



**REPORT ON ODIHR ACTIVITIES RELATING TO  
TRAFFICKING IN HUMAN BEINGS IN THE  
OSCE REGION**

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## **1. Background and Overview**

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This report provides an overview of ODIHR activities on anti-trafficking conducted between January 2005 to July 2006. It is intended to complement the overall OSCE report prepared in response to Ministerial Council Decision No.13/05 requiring the Anti-Trafficking Mechanism to 'report to the Permanent Council in June each year on progress achieved in work on trafficking issues in the OSCE'.<sup>1</sup> It also serves as background information for the Special Day on Trafficking to be held on 3<sup>rd</sup> October 2006 during the Human Dimension Implementation Meeting.

The ODIHR has been active in preventing and combating trafficking in human beings in the OSCE region since 1999. Since that time it has focused on the promotion of international human rights standards in responses to trafficking, through a variety of activities. As a result of its work, the ODIHR has developed expertise and a significant role in the domain of victim protection and the promotion of the rights of trafficked persons and groups who are at-risk.

With the creation of the OSCE mechanism on trafficking in 2003,<sup>2</sup> the ODIHR reviewed its anti-trafficking programme in the OSCE region. It was important that its programme satisfied a number of criteria including that:

- ▶ it was in furtherance of the ODIHR mandate, namely to monitor and support implementation of human rights commitments ;
- ▶ it focused on current issues of concern in anti-trafficking;
- ▶ it implemented the ODIHR's taskings under the OSCE Action Plan to Combat Trafficking in Human Beings;<sup>3</sup> and

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<sup>1</sup> The report 'From Policy to Practice: Combating trafficking in human beings in the OSCE region' was partly based on information gathered from questionnaires to which the ODIHR fully contributed.

<sup>2</sup> MC.DEC/2/03

<sup>3</sup> ODIHR is tasked under the OSCE Action Plan to do the following: 'to promote and support legislative review and reform efforts in compliance with international standards.' (Chapter III, s.9.1); 'As part of its assistance in the development of National Referral Mechanisms...to promote and encourage cooperation between law enforcement and civil society.' (Chapter III, s.10.4); together with the OSCE Strategic Police Matters Unit 'to develop training materials targeted at law enforcement authorities...' (Chapter III, s.12.1); 'to contribute to research efforts as well as promoting and carrying out awareness raising initiatives...' (Chapter IV, s.8.1); 'to enhance training activities with regard to the responsibility of the media for dealing with the topic of trafficking in a sensitive manner...' (Chapter IV, s.8.2); 'to assist participating States, upon their request, in establishing the NRM' (Chapter V, s.11.1); to collect and disseminate 'information on measures, training programmes and materials already in place in OSCE participating States' (Chapter V, s.14.2); to render 'necessary technical assistance...in developing National Anti-Trafficking Plans of Action...' (Chapter VI, s.7) and to further develop its 'clearing-house function for the exchange of information, contacts, materials and good practices...' (Chapter VI, s.9)

- ▶ it complemented and supported the work of the new mechanism, other OSCE structures and other actors working on anti-trafficking.

This review revealed a number of developments in the OSCE region. First the human rights approach to trafficking, reflected in the OSCE commitments and Action Plan, is making insufficient progress in a number of countries. Governmental agendas on trafficking are often dominated by concerns with immigration control and organised crime. This approach leaves considerations of protection and assistance to trafficked persons as a secondary issue. In particular the commitment to establish National Referral Mechanisms(NRM)<sup>4</sup>, involving a multi-agency response to trafficking and including civil society in the development and implementation of anti-trafficking policy, has not been broadly implemented.<sup>5</sup> Instead, anti-trafficking policy tends to be developed by ministries of interior to the exclusion of many other relevant actors. More effort is still needed to raise awareness of the OSCE commitments to establish interactive referral mechanisms and attention paid to presenting the benefits provided, for both trafficked persons and state actors, from the operation of such structures.

The review also found weaknesses in the strategies developed to identify trafficked persons. This leads to the continuing invisibility of many trafficked persons, mislabelled as ‘illegal migrants’ and subject to expulsion from the destination country. Failure to identify trafficked persons also hampers action to prosecute the perpetrators of trafficking. Successful prosecution in most cases is still very much dependent on collaborative victims. Further, persons trafficked for labour exploitation, alongside other groups such as Roma, often remain outside the scope of identification, protection and assistance measures. The strengths and weaknesses in identification and assistance strategies need to be examined, more opportunities to self-identify provided and alternative protection measures, perhaps more relevant to victims of labour exploitation or other groups, also developed.

