline operators are trained to also provide information on trafficking-related issues and refer potential and presumed victims of trafficking for labour exploitation to specialized services. This is a good practice that should be supported in order to involve non-specialized services and organizations in the prevention and referral of cases of trafficking.

3.2.4 Detection, Identification and Referral: a Multi-agency Effort

The detection, identification, and referral of persons presumed to be trafficked for labour exploitation are crucial steps to ensure their support and protection of rights. Numerous tools on how to perform these important procedures have been produced. ILO and several NGOs, IOs, and other relevant anti-trafficking actors have developed indicators, interview guidelines and formats, referring procedures and operational manuals and training modules, also targeting persons trafficked for labour exploitation.¹⁰⁹ Some need to be updated, refined, or expanded, but they are certainly useful instruments. Yet, to date, very few victims have been identified and referred. This is the result of various factors, including lack of adequately trained anti-trafficking actors, outreach services, and cross-sectoral co-operation. A multi-

¹⁰⁶ La Strada International, *Feasibility and Assessment Study on a European Hotline for Victims of Trafficking in Human Beings* (Amsterdam, 2009), p. 81.

¹⁰⁷ Some useful materials are currently available to improve the skills of hotlines operators, e.g., ASTRA, *Manual for Work on SOS Hotline for (Potential) Victims of Human Trafficking. NGO ASTRA Experience* (Belgrade, 2009); La Strada Moldova, *The Practical Guide to Telephone-Based Counselling* (2008), <http://www.lastrada.md/publicatii/ebook/Identific_eng.pdf>, accessed 15 November 2011.

¹⁰⁸ For example, in some CIS countries, different hotlines are co-ordinated at the local and national levels, and to some extent regionally (by IOM in Central Asia for example, with USAID funding under a regional project).

¹⁰⁹ ILO, *Operational indicators of trafficking in human beings - Results from a Delphi survey implemented by the ILO and the European Commission* (Geneva, 2009); UNHCR, *The Identification and Referral of Trafficked Persons to Procedures for Determining International Protection Needs* (Geneva, 2009); Anti-Slavery International et al., *Protocol for Identification and Assistance to Trafficked Persons and Training Kit* (London, 2005).

agency approach is particularly crucial in these stages of the anti-trafficking work and should involve many actors, such as labour inspectors, trade unions, immigration officials, municipal workers (e.g., from health, fire and safety, housing, construction checks departments), fiscal intelligence and investigation officers, employment insurance agents, migrant counselling workers, and health professionals. During or through their work, these actors can detect signs of trafficking and report them to the competent agencies and/or initiate the relevant procedures to further investigate the case and refer the presumed victims of trafficking. Furthermore, practices

of multi-agency staff jointly working from the first step of detection need to be further developed to better approach and assist presumed trafficked persons exploited in different sectors of the labour market.

3.3 Social Protection Programme and Support Services: Ready for 2.0?

Most countries of the OSCE region have established NRMs and provide assistance and social protection measures to presumed and identified trafficked persons. In many cases, though, the systems are tailored to the specific needs of victims of trafficking for sexual exploitation, who are mainly national or foreign women and who may have different needs than those of victims of trafficking for labour exploitation. For this reason, it is necessary to reiterate once again that it is urgent to carry out in-depth studies to assess the specific needs of persons trafficked for labour exploitation from, to, and within OSCE participating States. The findings of these investigations would contribute to improving the services currently available and would also provide guidance for the establishment of new tailored measures of assistance and protection.

Presumed or identified victims of trafficking for labour exploitation should be entitled to full social assistance, protection and redress, in full compliance with international human rights norms.¹¹⁰ Their social and labour inclusion should be achievable in the country of origin or in that of destination, irrespective of the decision of victims to press charges or not against their traffickers and exploiters or of the court's final determination. Unfortunately, in many countries, comprehensive assistance and support are still contingent upon victims' participation in the criminal proceedings and only last for the duration of the trial. Once the trial is over, the victims are required to return to their home country.

Persons trafficked for any form of exploitation, including victims of trafficking for labour exploitation, should be granted an array of services based on their individual needs. The range of services that should be made available include: board and lodging; social counselling; psychological counselling; social and health care services accompaniment; free legal advice and assistance; social activities; language classes; education; vocational

Crisis and Assessment Unit (Municipality of Venice)

Established within the framework of the local social protection programme (progetto "Comunità locali contro la tratta: una rete per il territorio del Veneto")*, the main goal of the Crisis and Assessment Unit is the detection and identification of presumed trafficked persons exploited for labour purposes through a proactive multi-agency effort. The Unit consists of the Social and Humanitarian Protection Office of the Municipality of Venice, the Provincial Labour Inspectorates, and the law enforcement agencies (Carabinieri, Police, Customs Police). The multi-agency team, thus, is composed of the municipal social workers, psychologists and a cultural mediator, and the officers of the abovementioned State actors. Once the Unit is informed of a presumed case of trafficking (as a result of a labour or police investigation, hotline calls, anonymous letters, word of mouth, etc.), the team meets and jointly plans the workplace inspection. Then it performs the inspection as follows: first, the labour inspectors and the law enforcement officers check the health and safety conditions of the working environment, and the company's compliance with the labour regulations, including the worker's position (contract, legal status, etc.). If, during the inspection, vulnerable migrant workers are found, the municipal team is then required to join the rest of the unit and carry out the preliminary case assessment, first identifying the migrants' needs. The migrant workers are then provided information and counselling and in case they are identified as victims of trafficking, they are referred to the municipal social protection staff. Information is also provided to migrants who are not found in a vulnerable position. Since 2007, the Crisis Assessment Unit has performed 26 inspections in Chinese manufacturing companies, carried out 108 interviews, identified and referred seven Chinese migrants to the local or national social protection programme for trafficked persons. The Unit is planning to soon also target other labour sectors, starting with agriculture, and addressing other national vulnerable migrant groups. Veneto, located in the Northeastern part of Italy, is the Unit's geographical scope.

* Project "Local communities against trafficking: A network for the territory of Veneto"

[Source: Interview with E. Bedin, Municipality of Venice]

¹¹⁰ United Nations Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, A/HRC/17/35 (13 April 2011).

guidance; training activities; job placement; and voluntary assisted return. These services are part of a common model of assistance and protection developed in the last decade and offered in many OSCE participating States, mainly to victims of trafficking for sexual exploitation. Handbooks, guidelines, protocols, and other operational tools¹¹¹ have been issued to guide and train anti-trafficking stakeholders and actors on what, why, how, when, and who should perform the abovementioned services diligently broken down by distinct measures and tasks. Does this model meet the needs of victims of labour exploitation? To date, we can provide only partial answers to this question. Only future studies based on trafficked persons' needs assessment¹¹² and viewpoints and on the outcomes of an independent, thorough assessment of the social protection schemes in place for victims of trafficking will allow us to fully answer this question. Meanwhile, the findings of recent studies carried out on trafficking for labour exploitation and the reports of the assistance organizations may provide some significant insights to start answering such a crucial question.

