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**Session VI – The informal sector**

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**The significance of the informal sector in attracting illegal migration including trafficking in human beings: exchange of information, experience and best practices**

***Contradictions of contemporary migration***

International migration is a process rich in potentials and opportunities, but also in contradictions and problems. This is true for governments, societies, and migrants in both destination countries and origin countries. However, in the recent years general context of migration debate is turning to negative attitude towards international migration. Why is it so? Why is migration now more and more concerned as a security threat? Why is illegal migration expanding despite all the counteracting efforts? There is a number of other questions that do not have definite answers: Is economy of receiving countries indeed so much dependent on inflow of migrants, including illegal migrants? How can it be that in contemporary societies based on liberal principles of human rights respect, such a disgracing phenomenon as trafficking in human beings is expanding? Why the societies remain tolerant towards contemporary slavery?

These questions are not merely of academic character. They can be addressed to governments, policy-makers, and international organizations as well. Continued disparity in incomes and economic opportunities for people in different countries replenishes international migration flows. Due to imbalance between demand and supply in the international labour market migration partly takes place in irregular/illegal forms. Economic system existing in developed countries reproduces demand for cheap manpower and makes certain types of jobs assigned for migrant workers, including illegal workers. Lack of effective international cooperation in management of migration flows results in failure of counter-illegal-migration measures. There is not a single government in the world, which could assert that it has elaborated sufficient mechanisms to combat illegal migration. Being the result of globalization based on liberal social model, illegal migration is in fact an irrational form of freedom of movement.

Illegal migration is an immanent feature of contemporary world. It's a part of the global migration regime that participates in reproducing the existing global economic order.

Illegality is going hand-in-hand with criminalization of migration. Wide net of semi-legal and purely criminal organizations specializing in smuggling of migrants and trafficking in migrants is getting huge profits (5 to 7 billion USD, according to IOM estimates). Illegal migration management is presently a profitable business with low risks, which exists along with other transnational forms of criminal activities like trafficking in drugs and weapons.

### ***Why informal sector?***

Channels for legal migration are regulated by tight migration legislation in the majority of destination countries. However, even in the countries where migration quotas and bilateral agreements are designed to fill labour needs, they often remain unrealized due to poor official migration infrastructure in source countries. Official migration infrastructure is understood as the totality of intermediate services aimed at facilitating contacts between employers and migrant workers and working for legality and security of migration. These are: state and private employment agencies, information and consultative services, specialized juridical services, hot lines, etc.

When migration potential in source countries is high while legal channels for migration are narrow, illegal schemes of migration become prevailing. For illegal migrants, informal sectors of economy are most attractive because of wide spread informal labour relations, non-contract employment, no need for valid papers and permissions. On the other side, for employers in informal sector, illegal migrants' labour is often preferable as it allows supporting competitiveness by means of reduced labour costs and over-exploitation of migrant workers. These benefits even weight down such 'inconveniences' as penalties threat. So, both sides of informal labour relations are often satisfied by such kind of 'cooperation'. Even the society can benefit from illegal migrants' labour as the product of this labour costs less. The only obvious loser in this situation is the State: it fails to take in taxes and the ever-growing part of national economy is falling away into shadow, non-transparency, and criminality.

Evidences of the growing scale of trafficking in migrants coming from different countries, confirm the fact that more and more people are pushed into most cynical forms of contemporary slavery. For example, functioning of entertainment industry in many countries rests on the schemes of trafficking in humans, primarily women and children, directed toward satisfying the demand for sexually oriented services in various forms (prostitution, pornography, sex tourism, etc.). In some countries these services are regarded as a part of informal economy, in the others they are merely criminal.

However, to establish the fact of informal sector's magnetism for illegal migrants and human traffickers is not enough to understand the possible ways of counteracting illegal migration and human trafficking. Total legalization of informal sector is hardly possible under existing economic systems, so a variety of tools – economic, administrative, law keeping, elucidative, etc. – are to be used by a State in order to provide its maximum transparency and non-criminality.