Finally, although most OSCE participating States have adopted anti-trafficking legislation generally in compliance with the provisions under the Palermo Protocol, many trafficked persons are not seeking access to justice for violations of their human rights. This seems to be due to a number of different factors. Few States systematically offer a period of reflection to trafficked persons, to give the person due time to consider options, followed

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<sup>4</sup> The Declaration on Trafficking in Human Beings adopted in Porto, 2002 provides that participating States are to ‘render assistance and protection to the victims of trafficking and...when appropriate, to establish effective and inclusive national referral mechanisms...’Chapter V of the OSCE Action Plan recommends that OSCE participating States establish National Referral Mechanisms by building partnerships between civil society and law enforcement, creating guidelines to properly identify trafficked persons and establishing cross-sector and multi-disciplinary teams to develop and monitor policies.

<sup>5</sup> South Eastern Europe is a possible exception in this regard, where many good practices in the development of multi-disciplinary working groups, committees and coordinating structures on trafficking were tried and tested, initiated by the Stability Task Force on Trafficking.

by possibilities of temporary or permanent stay and permission to work. During criminal proceedings trafficked persons are often left without assistance, including legal representation and witness protection, in spite of the real dangers posed to their safety by traffickers. They are sometimes also prosecuted for illegal activities, illegal border crossing or possession of fraudulent documents. Few States compensate trafficked persons although some have confiscated the assets of traffickers. Also other rights are not always protected; trafficked persons are subject to administrative detention and returned to countries without due regard for their safety. All these factors are indicative of insufficient progress in implementing some of the important recommendations of the OSCE Action Plan.<sup>6</sup> In addition for Member States of the Council of Europe, such practice is incompatible with the new Convention on Action Against Trafficking in Human Beings.<sup>7</sup>

In the light of this review, it was appropriate that the ODIHR would intensify its work both on protection of the rights of trafficked persons and support to the establishment of NRMs. Firstly it would enhance its monitoring of the implementation of standards, in keeping with the ODIHR's mandate. It also continues its work in destination countries, including Western Europe, where a number of weaknesses in the implementation of commitments had been identified. In this manner, the ODIHR would also focus on strengthening the ties between countries of origin and destination through the exchange of information and contacts to enhance human rights protection of trafficked persons. Finally in view of the increasing significance of labour exploitation in the OSCE region, the ODIHR aims to ensure increased attention to these issues, thereby also complementing the focus of the Special Representative.<sup>8</sup>

The goals of ODIHR's anti-trafficking programme reflect its own mandate as well as its taskings under the Action Plan. The main aims of the programme are to

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<sup>6</sup> See for instance Chapter III of the OSCE Action Plan, Investigation, Law enforcement and Prosecution s.1.5 '...that the confiscated proceeds of trafficking will be used for the benefit of victims of trafficking'; s.1.8 'Ensuring that victims of trafficking are not subject to criminal proceedings solely as a direct result of them having been trafficked'; s.4.1 'Taking appropriate measures ...to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings ...and, as appropriate, for their relatives and other persons close to them.'; s.4.5 'Providing legal counselling for victims when they are in the process of deciding whether or not to testify in court'; s.4.6 'Permitting NGO's to support victims in court hearings...'Chapter V, Protection and Assistance: s.3.2 'Providing guidance to facilitate the accurate identification and appropriate treatment of the victims of THB, in ways which respect the views and dignity of the persons concerned'; s.7.1 'Assisting the victims of THB in , preferably, voluntary repatriation...with due regard for their safety and that of their families...'; s.8. Provision of a reflection delay and temporary or permanent residence permits.'

<sup>7</sup> See MC Dec 15/05 Preventing and Combating Violence against Women, which calls on participating States to consider where appropriate signing and ratifying the Council of Europe Convention on Action Against Trafficking in Human Beings.

<sup>8</sup> In particular the Special Representative's High Level conference in November 2005 and November 2006 on Trafficking for Forced and Bonded Labour.

- ▶ support the establishment of multi-agency anti-trafficking structures through the promotion of NRMs;
- ▶ improve strategies to identify and assist trafficked persons, including victims of labour exploitation and Roma victims, by raising awareness of and addressing gaps in identification models;
- ▶ strengthen trafficked persons access to remedies and rights by monitoring and raising awareness of rights and strengthening ties to protections available to other at-risk groups, such as migrant workers.