Based on the available information concerning some OSCE participating States,¹¹³ gender, ethnicity and class

are often determining factors in situations of trafficking for labour exploitation.¹¹⁴ Identified victims of trafficking for labour exploitation are mostly men, from a wide range of origin countries and frequently from minorities or marginalized groups. In many cases, men are recruited and entrapped in the exploitation cycle after having reached the country of destination and found themselves in vulnerable situations. Their legal status varies: they can be nationals, regular migrants, irregular migrants, or overstayers. Women are also trafficked and exploited in the labour market but they tend to be employed especially in less visible sectors (e.g., domestic work, catering, hospitality, hotels, etc.) and, therefore are less likely to be intercepted by the competent authorities or support agencies. Furthermore, trafficked women may suffer from multiple forms of exploitation. For instance, during the day, they can be exploited as tomato-pickers and, in the evening, as prostitutes forced to provide sexual services to their labour suppliers, employers or strangers. Comprehensive information on children trafficked and exploited for labour purposes is still scarce. However, the available studies highlight that trafficked children are exploited in many formal and informal economic sectors, such as agriculture, manufacturing industries, mining, fisheries, domestic work, street peddling, and other street-based activities (e.g., flower selling, car window cleaning, etc.). Like women, in several cases trafficked children are exploited for different purposes at the same time.

Victims of labour exploitation are often controlled not by means of violence, but through more subtle psychological means.¹¹⁵ Most of them are unaware of both their labour and human rights. They generally leave their exploitative conditions as a result of one or a combination of external factors, i.e., they are discovered during an inspection, they get very sick, or suffer from a work-related accident.¹¹⁶ Sometimes, they autonomously seek help if their working conditions have become intolerable. In many instances, they work within their own ethnic communities, or their labour supplier or recruiter is a compatriot. Such ethnic or national ties result in a strict dependency from the employer that is difficult to sever. Furthermore, some scholars argue that men tend to perceive themselves as victims of fraud and not as victims of crime, also as a result of their culture's gender identity roles, fear of stigma, and social construction of the term "victim" (= woman trafficked for sexual exploitation)¹¹⁷. Once they have joined a social protection programme, their main

111 See, *inter alia*, ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU* (Vienna, 2010); UN.GIFT, IOM, London School of Hygiene & Tropical Medicine, *Caring for trafficked persons: Guidance for health providers* (Geneva, 2009); Separated Children in Europe Programme (SCEP), Save the Children, United Nations High Commissioner for Refugees and UNICEF, *Statement of Good Practice* (Geneva, 2009); La Strada Express, *Reintegration Plan for Victims of Trafficking in Human Beings. Good Practice and Recommendations* (Chisinau, 2008); UN-ODC, *Toolkit to Combat Trafficking in Persons* (2008); UNHCR, *Guidelines on Determining the Best Interests of the Child* (Geneva, 2008); USAID, *Methods and Models for Mixing Services for Victims of Domestic Violence and Trafficking in Persons in Europe and Eurasia* (2008); IOM, *Direct Assistance for Victims of Trafficking* (Geneva, 2007); ICMPD, *Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response* (Vienna, 2006); ICMPD, *Anti-Trafficking Training Material for Judges and Prosecutors in EU Member States and Accession and Candidate Countries. Background Reader* (Vienna, 2006); ICMPD, *Anti-Trafficking Training Material for Frontline Law Enforcement Officers* (Vienna, 2006); UNICEF, *Guidelines on the Protection of Child Victims of Trafficking* (New York, 2006); OSCE ODIHR, *National Referral Mechanism: Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook* (Warsaw, 2004); WHO, London School of Hygiene and Tropical Medicine and Daphne Programme of the European Commission, *WHO Ethical and safety recommendations for interviewing trafficked women* (Geneva, 2003).

112 During her presentation at the OSCE Alliance Conference in June 2011, Ms. C. Dettmeijer-Vermeulen, Dutch National Rapporteur on Trafficking in Human Beings, announced that her Office recently concluded a research on the specific needs of victims of labour exploitation and the extent to which these are being met in the Netherlands. This study is not available yet.

113 C. Rijken (ed.), *Combating Trafficking in Human Beings for Labour Exploitation* (Wolf Legal Publishers: Nijmegen, 2011); Heuni, *Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia*, A. Jokinen, N. Ollus, K. Aromaa (Helsinki, 2011); Churches' Commission for Migrants in Europe (CCME), *Combating Trafficking for Forced Labour in Europe*, T. Moritz, L. Tsourdi (Brussels, 2011); OSCE OSR/CTHB, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude* (Vienna, 2010); USAID, *Trafficking of Adult Men in the Europe and Eurasia Region*, R. Rosenberg (2010); F. Carchedi (ed.), *Schiavitù di ritorno. Il fenomeno del lavoro gravemente sfruttato: le vittime, i servizi di protezione, i percorsi di uscita, il quadro normativo* (Maggioli Editori: Sant'Arcangelo di Romagna, 2010); ILO, *Concealed chains: Labour exploitation and Chinese migrants in Europe* (Geneva, 2010); ILO, *Forced labour and trafficking in Europe: how people are trapped in, live through and come out*, B. Andrees (Geneva, 2008); ILO, *Human Trafficking and Forced Labour - Case studies and responses from Portugal* (Geneva, 2008); Anti-Slavery International, *Trafficking for Forced Labour in Europe. Report on a study in the UK, Ireland, the Czech Republic and Portugal* (London, 2006); ACCEM, *La Trata de Personas con Fines de Explotación Laboral. Un estudio de aproximación a la realidad en España* (Madrid, 2006); ILO, *Trafficking for Labour and Sexual Exploitation in Germany* (Geneva, 2005).

114 MRCI, *Trafficking for Forced Labour in Ireland and the United Kingdom: Issues and Emerging Good Practice* (Dublin, 2010).

115 Heuni, *Op.Cit.*, p. 320.

116 F. Carchedi (ed.), *Op. Cit.*

117 V. Nikolić-Ristanović, S. Copic, "Combating Trafficking in Human Beings for Labour Exploitation in Serbia", in C. Rijken (ed.), *Op. Cit.*; USAID, *Op. Cit.*; ICMPD, *Listening to Victims. Experiences of identification, return and assistance in South-Eastern Europe* (Vienna, 2007).

request is to swiftly find a new job in order to support their family to fulfil their role as breadwinners. However, some anti-trafficking practitioners underline that women also tend to not identify themselves as victims and to be very focused on achieving their migratory project, i.e., to find work to support their family back home.

Against this background and the practice so far developed by various anti-trafficking professionals, some measures of the common model of social protection may need to be changed whereas some others are yet to be developed. Taking into consideration the abovementioned findings, some reflections are made in the following paragraphs.