### ***What is informal sector?***

There is no common understanding of informal sector between different countries and various economic actors. In the 1970s, when economic analysis has been first focused on informal employment and informal incomes and the term 'informal sector' appeared, it was first of all related to economics of developing countries. In developing economies informal sector was prevalent, and it was informal sector that was blamed for impeding modernization and economic progress. However, soon it became clear for researchers that in developed nations formal sector is also not absolutely dominating and informal sector takes the growing segment of labour market and GDP production. In transition economies the growth of informal sector was a reaction for lower participation of a State in management of economy and reduced government expenditures for social welfare of population.

The major feature of informal sector is informal employment (low wages, lack of social guaranties and labour protection, unsteady employment, wide spread part-time work, casual jobs, and irregular employment). Informal sector is presented mainly in agriculture, construction and services, which are characterized by a large number of small producers, low technology and high firm turnover.

On the one hand, informal sector is a sort of periphery for the national economic system where unobserved, vague, and unstable types of employment prevail, while on the other hand, it is an inherent element of national economies: it gains weight in both industrialized and industrializing countries. Moreover, in globalizing economy big corporations often encourage informal types of employment to provide greater flexibility in the formal labour market.

Therefore, in some areas there is no clear dividing line between formal and informal sectors as informal employment is practiced in both. Besides, informal sector is obviously heterogeneous. In terms of employment it usually means (if not self-employment) casual work done by low skilled workers paid as 'cash in hand'. In terms of legality informal sector consists of at least three sub-sectors:

- *informal* (but legal) economy,
- *grey* (semi-legal) economy,
- *black* (criminal) economy.

Informal economy consists of private household economy based on family cooperation, and small-scale enterprises that use hired labour in addition to non-

waged labour of family members. Household services, small farms and market trade are typical examples.

Grey economy consists of various types of small businesses that are outwardly legal but widely practice breaking the law (in terms of taxpaying, accounting, labour contracting, etc.)

Black economy involves illegal types of activity (drugs production and trade, prostitution, illegal production and trafficking in arms, black market operations, etc.). It also includes clandestine workshops in manufacturing, i.e. sweatshops in textiles, footwear, leather, and clothing industries. The reappearance of sweatshops in developed countries is attributed to the availability of cheap labour of illegal migrant workers.

While the first sub-sector is a 'natural product' of contemporary economic system with its trend to flexible forms of employment, such as self-employment, out-work, part-time work, homework, etc., growth of illegal sub-sectors is a challenge to security and stability. These very sub-sectors are strongly collaborated with criminal networks specializing in trafficking in human beings.

Structurization of informal sector is very relative. It can easily re-shape after the changes in legislation and institutional frames. Besides, the degree of illegality of informal sector varies for different countries. In the EU states informal sector is mainly the result of expansion of service activities; it is a product of an increasing trend for flexible types of employment. Its growing share in GDP and total employment (from 10-15% in Austria, Switzerland, Netherlands, Germany, France up to 20-25% in Spain, Greece, Italy, Portugal) is visible to national statistics, and criminal types of activities are more or less localized. In contrast to that, the shape of informal sector in the post-Soviet states is vague; informality in terms of employment and illegality in terms of taxpaying and accounting penetrates the whole of national economies. Irina Eliseeva, Professor in Statistics from Saint Petersburg argues in figurative terms: "The Russian economy has no black-and-white structure. All industries are the same – dark grey – colour. Even in the industries, which are considered to be the most transparent, e.g. manufacturing, the scale of shadow operations is up to 50% (primarily in the forms of concealed wages-fund and tax underpays)". Informal employment in Russia is estimated as 15 to 25 million of the total employment of 70 million. This is a good example of why there is no commonly recognized definition of informal sector. The UN experts group engaged in improvements of informal statistics (the Delhi Group) concluded in 1997: "As informal sector shows differently in different countries, national definitions of informal sector are unlikely to be compatible".