## **2. Overview of ODIHR activity on anti-trafficking**

The ODIHR is implementing its programme activity in a number of OSCE mission countries including Armenia, Albania, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova and Ukraine. The ODIHR continues to provide legislative support on request to participating States through its legislative support unit and is currently updating its *Legislationline* data base. Alongside actual project activity, the ODIHR also supports the missions with technical advice, often in cooperation with the Anti-Trafficking Assistance Unit (ATAU), on different issues including the development of national action plans, establishing national coordination structures and the development of project proposals. It also frequently identifies and exchanges materials and experts for training and workshops with the field.

The ODIHR is also active in non-OSCE field mission countries, including Western European countries following visits of the OSCE Special Representative. It has been cooperating especially in supporting implementation of OSCE commitments with France, Russia, Switzerland, Turkey and the United Kingdom for the purposes of enhancing the protection of the rights of trafficked persons in those countries and strengthening ties with origin countries.

This section aims to provide a more detailed overview of the ODIHR's main activities on anti-trafficking in the OSCE region and some of its achievements.

### **2.1 Supporting the establishment of National Referral Mechanisms**

The ODIHR has initiated a series of assessments as starting point for much of its work in supporting establishment of NRMs. The assessments aim to evaluate policies and practices on the identification of trafficked persons, the protection of trafficked persons rights and trafficked persons access to justice in the country. The assessments also include sections reviewing the press and media coverage of trafficking in the country and an analysis of the law. The recommendations provided under the OSCE Action Plan and the ODIHR's

handbook on NRMs provide the benchmarks against which these evaluations are made.<sup>9</sup>

This work builds on previous assessments conducted by the ODIHR in collaboration with UNHCHR and UNICEF in South Eastern Europe, the final report from on which was published in March 2005 and presented to the Informal Working Group on Gender Equality and Anti-Trafficking of the OSCE Permanent Council shortly thereafter. Lessons learnt from that project and other referral mechanism assessments have contributed to the design of the current ODIHR assessments. For instance only local consultants with in-depth knowledge of the trafficking situation in that country have been selected for the assessments supported by prominent anti-trafficking NGOs in the country concerned and recognized academic institutions, where possible. Assessments are currently under discussion or underway in Belarus, France, Kazakhstan, Russia, Switzerland, Turkey and the UK.

Numerous meetings have been held with OSCE delegations, government structures and civil society in the country prior to the assessments. Also measures have been taken to engage the commitment of the State and civil society to act on the findings of the assessments. It is hoped that the findings from the assessments will be exchanged between countries to raise awareness of the strengths and weaknesses of different approaches in anti-trafficking and stimulate change where needed.

The ODIHR is very appreciative of the support it has received from both OSCE delegations and authorities in capitals for facilitating the assessments. The process of preparing for and conducting the assessments has provided visibility for the OSCE commitments, and raised awareness in particular of the commitment to establish national referral mechanisms. Also numerous actors, from both government and civil society, have been identified. Many have become valuable sources of information and partners in other anti-trafficking initiatives of the OSCE. Some have also been invited to exchange practice from their countries and highlight problematic issues during ODIHR events, including the Human Dimension meetings in Warsaw, and the High Level conferences of the Special Representative.

**In Kazakhstan**, the assessment was conducted in 2005 and presented at a roundtable in Kazakhstan in September 2005. The roundtable gathered relevant governmental and civil society participants who had participated as interviewees for the assessment. Opportunities were given over the course of the meeting to contribute to the analysis of the findings and develop recommendations for improved action. The recommendations contributed directly to the development of Kazakhstan's National Action Plan which also integrates reference to the need to establish an NRM. Also following a recommendation in the assessment, the Ombudsman's Office was made responsible for the human rights protection of trafficked persons in Kazakhstan. To consolidate the understanding of the human rights approach to trafficking, a training course was designed with the collaboration of La

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<sup>9</sup> 'National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons, A Practical Handbook', *OSCE/ODIHR*, 2004

Strada Moldova for law enforcement and NGO's in November 2005 where good practices in identification and referral of victims were presented. In 2006 the Government of Kazakhstan requested assistance with training local government authorities and support in implementing the NRM. A roundtable on NRM and training seminars for local government are to be conducted in the autumn.