3.3.1 Accommodation Services

There is a serious lack of accommodation services for victims of trafficking in general and for male victims of (labour) trafficking in particular¹¹⁸ throughout the OSCE region. In order to overcome this obstacle, different solutions come to mind apart from establishing brand new shelters, when necessary. For instance, victims could be hosted by other accredited support organizations targeting different vulnerable groups or they could be offered family-based assistance or a non-residential programme. The latter is generally provided to those who want an autonomous and reliable accommodation often with partners, family members, or friends.¹¹⁹ In this case, the anti-trafficking agency staff regularly visits the assisted persons and holds frequent meetings with them. These alternative accommodation solutions greatly value local partnership and support to strengthen the local referral system. Most of all, they value the role played by the victims' personal network to facilitate their empowerment and social inclusion. Yet, their accommodation must comply with all safety regulations to ensure the hosts' and the working teams' safety.

3.3.2 Education, Vocational Guidance, Training, and Job Placement

These measures need to be improved, more tailored to individual needs and made fully available to persons who, while seeking better living and working conditions, fall prey to traffickers and exploiters. Education, vocational guidance, and training are important tools to acquire new professional skills and/or to update those already developed. Most of all, they contribute to increase the victims' opportunities to access stable sectors of the

labour market; to avoid potential exploitative conditions¹²⁰; to support their empowerment and self-reliance; to favour their social inclusion into the local community of the country of destination or that of the origin country. Victims of trafficking for labour exploitation often ask for help for a direct job placement, which would serve to uphold their migration project. In order to properly provide the abovementioned measures, the support team should also consist of vocational counsellors, tutors, and legal consultants. Their role is crucial to assess the skills, goals, and potential of the assisted persons and match them with the companies' needs; to set up and regularly update a database with available training agencies and companies; to develop working tools and methodologies in collaboration with all concerned actors; to monitor the case through regular meetings with assisted persons and training agencies or companies. The training positions and the jobs offered should in no way resemble forms of labour exploitation, such as, for instance, working without a (regular) contract and for long hours, not being adequately paid, and so on. Networking and linking up with local vocational schools, training agencies, professional associations, employment agencies, and trade unions would greatly foster the assisted person's insertion into the labour market. The establishment of such a wide partnership would also allow for the testing of innovative systems of training, social and labour inclusion aimed at vulnerable groups.

3.3.3 Free Legal Counselling and Assistance

Very often, trafficked persons do not perceive themselves as victims and, therefore, do not see themselves as subjects of human rights violations and holders of rights. In some cases, they come from countries with weak social, political, and labour rights frameworks and, thus, they are not fully or at all aware of their entitlements. In other cases, their irregular work and migration status prevents them from seeking help from support agencies. The latter are fundamental to ensuring the full protection of the trafficked persons' rights by providing detailed information on the available rights and legal options, granting assistance for fulfilling legal procedures (e.g., application for temporary or permanent residence permit, asylum seeking procedure, expulsion order withdrawal, application for family reunion, legal representation, accompaniment to courts, etc.), and establishing contacts with the competent authorities and other actors concerned, namely law enforcement agencies, the judiciary, labour inspectorates, trade unions, law firms, and so on. Anti-trafficking agencies should include lawyers and/or paralegals in their staff to

118 M. Heemskerck, C. Rijken, "Combating Trafficking in Human Beings in the Netherlands", in C. Rijken (ed.), *Op. Cit.*, p. 141.

119 European Commission, *Report of the Experts Group on Trafficking in Human Beings* (Brussels, 2004), p. 181.

120 *Ibid.*, p. 182.

provide professional counselling to the assisted persons; otherwise, they should involve as working partners trade unions, lawyers' associations, *pro bono* lawyers, and other relevant associations that can help grant victims access to justice. Currently, anti-trafficking agencies face serious challenges to grant full legal aid and representation to the persons they assist because they only rarely have lawyers in their staff, manage to access the state legal aid, or can afford to hire external lawyers. Establishing regular partnerships with other concerned support agencies, representing migrants, workers, or migrant workers, could certainly improve their capacity to provide legal aid.

3.3.4 Access to Justice and Compensation

The full acknowledgement of trafficked persons' right to redress is a crucial component of the anti-trafficking fight, as stipulated in most international anti-trafficking and human rights instruments. Through compensation payments, the states recognize the violation of rights and the damages suffered by victims of trafficking who may then be redressed for psychological and physical suffering, medical expenses, lost earnings and benefits, and other damages. Trafficked persons have greater possibilities to access restorative justice by making full use of criminal, labour, and administrative tools to uphold their rights.

Compensation payment is also a very important preventive and empowering tool for trafficked persons who can develop a new life project and significantly reduce the risk of being re-trafficked and exploited again.¹²¹ Most OSCE participating States have compensation schemes for victims of crime who can claim material and immaterial damages. In spite of this, only a small number of victims submit a claim for damages and very few receive redress.¹²² As a matter of fact, many factors severely hinder their access to restorative justice, such as trials of long duration; victims' fear of authorities or of retaliations by traffickers; voluntary or forced return of victims; lack of free legal aid or of economic resources to pay lawyers; excluding criteria for specific groups; lack or poor information provided to victims about their right to seek restoration; lack of knowledge on labour rights and

compensation on the part of anti-trafficking stakeholders, including competent authorities; few arrests of traffickers and exploiters; cases involving many victims; insolvency of traffickers who transfer and invest their assets abroad; lack of financial investigations; lack of state compensation funds or poor knowledge of their existence.

Against this background, trafficked and exploited (migrant) workers face many limitations to obtain redress in the framework of criminal and civil justice. In spite of their full entitlement to labour rights, both national and foreign workers are often not acknowledged as victims of severe violations perpetrated by unscrupulous traffickers and exploitative employers. Therefore, they suffer from another form of violation perpetrated by states as a result of their failed identification, protection and compensation. In this framework, labour courts, mediation, and collective action can be crucial instruments to swiftly obtain legal redress¹²³ and trade unions can be key interlocutors to facilitate the trafficked person's access to compensation mechanisms.¹²⁴ Experience from both trade unions

Ver.di (Germany)

Ver.di, a German trade union, run counselling centres for irregular migrant workers in Hamburg, Munich and Berlin to specifically provide information and legal advice in cases of labour abuse. Through the involvement of the German trade union confederation (DGB), more counselling centres have been opened throughout Germany. The centres work in close co-operation with a wide range of partners, including other trade unions, anti-trafficking NGOs, migrant rights organizations, human rights organizations, asylum seekers and refugees agencies, and women's rights associations.

[Source: <<http://www.verdi.de>>]

OR.C.A – Organisation for Undocumented Migrant Workers (Belgium)

OR.C.A's mandate is to defend the rights of irregular migrant workers in Belgium. It offers them counselling on work-related problems and carries out information campaigns. OR.C.A works in close co-operation with trade unions, labour inspectorates, employers' organizations, and NGOs. In 2009, it published *Labour rights have no frontiers*, a handbook on creative methods to promote and support the self-organization of irregular migrant workers so as to enable them to claim their own rights collectively.

[Source: <<http://www.orcasite.be/?id=32>>]

121 <<http://www.compactproject.org>>, accessed 15 November 2011.