Peculiarities of informal sector in different countries and regions of the OSCE area are to be taken into consideration when elaborating the common OSCE strategy in the field of informal sector management aimed at tackling illegal migration.

### ***Informal sector management***

The above-mentioned heterogeneousness of informal sector in whatever countries and regions requires diversified methods of its management.

The general strategy of a State towards informal sector must be aimed at its legalization by means of economic tools: encouraging of small businesses by improvement of taxation system, optimization of regulations for informal sector, particularly in terms of simplification of registration and accounting procedures, enlargement of credit and training opportunities, legal consultancy, etc. As a result, national economy could benefit from more transparency and migrant workers would take their legal niche in the national labour market.

At the same time, counteracting criminal sub-sectors and human trafficking must be conducted in the most resolute manner possible, and in all possible directions, with the participation of law keeping bodies, on the basis of international cooperation, recourse to the experience of international organizations, involvement of NGOs and civil society institutions.

### ***How to encourage employers to hire migrants legally?***

In many cases employers deliberately benefit from illegal forms of employment and illegal status of migrant workers hired for casual works. Over-exploitation, low salaries, absence of formal obligations to employees, impunity for deceits and groundless dismissals are estimated as advantages of illegal forms of employment by unscrupulous employers. Sometimes the nature of a business excludes legal employment. This is true for trafficking in drugs and arms or prostitution. A clandestine sweatshop producing counterfeit goods will never hire workers legally as well.

In other cases employers prefer (and even are forced) to hire migrants illegally as legal procedures of getting permissions are over-bureaucratic and difficult to follow\*. In fact, it is intolerable that such situations take place in the countries that are aware of negative effects of illegal migration. Clear and transparent mechanism of labour migration in both countries of destination and origin is a necessary condition for reducing illegal sector of migration.

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\* The 2002 IOM survey of illegal migrants employed in informal sector in several big cities of Russia (Moscow, Saint-Petersburg, Saratov, Stavropol, Ulan-Ude, Khabarovsk, and Vladivostok) proved that over 80% of illegal migrants would prefer to be hired legally and get the corresponding social protection and benefits even if their income is lower with the deduction of taxes. (Even taking into consideration that the most 'loyal' from the totality of illegal migrants agreed to be interviewed, and their answers were not always sincere, this high percentage clearly demonstrates vast reserve for informal sector legalization). Under the reasons that are understandable, employers were not covered by interviews, however, the experts (who were presented by the cities and territorial authorities, police migration departments officers, representatives of employment agencies, leaders of ethnic communities, and academics engaged in migration studies) insisted that at least every third employer is ready "to go out of the shadow" if small-scale business regulations are more agreeable.

Therefore, the sphere of legal labour migration can be expanded by improvement of migration legislation in destination and origin countries, development of official labour migration infrastructure, combination of economic and legal incentives for employers to hire legal migrant workers in accordance with national regulations, clear and easy to follow.

Some ideas can be fruitful in this context:

- Reasonable economic policy aimed at legalization of economy in all its sectors and industries can 'automatically' result in reduction of the scope of illegal migration due to decreasing share of semi-legal and illegal activities. Labour migration management is to be closely related to the general economic policy, and by no means contradict it. Informal sector employers are to have free and easy access to legal sector of migrants' labour market.
- Development of migration legislation and regulations in destination countries should be a result of balanced participation of all interested parties with compulsory assistance of labour ministries, trade unions, non-government organizations, and civil society institutions.
- Legal employment of personnel can be encouraged by means of national employers' associations, professional associations, trade unions, etc.
- Penalties for employers who hire migrants illegally are to be incommensurably higher than foreign labour use tax.
- Illegal hiring of migrants is to be classified as complicity in criminal offence and punished correspondingly. When migrants are trafficked persons, not only traffickers but employers are to be prosecuted. For example, when a German farmer buys two or three Russian illegal laborers and exploits them as slaves in his farm (such incidences have been reported in the media), he also becomes responsible for expanding human trafficking practices.
- Tackling illegal migration is to be a part of general strategy for development of a jural state, stimulation of respectful attitude towards Law, and human rights respect.
- Joining international agreements and conventions in the field can produce additional incentives for governments to promote best practices in migration management, including prevention illegal migration and combating human trafficking.