**In the UK**, the initiation of the assessment led to a number of developments. The Joint Parliamentary Human Rights Committee, following meetings with the ODIHR, launched its own inquiry into the identification and protection of trafficked persons. The Committee also requested the ODIHR to submit evidence for the inquiry on the basis of the findings in its assessment. Following receipt of the draft findings, the ODIHR provided comments to the UK government's draft action plan in April 2006, which makes explicit reference to the OSCE commitments. The ODIHR was also invited to attend different events in the UK reviewing progress on anti-trafficking including a discussion on the draft action plan, organised by human rights lawyers in March 2006, at which the ODIHR presented the OSCE commitments and a 'de-briefing' conference of law enforcement operations in the UK in June 2006. The assessment has also led to stronger links with key actors in anti-trafficking in the UK. The main UK NGO providing services to trafficked persons was invited to present at an event held during the Human Dimension Implementation Meeting in September 2005. It shared UK practice on the repatriation of trafficked victims to countries of origin. Advice from the ODIHR on international standards and OSCE commitments on identification and referral of trafficked persons was also sought and provided. Human rights lawyers in the UK have also sought the intervention of the ODIHR in connection with the detention of trafficked persons in October 2005 and January 2006. UK research expertise in trafficking is also being channelled into other ODIHR supported projects, including research in Kazakhstan on exploitation. The draft assessment highlights a number of challenges in connection with the identification and protection of trafficked persons in the UK. It is now awaiting finalisation and will be shared with the government in the autumn.

**In Switzerland**, where an assessment has been discussed, meetings were held with the authorities and civil society actors to present and review implementation of the OSCE commitments. As a result of these contacts, a representative from a Swiss NGO was invited to share experiences on the identification and protection of trafficked victims in Switzerland and exchange with countries of origin at an event organised during the Human Dimension Seminar in May 2005. A human rights lawyer was also invited to exchange practices on the return of trafficked victims from Switzerland to countries of origin at an event held during the Human Dimension Implementation Meeting in September 2005. The Swiss Coordination Unit Against Trafficking In persons (KSMM) published guidelines on co-operation mechanisms for combating trafficking at the end of 2005 which they shared in advance with the ODIHR. The guidelines closely follow the model of inter-agency cooperation promoted by the ODIHR's National Referral Mechanism Handbook and are currently being promoted by the federal authorities to



support the development of cooperative frameworks on anti-trafficking at the cantonal level.

**In Russia**, the ODIHR organised a joint visit together with the Special Representative in June 2005 in preparation for the assessment. The assessment, conducted in Moscow and Perm was launched through initial workshops on NRMs for local government authorities and civil society in December 2005. Russia is an important destination country for trafficked persons from many of the countries represented by the OSCE anti-trafficking focal points including Armenia, Georgia, Moldova, Ukraine, Kyrgyzstan, and Tajikistan. An exchange of information on Russia therefore was particularly relevant and appreciated by the focal points. The draft assessment highlights a number of challenges in connection with the identification and protection of trafficked persons in Russia. It is currently being finalised and shall be shared with the government at a workshop in the autumn.

**In Belarus**, numerous efforts have been made to discuss the conduct of an assessment. The project proposal for an assessment was recently registered and will be implemented by an NGO partner, with the support of the OSCE Office in Minsk. A series of meetings were recently held with key government partners from the Ministry of Interior, the Ministry of Labour and Social Affairs, the Ministry of Health, and the Ministry of External Affairs in Minsk to discuss the details of the project and present the NRM concept. Two Moldovan experts were also invited to share good practices from Moldova on establishing NRMs. Efforts have been made to secure the cooperation of the authorities in the data collection which is to start shortly and complete in the autumn.

**In Turkey**, the assessment was launched in December 2005 with a local research team based at Istanbul Bilgi University's Law faculty. The regions selected for the assessment include Istanbul, Ankara, Trabzon and Antalya. Turkey is an important destination country for trafficked persons from many of the countries represented by the OSCE anti-trafficking focal points including Armenia, Georgia, Moldova and Ukraine. An exchange of information on Turkey therefore was particularly relevant and appreciated by the focal points. The draft assessment has been discussed with the Turkish government counterparts during a country visit in July. The presentation of the final assessment is planned for late autumn. The newly published Turkish language version of the NRM handbook will also be presented at this time. It is hoped that the handbooks will serve as a tool in further developing victim protection in Turkey.