122 European NGOs Observatory on Trafficking, Exploitation and Slavery (E-notes) et al., *Report on the implementation of anti-trafficking policies and interventions in the 27 EU Member States from a human rights perspective (2008 and 2009)* (2011); Young Women Christian Association of Belarus (BYWCA), *La Strada Belarus, Compensation for trafficked persons in the Republic of Belarus*, M. Shrub, G. Tyurina, T. Naumovich (Minsk, 2010); Anti-Slavery International, *Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK* (2009); German Institute for Human Rights, *Human Trafficking in Germany. Strengthening Victim's Human Rights*, P. Follmar-Otto, H. Rabe (Berlin, 2009); OSCE ODIHR, *Compensation for Trafficked and Exploited Persons in the OSCE Region* (Warsaw, 2008).

123 "Strengthening Labour Market Governance against Forced Labour", in ILO, *Forced labor: Coercion and exploitation in the private economy*, B. Andrees, P. Belser (Geneva, 2009), p. 123.

124 J. Beirnaert, "A Trade Union Perspective on Combating Trafficking and Forced Labour in Europe", in C. Rijken (ed.), *Combating Trafficking in Human Beings for Labour Exploitation* (Wolf Legal Publishers: Nijmegen, 2011).

and anti-trafficking NGOs shows that labour courts are easier to access, the fees are cheaper, the compensation payments are usually higher, and the procedures are less traumatizing for victims.¹²⁵ Most of all, experience underscores that partnerships between trade unions and NGOs are successful¹²⁶ for settling cases through mediation, negotiation, legal assistance and representation. In some instances, they have become important partners also in initiatives aimed at developing national frameworks for tackling trafficking for labour exploitation, carrying out research-action studies or adapting training material for labour inspections involving other anti-trafficking professionals.¹²⁷

The involvement of trade unions in anti-trafficking strategy is not a common practice. Yet, trade unions should be acknowledged as crucial partners and formally included in the NRM or in any similar framework.¹²⁸

The access to justice and remedies for some groups of trafficked migrant workers is particularly challenging, such as, for instance, domestic workers in general and domestic workers exploited in diplomatic households¹²⁹ in particular. The latter are in fact a particularly difficult group to reach out to, and to settle cases of disputes with their employers due to their diplomatic immunity. Numerous violations of their labour rights have been identified, including excessive working hours, documents and wage withdrawal, poor living and working conditions, restricted or no freedom of movement. Due to the diplomatic immunity of the employers and other legal obstacles, out-of-court negotiations mediated by independent bodies seem to be the most effective tool so far used to grant restitution to victims.

Poor access to restorative justice is often the result of lack of knowledge on the existing legislation on compensation that should be employed to grant trafficked persons their rights. In the past few years, in order to support a wider awareness on the compensation rights and procedures and the actual access to justice by trafficked persons, some NGOs, migrants' associations, and trade unions

have developed some significant initiatives that, in most cases, are still operational.

Bureau de l'Amiable Compositeur (Switzerland)

The *Bureau de l'Amiable Compositeur* was established as an independent and impartial body in 1995 by the Canton Government of Geneva in co-operation with the Swiss Mission to the United Nations, as a response to the cases of abuse of domestic workers by diplomats reported by the media. Since then, the Bureau facilitates out-of-court settlements between members of the international community benefiting from diplomatic privileges and immunities. The mediation generally concerns labour law contentions and it can be initiated both by employers and employees. Salary payments, working conditions, wrongful employment terminations, and length of legal notification periods are the issues mostly debated by the parties. The mediation procedure is confidential and free of charge. In case the Bureau's mediators do not manage to find an agreement acceptable to both parties, the latter may address the competent courts. The Bureau provides domestic workers reporting criminal law violations with information about their rights and entitlements and may refer them to local support organizations for further specialized assistance. In some cases, it also provides for financial support and loans. Since 1995, the Bureau has been dealing with about 40-50 cases per year, out of which 30-40 per cent were successful settled.

[Source: <<http://www.eda.admin.ch>>]

COMPACT (European Action for Compensation for Trafficked Persons)

COMPACT is a three-year project aimed at mainstreaming compensation into the agenda of international bodies and national governments and at promoting the full implementation of compensation measures for trafficked people. Access to compensation is endorsed as a key element of the assistance programmes and services offered to trafficked persons in Europe. The project consists of a wide range of activities, namely research, case testing, development of guidelines for professionals, campaigning, and advocacy.

Led by La Strada International and Anti-Slavery International, the project is carried out by a coalition of 15 anti-trafficking NGOs engaged in the field in Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Czech Republic, Germany, Ireland, Italy, the former Yugoslav Republic of Macedonia, Moldova, Poland, Spain, Ukraine, and the United Kingdom. COMPACT is co-funded by the European Commission, King Baudouin Foundation, Belgium National Lottery, UN.GIFT, and ICCO. The project is supported by *inter alia*, the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the OSCE Office for Democratic Institutions and Human Rights, and the Council of Europe.

[Source: <<http://www.compactproject.org>>]

125 OSCE ODIHR, Op. Cit..

126 ITUC, *Never work alone. Trade Unions and NGOs joining forces to combat forced labour and trafficking in Europe* (Brussels, 2011).

127 See, for instance, the project "Transnational Multi-Stakeholder Action to combat trafficking in human beings for the purpose of labour exploitation. Identification and protection of victims – FREED". Implemented within the framework of the EU-funded Prevention of and Fight Against Crime Programme (DG Justice, Freedom and Security), FREED was co-managed by ILO and the Italian Department for Equal Opportunities and involved a wide range of stakeholders (Offices of national anti-trafficking co-ordinators, National Labour Inspectorates, Ministries of Labour, law enforcement agencies, trade unions, local authorities, and NGOs from Italy, Poland, Portugal, and Romania).

128 J. Beirnaert, Op. Cit., pp. 492-493.

129 German Institute for Human Rights, *Domestic Workers in Diplomats' Households. Rights Violations and Access to Justice in the Context of Diplomatic Immunity*, A. Kartusch (2011), <http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Studie/domestic_workers_in_diplomats_households.pdf>, accessed 15 November 2011.

3.4 Ways Forward: Old Recipes for Future Improvements?

“New” is an adjective broadly employed in the anti-trafficking field when discussing issues related to trafficked persons and labour exploitation. Anti-trafficking stakeholders generally call for new legal provisions, new policies, new practical tools, and new support frameworks to address this (“new”, according to some) form of trafficking. The question is: do we really need all these new instruments? Well, some of them are certainly needed but, in many cases, they are not. As highlighted in the previous paragraphs, many useful legal, policy, and operational tools are already available; they just need to be (fully) implemented, enforced, expanded, or adapted. Yet, most likely, in the next conference, seminar, or workshop, some participants will share their discontent at the state-of-affairs as to the prevention of and fight against trafficking for labour exploitation and the protection of trafficked persons. But then again, for instance, if we consider just two of the numerous available documents, such as the OSCE Action Plan (2003) and the Report of the Experts Group on Trafficking in Human Beings appointed by the European Commission (2004), comprehensive analysis and detailed measures are clearly described or promoted to also tackle trafficking for labour exploitation. When these two distinct documents were issued, they were welcomed as valuable and, in many respects, groundbreaking tools. Seven years later, most of their content is still innovative.