### ***The role of the OSCE***

Informal sector is an integral part of national economies. It plays an important role in providing population with employment and incomes and thus, assumes some tasks, which a State and big business can't cope with. At the same time, the nature of

informal sector is so that it is constantly reproducing semi-legal and illegal, or criminal economic relations. A magnet for illegal migrants and human traffickers informal sector is a matter of concern for national governments and international organizations.

An organization concerned with security and stability issues the OSCE is becoming an active actor in tackling illegal migration and human trafficking in the area. In this context, the OSCE cannot be indifferent to national economic strategies in participating States in respect of informal sector management. The OSCE, through its institutions and the participating States, can and should play an important role in addressing the issues of sustainable economic development, harmonization of economic structure, legalization of informal sector, hindering criminalization of economy, and tackling corruption.

The OSCE area includes many of the major countries of destination for migrants, including illegal migrants and trafficked persons, as well as the fastest growing source region in the ex-USSR space. Migrants' ethnic networks and criminal nets specializing in human trafficking are covering the territories of the majority of the OSCE countries.

The OSCE, in cooperation with national governments of the participating States, can be an effective coordinator in discussing the possible ways of securitization of economic development and re-orientation of labour migration from illegal flows into legal ones. Sustainable economic development of the participating States and effective labour migration working for prosperity of nations and individuals is a general target of the OSCE in this field. To achieve it, it is necessary to outline the common long-term strategy and plan of actions. However, the specificity of the processes involved is to be considered.

Illegal migration and human trafficking are trans-boundary phenomena by nature. To counteract them, effective international cooperation in all possible spheres – coordination of national migration policies, sharing information, exchange of experience, financial flows control, money laundering investigation, national police and boundary services coordination, etc. – is needed. At the same time, national economic strategy including informal sector management is a national government's priority (even realizing that a certain segment of informal sector is closely involved in international activities). Common understanding of the threats arising from illegal migrants' flows foaming shadow economy and impeding sustainable development can be the basement for elaboration of efficient national economic strategy aimed at legalization of all sectors of national economy including informal sector. The OSCE can play an important role in coming to such a common understanding among its participating States by inspiring a dialogue and giving incentives for cooperation.

Therefore, from raising awareness to coming to common understanding of the nature of the threats and, finally, co-operating in elaboration general strategy in the field – this is the most reasonable and logical way of actions of the OSCE in counteracting illegal migration. Tackling illegal migration by means of legalization of informal sector where illegal migrants are primarily employed means an attempt to solve the problem 'from the demand end'. It can be a positively new approach to the

problem in case it succeeds to promote both economic and legal, both restricting and encouraging tools.

Taking into consideration different scale and structure of informal sector in certain regions of the OSCE area, regional approach to economic dimension in illegal migration management is expedient. To get better understanding of individual countries nuances and regional priorities, regional research projects (country profiles, comparative studies) could be considered for Central Asia, European Union, the new EU member states, East Europe.

The OSCE could develop a program of encouraging legal small-scale business in transition countries (by assisting in drafting legislation related to small-scale business, organization of training, consultations, and financial support). This could provide expansion of legal employment in both sending and receiving states. As a result, in destination countries the share of legalized informal sector will grow, while in source countries potential illegal migrants and potential victims of human traffickers will benefit from wider economic opportunities and will be less vulnerable in the face of illegal migrants' recruiters.

Bilateral agreements are an effective way to shape legal channels of labour migration and provide social protection for labour migrants. The OSCE could encourage elaboration and signing bilateral agreements between its participating States, as well as development of official migration infrastructure in both receiving and sending countries.