**In France** there have been numerous meetings to present the OSCE commitments on trafficking and the assessment to governmental and civil society actors. The assessment was launched in July and shall review anti-trafficking responses in Paris, Marseille and Nice. The French delegation of the OSCE have also supported translation of the NRM handbook into French which will be distributed during the assessment. It has also been requested that the ODIHR continue to support the exchange of practitioners and contacts initiated between France and South Eastern Europe during its conference on trafficking in Bucharest in 2005 through its project activity.

## **2.2 Strengthen identification, protection and assistance to all victims of trafficking.**

The importance of adequate identification and assistance and enhanced cooperation between countries of destination and origin was the focus of the ODIHR Conference entitled 'Ensuring Human Rights Protection in Countries of Destination: Breaking the Cycle' held in September 2004. The ODIHR's goal to strengthen identification and protection of all trafficked persons aims to build on and draw from the discussions and practices shared at that conference and further expert meetings convened under the Alliance against Trafficking. In particular, the NRM assessments currently completed have helped to identify gaps in anti-trafficking responses and where already concluded, such as in Armenia and Georgia, have led to a heightened awareness amongst State and civil society actors of the strengths and weaknesses in their identification strategies and assistance measures. Assessments are also indicating that victims of trafficking for labour exploitation as well as Roma communities are rarely being identified or assisted.

In **Armenia**, a roundtable on victim identification in October 2005 brought together expertise from the UK on identification and familiarized participants with good practices on identification and referral between law enforcement and NGO's from numerous countries. It led to the strengthening of trust and working relationships between law enforcement and civil society in Armenia, essential for successful identification and assistance to trafficked persons. The working relationships and grasp of OSCE standards on identification and protection of trafficked persons however needs to be further supported. In particular, increased participation of police and prosecutors in activities devoted to strengthening identification of trafficked persons is needed.

In **Georgia**, as a follow up to an NRM assessment conducted in 2004, the ODIHR, in cooperation with the OSCE Mission to Georgia has been developing an 18 month project, due to launch in August 2006. The project focuses on strengthening identification and referral of trafficked persons in the Black Sea region of Adjara by supporting establishment of an NRM. It also includes a research component to explore obstacles to accessing justice for trafficked persons. The findings from this review will contribute to developing measures to support trafficked persons access to rights. Finally, a regional conference is planned to bring together anti-trafficking actors from countries of origin, transfer and destination to share practices and establish and improve networks.

In **Albania**, the ODIHR supported the Advisor to the Minister of State for Coordination, in cooperation with the Presence in Albania, by commenting on and attending negotiations on the 'Draft Cooperation Agreement to Establish a National Referral Mechanism for Reception of and Assistance to Victims of Trafficking' in Tirana in 2005. It has subsequently developed a project together with the Presence in Albania and the Office of the Coordinator for OSCE Economic and Environmental Activities (OCEEA) focusing on

preventing trafficking through economic empowerment and enhanced victim protection. The ODIHR will be responsible for the victim protection components of the project. Besides supporting NGOs providing direct social assistance to victims, the project will include support for legal assistance to victims and include an assessment reviewing practices on identification and protection, also during criminal proceedings. The Albanian organisation that will be supporting legal representation of trafficked persons was also invited to present its recent findings from trial monitoring research, at a side event in May 2006.

*(i) Raising awareness of labour exploitation*

In **Kazakhstan**, to ensure that trafficking for labour exploitation is recognised as a problem and measures taken to identify and assist its victims, the ODIHR supported a pilot assessment on trafficking for forced labour in 2005. This is now to be followed by a major research project on labour migration and exploitation in Kazakhstan, in partnership with the OCEEA. Alongside the data collection on labour migration, the research will explore the extent of exploitation in Kazakhstan, especially of migrants from neighbouring countries such as Uzbekistan, Tajikistan, and Kyrgyzstan. The research concept and methodology are now being finalised and the data collection will begin in 2007.

In preparation of the Special Representative's High Level conference on forced labour in November 2005, the ODIHR organized a side event during the Human Dimension Seminar on Migration and Integration in May 2005. New research on the exploitation of undocumented migrants in Western Europe in domestic work, hotel and catering, agriculture and construction in Belgium, Switzerland, France and Spain was presented. The discussion focused on the risks taken, particularly by migrant women, in seeking irregular forms of work in Western Europe, and ways of strengthening protection from human-rights violations. The event also provided an opportunity to consider the complex factors underpinning the demand for cheap, unprotected labour in Western Europe. Representatives of government delegations and NGOs attended and participated in the discussions following short presentations by the panellists. The event raised awareness among participants of the existence of exploitation in agriculture, domestic work, hotels and restaurants in Western Europe and its ties with trafficking for labour exploitation.