This is not to say that it is not necessary to produce new instruments, but it is an invitation to consider why the useful available ones are poorly used and what could be done to implement existing and new tools to improve the current anti-trafficking response concerning labour exploitation. In the following paragraphs, reflections on this matter are provided with a specific focus on some issues concerning assistance, protection and legal redress of persons trafficked for labour exploitation.

3.4.1 Trafficking for Labour Exploitation: a Hidden Phenomenon?

Trafficked persons exploited in the labour market are difficult to reach out to because trafficking for labour exploitation is a hidden phenomenon. This concept has become an intrinsic element of the anti-trafficking discourse that needs to be challenged. As a matter of fact,

several national and international studies have identified the main economic sectors involved in the exploitation of trafficked persons, while some NGOs, IOs, social services, labour inspectors, trade unions, migrants’ associations, workers’ associations and even investigative journalists have identified specific workplaces where vulnerable (migrant) workers are employed and can become victims of trafficking. For instance, the agriculture, horticulture, fishery, construction, restaurant and catering industries hire workers that, due to the nature of their work, are not hidden. Some industrial and private sectors (e.g., manufacturing, packaging, domestic work, etc.) have more concealed workplaces but their workers can still be reachable. In compliance with the OSCE commitments¹³⁰, it is necessary to adopt a more proactive approach to map the vulnerable labour sectors and the vulnerable workers, both nationals and migrants. While performing their job, different actors should in fact undertake more proactive measures, in compliance with their different mandates. NGOs should further develop their outreach work by contacting vulnerable workers where they live or on other premises where they are present, whereas labour inspectors, trade unions, immigration officials, municipal workers (e.g., from health, safety, housing, construction checks departments), fiscal intelligence and investigation officers, employment insurance agents, migrant counselling workers, health professionals, and other actors can detect signs of trafficking and report them to the competent agencies and/or initiate the relevant procedures to further investigate the case and refer the presumed victims of trafficking for support.

3.4.2 Knowledge Building and Dissemination

In order to properly assist trafficked persons and develop *ad hoc* interventions, it is fundamental to further carry out studies on the phenomenon, its contributing factors (migration policies, economic policies, labour standards, globalization issues, etc.), the vulnerable groups involved, the gaps in legislation and positive outcomes, the support and protection systems, and so on. Most of all, it is imperative to perform investigations to identify and analyse the specific needs of migrant and national workers assisted, with due consideration to important variables such as gender, age, and the migratory project pursued. As already underlined in many documents, studies should be carried out by multidisciplinary, multi-agency and multinational research groups so as to ensure the use of a wide range of investigative tools and

¹³⁰ OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach* (Brussels, 5 December 2006), para. 6 (e).

approaches. As a matter of fact, studies on trafficking-related issues are mostly sectoral and focus on legal, criminal and sociological matters. Once published, studies should be made available to all anti-trafficking actors, including those providing services.¹³¹ In this regard, the Internet can be a key medium, even though it runs the risk to act as a rich but “messy” library to browse. Yet, studies are still poorly circulated and they often do not go beyond the strict boundaries of national and international expert circles. Knowledge is often shared only horizontally among professional peers to the detriment of many actors concerned. Several NGOs and other service providers produce interesting reports that remain largely unknown. Furthermore, some NGOs and social services have developed significant know-how and practices on trafficking for labour exploitation, but they do not have the capacity and the time to write reports to exchange. Language is also a crucial barrier. Indeed, knowledge needs to be translated or written in English (sometimes in French or Spanish) in order for it to circulate transnationally. This is a fact that should be acknowledged in order to avoid international researchers and experts stating that no studies are available on a given country. In many cases, they are available, but not in English (!).

3.4.3 Legislative Challenges

In the past decade, anti-trafficking legislation has significantly improved throughout the OSCE region. In some countries though, the lack of a legal definition of labour exploitation or the use of different terms (forced labour, slavery, servitude, labour exploitation) hampers the possibilities to properly identify victims of trafficking and provide them with support measures. Furthermore, linking access to temporary residence permits and long-term assistance to the victim’s willingness to co-operate with the competent authorities fails to meet the victim’s needs and human rights. In addition, the impossibility to access the labour market stipulated by many national anti-trafficking laws hinders the social and labour inclusion of the persons assisted. Regardless of the progress made in the anti-trafficking field, trafficked persons are still not always acknowledged as victims of crime and holders of political, economic, labour, social, and cultural rights, despite the fact that many states are parties to the most relevant international human rights instruments. This is often the result of conflicting policies targeting trafficked persons, irregular migrants, and irregular (migrant) workers.

131 In 2010, the European Union established a website, “to raise awareness of the problem and to show what is being done at EU-level and in the Member States to fight this injustice” (...) and “to help to promote exchange of ideas and co-operation between all organisations and people involved in the fight against trafficking in human beings and the protection of victims”, <<http://ec.europa.eu/anti-trafficking/index.action>>, accessed 15 November 2011.

Victims of trafficking for labour exploitation are often not identified as such because they are firstly criminalized as irregular migrants who do not comply with administrative migration regulations and are, consequently, detained and expelled.

Restrictive migration and weak labour policies can contribute to increasing the vulnerability of migrant workers, who may become victims of trafficking. Against this background and consistent with the OSCE commitments¹³², the implementation of socio-economic development measures, social cohesion and social security policies as well as comprehensively managed migration programmes¹³³ are crucial tools to prevent abuses, exploitation, and cases of trafficking.¹³⁴ Also labour policies rooted in strong human rights protections are instrumental to strengthen national migration policy and management and to prevent abuse and exploitation of migrant workers.¹³⁵ Allowing more legal possibilities to travel and greater flexibility in the work permit system and, at the same time, endorsing decent work standards would decrease migrant workers’ vulnerability to become easy prey for traffickers. Such policies should consist of measures to ensure that trafficked and exploited migrant workers can access all available support and protection measures. In order to fully protect the human rights of victims and ensure their access to justice, anti-trafficking policies should avoid making assistance conditional on the trafficked persons’ willingness to co-operate in criminal proceedings. Finally, effective knowledge and full implementation of all legal provisions that may concern trafficked persons should be systematically ensured to grant them access to support services and justice.

3.4.4 Availability of Support Services and New Partnerships

Despite the anti-trafficking framework established throughout the OSCE region, a lack of services targeting victims of trafficking for labour exploitation is still reported. Most anti-trafficking agencies are in fact equipped to offer support and assistance to persons trafficked for sexual exploitation, i.e., mainly women. They also need to address victims of trafficking for labour exploitation through the implementation of measures specifically

132 OSCE Ministerial Council, *Decision No. 5/09 Migration Management*, MC.DEC/5/09 (Athens, 2 December 2009); OSCE Ministerial Council, *Decision No. 2/05 Migration* (Ljubljana, 6 December 2005).

133 On this issue, see: OSCE, *Guide on Gender-Sensitive Labour Migration Policies* (Vienna, 2009).

134 Presentation by M.G. Giammarinaro, OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings, at the OSCE *Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”*, 20-21 June 2011.

135 Presentation by J. Buchanan, Human Rights Watch, at the OSCE *Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”*, 20-21 June 2011.

targeting the needs of this distinct group. In order to overcome the serious lack of support services available, anti-trafficking stakeholders should enlarge their networks by involving other support agencies such as trade unions, migrants' associations, migrant workers' associations, labour agencies, and associations providing assistance to other vulnerable groups. These organizations can in fact provide a wide range of services, many of which are lacking in many parts of the OSCE region, such as providing information, accommodation, legal counselling and representation, vocational training and guidance, job seeking, cultural mediation, language classes, and so on. Their involvement can also significantly raise the number of identified and referred cases of trafficking. These actors should then be included – through formal protocols – in the local and the NRMs, which will then profit from a more comprehensive approach to assistance to trafficked persons. Therefore, the establishment of multi-agency partnerships is key to strengthening the provision of services to people trafficked for labour exploitation.

It is here important to also underline two main concerns about providing assistance and protection to victims of trafficking. In some countries, these measures are provided mainly at the central level through well-established NGOs, IOs, or municipal services. As a result, in many cases, victims exploited in places far from the main urban areas have little or no possibilities to access specialized support services. It is vital to address this gap by supporting the development or strengthening of local referral networks, which will then be linked to the NRMs. Moreover, it is extremely crucial not to lose sight of the serious need to establish or reinforce specialized support services for trafficked persons. As a matter of fact, in the anti-trafficking field, certain “trends” – generally set by more influential agencies – seem to determine the financing policies of public and private donors. As a result, at a certain time most donors funded projects, for instance, only or mostly on identification procedures, and after that only or mostly on data collection systems. Later, again most donors funded projects only or mostly on national or transnational referral mechanisms and, now, they will probably focus on compensation issues. This is certainly an excellent strategy to develop tools and make significant progress in the field (provided that such tools are efficient, consistently implemented and monitored) but it may also produce an important counter-productive effect: less and less funds are allocated to ensure the provision of fundamental support services directly targeting presumed or actual trafficked persons, such as outreach work, drop-in centres, accommodation, legal counselling and representation, vocational training, job seeking etc. This is to underline that such services are crucial for outreach, to identify, support and protect trafficked persons. Thus,

they need to be financially supported on a regular basis and not be regarded as optional services.

3.4.5 Children Trafficked for Labour Exploitation Need an Enlarged and Effective “Circle of Protection”¹³⁶

In the past decade, trafficking in children has been addressed as a serious human rights violation but only recently has it also been recognized indisputably as a labour issue¹³⁷. ILO¹³⁸ and several other international and national organizations have developed research¹³⁹, policy frameworks¹⁴⁰, paper positions¹⁴¹, tools¹⁴², and multi-agency field operations to fight child trafficking as a “worst form of child labour”. They also focused on child protection as a crucial component of any anti-trafficking strategy to reduce children’s vulnerability to being abused, exploited, and trafficked¹⁴³. In several OSCE participating States, there is a need for effective social protection to prevent child trafficking but also to assist and protect child victims. As a matter of fact, weak social protection and child protection systems fail to protect vulnerable children and can become contributing factors to the vulnerability of children to trafficking and exploitation¹⁴⁴. Child victims exploited in the labour sectors are still rarely detected and identified. Moreover, when vulnerable migrant children – often unaccompanied and separated asylum-seeking children – are detected, they are sometimes held in detention facilities (where they should not stay) and returned to their countries with no

¹³⁶ Presentation by F. Novak-Irons, UNHCR, at the OSCE Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, 20-21 June 2011.

¹³⁷ ILO-IPEC, *Textbook 2: Action against child trafficking at policy and outreach levels* (Geneva, 2009).

¹³⁸ See: ILO International Programme on the Elimination of Child Labour (IPEC) at: <<http://www.ilo.org/ipec/lang--en/index.htm>>, accessed 15 November 2011.

¹³⁹ See, *inter alia*, Project Mario, *Vulnerability to exploitation and trafficking of Bulgarian children and adolescents in Greece. A case study of street based survival strategies in Thessaloniki*, A. Invernizzi (Budapest, 2011); European Union Agency for Fundamental Rights (FRA), *Child Trafficking in the European Union. Challenges, perspectives and good practices* (Vienna, 2009); UNICEF Innocenti Research Centre, *Child Trafficking in Europe: A Broad Vision to Put Children First* (Florence, 2008).

¹⁴⁰ ILO, *2010 Global Action Plan and technical cooperation priorities* (Geneva, 2010); *Roadmap for Achieving the Elimination of the Worst Forms of Child Labour by 2016*, Outcome Document of the Hague Global Child Labour Conference (The Hague, 2010); Terre des hommes and European Commission, *In pursuit of good practice in responses to child trafficking: Experiences from Latin America, Southeast Europe and Southeast Asia* (The Netherlands, 2010).

¹⁴¹ *Alliance against Trafficking in Persons Expert Co-ordination Team (AECT), Joint Statement on Child Protection, Especially among Migrants, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking* (Warsaw, 8 October 2010).

¹⁴² See, for instance, *inter alia*, the comprehensive training package to fight trafficking in children developed by an Expert Group on Child Trafficking within the framework of the UN Global Initiative to Fight Human Trafficking (UN.GIFT): *Combating trafficking in children for labour exploitation: A resource kit for policy-makers and practitioners* (Geneva, 2008).

¹⁴³ UNICEF, *Guidelines on the Protection of Child Victims of Trafficking* (New York, 2006); UNICEF and IPU, *Combating child trafficking: Manual for parliamentarians* (New York, 2005).

¹⁴⁴ Presentation by K. Madi, UNICEF, at the OSCE Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, 20-21 June 2011.

due consideration of their best interests. In other cases, they disappear from the care centres or – in the worst scenario – from detention facilities and may run the risk to fall prey to traffickers. The same can happen to children who are asked to leave their residential programme and are returned to their origin country with no real stable support when they turn 18. Furthermore, older children aged 15-17 (especially boys), in spite of having reached the minimum age of employment, are increasingly working in hazardous situations¹⁴⁵ that may result in worst forms of child labour, also related to trafficking.¹⁴⁶ Research-action and proactive outreach work need to be carried out to identify the vulnerable child groups and child victims of labour exploitation, to provide them with the necessary information and refer them to child-friendly and safe support services, including legal advice. Only a few anti-trafficking NAPs include comprehensive policies and targeted activities to ensure the broadest protection to trafficked children or to those children who are at risk of being trafficked.¹⁴⁷ States should then endorse policies and procedures to actively facilitate the detection, identification, protection, and reintegration of child victims¹⁴⁸, both in the country of origin and in that of destination. Effective child protection systems and NGOs can play a significant role in ensuring an enlarged protective environment (“circle of protection”) based on stable support networks and the provision of long-term measures and skills that foster their empowerment and lessen the risk of re-entering the cycle of trafficking. The best interests of the children should always be paramount in all measures targeting trafficked children.