*(ii) Raising awareness amongst Roma*

In 2004 the ODIHR organised a regional roundtable in Belgrade on trafficking in Roma communities at which were presented a number of studies from Albania, Serbia and Montenegro, fYRoM and Romania. It subsequently supported a trilateral initiative in Slovakia, Poland and Czech Republic in 2005 to prevent and combat Trafficking in Women within Roma Communities, implemented by La Strada Poland. The project aimed to build the capacity of Slovak NGOs to conduct preventive work on trafficking with Roma women and within Roma communities. The final evaluation seminar of the project held in March 2006 identified the need to strengthen cooperation between Roma and non-Roma organisations as well as the need to sensitise non-Roma organisations to the needs of Roma communities.

To further these activities on strengthening prevention of trafficking amongst Roma, the ODIHR is organising a second regional roundtable in Albania in September. As part of the planning process and in cooperation with the European Roma Rights Center (ERRC), it held a preparatory meeting in Budapest in April this year. The meeting brought together Roma and non-Roma activists and organizations working to empower Roma communities and/or combating trafficking, in particular child trafficking, from South Eastern Europe. The roundtable will bring together and draw on the expertise of a number Roma and non-Roma actors, from countries of destination and origin, to share practices and develop joint project proposals. A project fund will be created within the ODIHR to fund future projects from these partnerships.

### **2.3 Strengthening access to remedies and rights**

#### *(i) Monitoring victims rights in trafficking trials*

An overview of international standards on trafficked victims' rights during criminal proceedings was developed by the ODIHR in 2005 for inclusion in a trial monitoring manual designed for a trial monitoring project in Moldova. Part of the trial monitoring exercise will focus on victim and victim-witness protection during criminal proceeding. The OSCE Mission in Moldova started to implement the trial monitoring project in March 2006. The monitoring of victim and victim-witness protection during trafficking trials is expected to provide useful information on the extent of victims' rights protection and access to remedies in Moldova. The findings will be used to contribute to developing strategies to strengthen rights protection.

#### *(ii) Safety of return*

In September 2005 the ODIHR organised an event during the Human Dimension Implementation Meeting on the safety of returning trafficked persons to countries of origin. The event brought together practitioners from countries of destination and origin including Moldova, Poland, Switzerland and the UK to share experiences of the manner in which risk to returnees is assessed in countries of destination and the outcomes of return for trafficked victims including ill treatment and re-trafficking. The event highlighted the fact that return is a measure increasingly used for victims of trafficking. It made reference to the proposed EU Directive on return which will affect victims of trafficking also. Return is of increasing concern in the OSCE region because of the risks to safety that victims of trafficking have encountered on their return and continuing indications of re-trafficking.

The event highlighted the international commitments to guarantee return 'with due regard to the safety of the returnee' and considered what this entails. It showed that many victims are pursued by their traffickers on return and even social service providers encounter dangers when meeting and sheltering returnees. Frequently in such cases the police are unable to provide protection. At the same time many destination countries do not conduct risk assessments prior to returning trafficked victims. It was also noted that in destination countries, the asylum process allowed for judicial consideration of the risks on return. The ideas and contacts generated during the event have

led to an increased awareness of the right to *non-refoulement* of trafficked persons amongst other anti-trafficking actors and policy makers.

*(iii) Protection of rights in criminal proceedings*

During the Human Dimension seminar in Warsaw in May 2006, the ODIHR organised an event on criminal justice and the trafficking victim. The panel discussion brought together practitioners from Albania, Germany, Moldova and Romania to present both new research on the protection of rights of trafficked persons in criminal proceedings and the experience of trafficked persons. The event highlighted the fact that prosecutions of traffickers remain low. In some countries of origin where an increase in criminal cases has been witnessed, there are indications that those prosecuted are more likely 'minor links' in the trafficking chain, rather than the more serious criminals, and notably those prosecuted are often young and female. Frequently trafficking cases end in acquittals or with suspended sentences which has the effect of demotivating possibly many trafficked persons of collaborating with law enforcement in future. The event also indicated that victims do not have access to information about their rights or access to legal assistance. They often face pressure from law enforcement to file complaints but instead of then being protected, they face stigmatisation, punishment (fines, deportation) and criminalisation. Also compensation is rarely paid to trafficked persons, in either destination or origin countries. All panellists emphasised that only where states provide legal and physical security for victims, are they in a position to cooperate with law enforcement.