3.4.6 Compensation Challenges

Trafficked persons, as victims of crime and human rights violations, should be provided with adequate reparations for the material and immaterial damages suffered as a result of their trafficking experience. Reparations may comprise compensation, restitution, recovery, satisfaction, and guarantees of non-repetition.¹⁴⁹ Compensation is not only an important right stipulated by law, but it is also an empowering tool¹⁵⁰ for victims who can regain their self-determination as holders of rights. Access to compensation of victims of trafficking

has become a human rights priority of the lobbying agenda of many NGOs¹⁵¹ and a primary topic on the agenda of relevant international institutions.¹⁵² However, as previously highlighted, numerous obstacles hinder the ability of trafficked persons to pursue compensation through civil and criminal proceedings. In some countries, undocumented migrants cannot claim any restitution because of their irregular status or because they are not allowed to stay after the criminal proceedings are concluded. Most national and international legislation envisages the right to compensation for victims of a crime; nevertheless, trafficked persons rarely access this form of restorative justice. Labour courts, mediation, and collective action are alternative tools to gain legal redress in a cheaper, more timely, and less traumatizing manner. OSCE participating States should make every effort to fully implement the existing compensation mechanisms in place and to eradicate the factors preventing victims – both children and adults – to exercise their right to compensation. In particular, states shall ensure that all trafficked persons are granted the right to be compensated, regardless of their migration status and of the court’s verdict concerning their traffickers or exploiters. They shall ensure that all trafficked persons are promptly and fully informed – in a language they understand – about their legal rights, including information on all existing civil, criminal, administrative, and labour procedures to claim compensation.¹⁵³ Trafficked children are equally entitled to the right to an effective remedy with due consideration of their best interests as established by international law¹⁵⁴ and through child-sensitive procedures that should also take into account children’s views. Practitioners and lawyers trained in children’s rights should inform trafficked children about their rights in a child-friendly manner. Most of all, it is necessary to assess on a case-by-case basis the most suitable form of remedy for the trafficked child concerned, taking into account that most children are not bank account holders, are not capable of using money, or their parents are not eligible to receive compensation on behalf of their sons or daughters.¹⁵⁵ To allow victims to have access to remedies, states shall ensure that trafficked persons can legitimately stay in the country for the duration of the proceedings and that they can access social assistance, qualified and free of charge legal aid and

145 According to the ILO, *Worst Forms of Child Labour Convention*, C182 (1999), hazardous work is, “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”.

146 ILO-IPEC, *IPEC Action against labour. Highlights 2010* (Geneva, 2011).

147 UNICEF Innocenti Research Centre, *Child Trafficking in Europe: A Broad Vision to Put Children First* (Florence, 2008).

148 ILO-IPEC, *Textbook 2: Action against child trafficking at policy and outreach levels* (Geneva, 2009).

149 United Nations Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, A/HRC/17/35 (13 April 2011).

150 German Institute for Human Rights, *Human Trafficking in Germany. Strengthening Victim’s Human Rights*, P. Follmar-Otto, H. Rabe (Berlin, 2009).

151 See, for instance, the NGOs involved in the COMPACT project described in the box on page 44.

152 For instance, the European Union included “compensation of victims” as a thematic area (c) in the five-year work agenda of its Fundamental Rights Agency (FRA), see: European Commission, *Council Decision of 28 February 2008 implementing Regulation (EC) No 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007-2012* (2000/203/EC).

153 UN Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, especially women and children*, Joy Ngozi Ezeilo, A/HRC/17/35 (13 April 2011).

154 See the general principles set by the UN, *Convention on the Rights of the Child* (1989).

155 United Nations Human Rights Council, Op. Cit..

representation.¹⁵⁶ Furthermore, states should consider taking all necessary measures to trace, forfeit, and seize criminal proceeds deriving from trafficking.¹⁵⁷ This requires crucial improvements in training law enforcement officers in carrying out regular judicial and financial investigations based on a close co-operation between law enforcement agencies and financial institutions within and across borders. Furthermore, state-funded compensation mechanisms for victims of crime or specifically for victims of trafficking should also be fully functioning and accessible for trafficked persons, regardless of their legal status or nationality. In order to support the access to justice of trafficked persons, redress should be mainstreamed in NAPs and NRMs along with the related detailed strategy, timetable, monitoring, and assessment tools.¹⁵⁸ Most of all, building and strengthening “a national victims’ rights culture”¹⁵⁹ is key to ensure that trafficked persons fully access and enjoy their rights, including that to adequate remedies.

3.4.7 Standards Setting, Monitoring and Evaluation

The provision of assistance should never result in the secondary victimization of the trafficked persons taken care of¹⁶⁰, who should always be fully informed about their rights and available options. For this reason, it is vital that all service providers comply with a set of standards, nationally or internationally developed, strongly rooted in human rights principles. Such standards must be regularly monitored and evaluated by independent and impartial evaluators, who must make their methodological frameworks and conclusions available to the wider public.¹⁶¹ Regular monitoring and evaluation tools are very important in order to assess if the services meet the trafficked persons’ needs and how they impact on the victims’ rights. The viewpoints of trafficked persons should also be taken into account¹⁶², provided that their participation in the evaluation procedures is strictly based

on ethical and “do no harm” principles. Monitoring and evaluation *per se* are of course meaningless if their findings are not used to review strategies and methodologies of the services provided to trafficked persons. In the past few years, some tools have been developed.¹⁶³ Yet, a rigorous evaluation culture¹⁶⁴ has not been adopted and systematic monitoring and evaluation of support and protection services are not widespread practices. They should indeed be strongly promoted and adopted by the anti-trafficking agencies and frameworks of the OSCE participating States, including National Rapporteurs or equivalent mechanisms.

3.4.8 Capacity Building

This is an important component of any supporting framework, including those targeting trafficked persons. Throughout the OSCE region, training modules have been developed and delivered over the past decade. However, more needs to be done to ensure that trainings on identification, referral, and assistance to victims of trafficking for labour exploitation become part of the curriculum of a broad range of institutional and non-institutional actors that may come in contact with potential, presumed, and identified trafficked persons exploited in the labour market. In this regard, it is key to take into account that there is a constant turnover in personnel and, therefore, it is important to regularly provide continuous training as well as refresher courses. Many training tools and materials have been developed to train different actors (e.g., law enforcement agencies, border guards, judges and public prosecutors, labour inspectors, employment agencies, trade unionists, IOs and NGOs workers, cultural mediators, social workers, health professionals, media professionals, and so on). They can be used, revised, adapted, translated, and circulated to ensure their usefulness in cases of trafficking for labour exploitation. Local, national, and international exchange programmes should be offered to anti-trafficking professionals to favour the sharing and circulation of know-how and the establishment of support networks. Professionals could temporarily join

¹⁵⁶ Ibid.