### **3. Co-ordination and cooperation**

To ensure visibility for its work, avoid duplication and benefit from collaborative efforts, the ODIHR has actively sought to co-operate and co-ordinate with others, both within and outside the OSCE.

#### **3.1 Co-operation within the OSCE**

The ODIHR has pursued good working relations with all OSCE anti-trafficking actors based in Vienna through regular contact and meetings, in particular with the Anti-Trafficking Assistance Unit and the Special Representative. It regularly exchanges information on developments in countries, and has aimed to ensure that important issues identified through the Special Representative's visits were incorporated in the ODIHR's work. When possible, it aimed to include the Special Representative in ODIHR initiatives, such as letters of intervention to governments in connection with individual trafficking cases. It has also always ensured that all OSCE structures have been invited to ODIHR events and workshops. It has contributed with its expertise to the Special Representative's conferences and events as well as financially supporting participation of civil society. It also frequently exchanges with the ATAU and SR details of its own programmatic activity and events inviting discussion and input. Advice to missions on the development of national action plans, coordinating structures and project proposals is often provided jointly with the ATAU. The ODIHR supported the organization of a 'retreat' with OSCE anti-trafficking actors from the Secretariat in July 2005 to build working relations and develop a set of

common priorities for OSCE's anti-trafficking work. It contributed the first draft of a common strategy for OSCE action on anti-trafficking, with a strong human rights focus.

The ODIHR provided extensive commentary to the OCEEA in connection with the Labour Migration Manual in March 2006 and advised on the agenda and participated at the OCEEA regional Labour Migration Conference held in Almaty in January 2006. In collaboration with the OSCE Presence in Albania, the ODIHR will start a joint project in partnership with the OCEEA to strengthen protection and prevention of trafficking in Albania. It is also partnering in a joint research project on labour migration and exploitation in Kazakhstan. The ODIHR has also always responded to requests for assistance from the SPMU, providing commentaries on training materials for law enforcement and providing guidance in connection with assessing risks on return for trafficked persons.

The ODIHR also aimed to attend the Informal Working Group on Gender Equality and Anti-Trafficking of the OSCE Permanent Council, now the Working Group on Human Protection and Non-discrimination, as frequently as possible to share updates on its work. It also provided its assistance in the development of the relevant decisions in 2005.

*(i) OSCE anti-trafficking focal point meetings*

To strengthen partnerships with the OSCE anti-trafficking focal points and promote consistency in anti-trafficking work in the region, the ODIHR has regularly organised meetings for OSCE anti-trafficking focal points to which all OSCE bodies have also been invited. Recent meetings were held in May 2005 and May 2006. In keeping with the focus of its anti-trafficking programme, the ODIHR has sought to use these meetings to provide training for focal points on current developments in trafficking and to strategise on OSCE anti-trafficking work in partnership. The meetings have also provided for a stock-taking of OSCE action on trafficking in the field and allowed for an evaluation of activities.

In keeping with the ODIHR's taskings under the action plan to contribute to research efforts and to collect and disseminate information in OSCE participating States,<sup>10</sup> the meetings have also provided an opportunity to present new research and disseminate new findings on trafficking amongst OSCE structures. For instance in 2005, the ODIHR invited a prominent researcher on trafficking for forced labour from the UK to share her new research and discuss ways of enhancing the visibility of and addressing trafficking for labour exploitation. In 2006 researchers from Turkey and Russia were invited to present findings from the ODIHR's NRM assessments conducted in those countries. A speaker was also invited from a network of migrants rights organisations to present research on alternative ways of protecting undocumented migrants, and discuss new ways of strengthening protection to trafficked persons. The meetings have also provided a forum for the focal points to share findings from their activities and in May 2006 the focal points from fYRoM, Bosnia and Herzegovina and Kosovo shared results

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<sup>10</sup> See chapter IV of the OSCE Action Plan, s.8.1 and chapter V, 14.2

from trial monitoring projects there. The ODIHR has followed up these meetings with visits to numerous missions and presences including Albania, Armenia, Georgia, Belarus, Kazakhstan and Kyrgyzstan and Ukraine to provide advice on anti-trafficking work and develop joint initiatives.