¹⁵⁷ OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Combating Trafficking as Modern-Day Slavery: A Matter of Rights, Freedoms, and Security, 2011 Annual Report of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings* (Vienna, 2010), pp. 23, 26.

¹⁵⁸ Anti-Slavery International, *Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK* (2008), p. 10.

¹⁵⁹ OSCE ODIHR, *Compensation for Trafficked and Exploited Persons in the OSCE Region* (Warsaw, 2008), p. 165.

¹⁶⁰ GAATW, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World* (Bangkok, 2007).

¹⁶¹ GAATW, *Feeling good about feeling bad... A global review of evaluation in anti-trafficking initiatives* (Bangkok, 2010), p. 5.

¹⁶² So far, very few studies took into consideration the trafficked persons’ perspectives as to the support and assistance services they received. In this regard, see: ICMPD, *Study on Post-Trafficking Experiences in the Czech Republic, Hungary, Italy and Portugal* (Vienna, 2010); ALC, *Feed-back: La perception des modèles d’assistance et de protection de la part des victimes de la traite qui en bénéficient* (Nice, 2008); ICMPD, *Listening to Victims: Experiences of identification, return and assistance in South-Eastern Europe* (Vienna, 2007).

¹⁶³ See, for example: European NGOs Observatory on Trafficking, Exploitation and Slavery (E-notes), *Report on the implementation of anti-trafficking policies and interventions in the 27 EU Member States from a human rights perspective (2008 and 2009)* (2011); AIM for human rights et al., *The Right Guide. A tool to assess the human rights impact of anti-trafficking policies* (2010); Nexus Institute, King Baudouin Foundation, *Re/integration of trafficking persons: developing monitoring and evaluation mechanisms*, R. Surtees (Washington - Brussels, 2009); D. Oliva (ed.), *La Tratta delle Persone in Italia. Vol. 4. La Valutazione delle Politiche, degli Interventi, dei Servizi* (FrancoAngeli: Milano, 2008); IOM, *Handbook on performance indicators for counter-trafficking projects. A handbook for project managers, developers, implementers, evaluators and donors working to counter trafficking in persons* (Geneva, 2008); European Commission, *Measuring Responses to Trafficking in Human Beings in the European Union: An Assessment Manual*, M. Dottridge (Brussels, 2007).

¹⁶⁴ Presentation by L. Thompson, IOM, at the OSCE Alliance Conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice”, 20-21 June 2011

their national or foreign counterparts with experience in providing services and protection to victims of trafficking for labour exploitation. This is a practice that is rarely implemented but that could significantly contribute to improving the quality of the services provided and the establishment of networks of service providers.

3.4.9 NRMs also Addressing Trafficked Persons Exploited for Labour Purposes

Most considerations made in the former paragraphs also relate or directly concern NRMs. Others, however, are here developed as to the general functioning of these frameworks. NRMs need to increase their capacity to identify, refer and protect victims of trafficking for labour exploitation. As already underlined and in compliance with the OSCE commitments¹⁶⁵, the OSCE participating States should formally include in their NRM frameworks new agencies with different expertise, especially on labour and migration issues, and should support the capacity building of all actors concerned to improve their skills to detect and identify victims and provide them with comprehensive support measures. Anti-trafficking NGOs play a relevant role in the detection and identification of potential and presumed trafficked persons. For this reason, it would be important to formally include them as valuable identification agencies within the NRM framework. Moreover, NRMs should ensure the effective participation and co-operation of all parties in the different steps of the decision-making process and in the development process of the measures foreseen. Mutual trust is a key element to successfully collaborate and it needs to be further developed. As far as support measures are concerned, as discussed in the previous paragraphs, all NRMs should improve their capacity to meet the needs of trafficked persons in general and victims of labour exploitation in particular. They should also avoid the setting of complex and stressful referral and assistance procedures that can make the victims decide to refuse the support offered.¹⁶⁶ Also in this view, NRMs should be regularly monitored and evaluated ideally by National Rapporteurs or independent experienced experts in order to increase their efficiency and effectiveness.

3.3.10 Adequate Response Cannot be Accomplished with Limited Human and Economic Resources

Needless to say that effective support and protection measures for victims of trafficking (for labour exploitation) must be performed by competent professionals and must be timely and aptly funded. Yet, service providers are almost always lacking human and economic resources and are often in competition to access insufficient available funds. This must be changed to ensure high-quality support measures to trafficked persons. Anti-trafficking funds should necessarily be increased but other solutions should be adopted in order to finally transform services chronically lacking sustainability into fully sustainable services. It is time to develop integrated funding strategies and policies to financially support assistance measures. Extended partnerships with other key agencies that may come in contact with trafficked persons or may provide them with complementary measures (e.g., legal counselling, job placement...) can also have a positive economic output, i.e., cost sharing. Importantly, anti-trafficking service providers should be eligible to access funds provided by, *inter alia*, migration, welfare, labour, social inclusion, housing, and health policies. This requires a real perspective and attitude change by policymakers and anti-trafficking actors as well as the full acknowledgment of trafficked persons as subjects of rights, regardless of their migration status. Most of all, this different perspective would greatly contribute to allow victims to finally become fully-fledged citizens.

In conclusion, detection, identification, support, social inclusion and access to justice for persons trafficked for labour exploitation still need to be significantly improved within and beyond the OSCE region. To ensure support, the protection of rights and legal redress to persons trafficked for labour exploitation, it is not only necessary to reinforce human rights international standards within the national legislation and improve the policy and operational tools, but it is also vital to start to address trafficked migrants as workers, whose labour and human rights have been, or are being, violated. Moreover, it is crucial to coherently mainstream anti-trafficking actions and issues in all relevant strategies and policies that may affect trafficked persons (e.g., welfare, labour, migration, child protection health, education, gender issues, etc.) to ensure more effective holistic and integrated interventions. In this regard, it is necessary to widen the small circle of anti-trafficking experts to include new partners from civil society and national and international institutions working on a broader array of related areas to enhance efforts to

¹⁶⁵ OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation* (Madrid, 30 November 2007), para. 8; OSCE Ministerial Council, *Decision No. 14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach* (Brussels, 5 December 2006).

¹⁶⁶ MRCL, *Trafficking for Forced Labour in Ireland and in the United Kingdom: Issues and Emerging Good Practice* (Dublin, 2010); ICMPD, *Listening to Victims. Experiences of identification, return and assistance in South-Eastern Europe* (Vienna, 2007).

prevent and combat trafficking for labour exploitation and, more importantly, to ensure that every trafficked person has access to full assistance and to protection of his or her rights.



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- 2008: Compensation for Trafficked and Exploited Persons in the OSCE Region, ODIHR