*(ii) Human Dimension Training*

The ODIHR hosts the Human Dimension training for field missions in Warsaw once every three months. This training includes a session on trafficking the purpose of which is to raise awareness of the issues relevant to trafficking and the action taken by the ODIHR and other OSCE structures to prevent and combat it. The session is conducted by two of the members of ODIHR's anti-trafficking team with the curriculum frequently updated to reflect developments in the ODIHR's anti-trafficking work. The curriculum has also been shared with the training unit in Vienna, who have been invited to attend the training.

**3.2 Co-operation outside the OSCE**

The ODIHR has sought to maintain regular contact and where possible develop joint initiatives with relevant international actors including the United Nations High Commissioner for Human Rights through regular meetings, exchange of information and occasional attendance at the IGO Contact Group meetings in Geneva. With the Council of Europe, through regular exchanges of information with the Directorate on Human Rights including exchanging background information on trafficking prior to and following the Commissioner on Human Rights country visits, the ODIHR also seeks to support ratification of the Council of Europe Convention on Action to Combat Trafficking where appropriate in its work; with the United Nations Office on Drugs and Crime by developing a joint initiative to review judicial interpretations of trafficking in case-law.

The ODIHR has also regularly attended and supported the Alliance Expert Coordination Team meetings to share practices and exchange with other partners.

*Participation in events*

ODIHR has also taken advantage of many opportunities during the last 18 months to ensure the visibility of OSCE's work on anti-trafficking and develop partnerships with others most notably through:

- ▶ presentations on the National Referral Mechanism concept at the Churches' Commission for Migrants in Europe (CCME) and Caritas Europa workshop "Durable Solutions for Victims of Trafficking in Prague" in February 2005, the the Christian Action and Networking against Trafficking in Women, international workshop "From Awareness Raising to Building Quality Networks" in Bucharest in March 2005, the 'Second Russian Anti-Trafficking NGOs Assembly' in Moscow in March 2006; the Garden Court Chambers Conference on 'Trafficking for Sexual and Labour Exploitation' in London in March 2006, the regional OSCE Anti-trafficking conference organised by the SR and the ATAU in Kazakhstan in May 2006 and

the EU Conference on implementation of the EU Action Plan on Trafficking under the Austrian Presidency in June 2006;

- ▶ preparation and presentation of background papers on trafficking and related issues at the joint OSCE/French organized conference on Violence against Women in Paris in April 2005 and an Amnesty International conference on violence against women in Switzerland in September 2005;
- ▶ presentations to migrants rights organisations to develop new partnerships in the protection of trafficked persons including at the PICUM conference 'Regularisation is not the only policy : Ten Ways to protect Undocumented Migrant Workers' in Belgium in March 2006 and the Churches Commission for Migrants in Europe workshop on 'New forms of cooperation' in Prague in June 2006;
- ▶ attending and facilitating events and conferences organized by the Special Representative and the Alliance against Trafficking;
- ▶ contributions to the draft EU Action Plan on Trafficking and participation in the UK Presidency's EU conference on trafficking in October 2005;
- ▶ the organization of trafficking-related side events at ODIHR human dimension meetings including the Migration and Integration Seminar in May 2005, the Human Dimension Implementation Meeting in September 2005 and the Criminal Justice Seminar in May 2006, as well as through its visits to both OSCE mission countries and others.

#### **4. Conclusion and Outlook**

The ODIHR's anti-trafficking work will continue supporting OSCE participating States in the implementation of their human dimension commitments, in particular through support to establishing national referral mechanisms and activities to enhance protection of the rights of trafficked persons, including children. It will also continue to respond to requests for legislative assistance and support to the OSCE field missions in their anti-trafficking work.

The ODIHR has been effective in raising awareness of OSCE human dimension commitments in numerous participating States with whom it has cooperated. It has supported the establishment of national referral mechanisms by raising awareness of gaps in anti-trafficking responses in different countries and provided training and advice on the components of NRM's where requested. It has worked towards strengthening cooperation and partnerships between civil society and state actors and has contributed to the exchange of expertise between countries of origin and destination. It has also raised awareness of the issue of trafficking for labour exploitation and has been sensitive to the issues associated with Roma. Its attention to



information collection and dissemination has ensured that it remains able to advise the OSCE on the latest developments and trends in anti-trafficking work as well as exchange practice and expertise with the field and others. On a limited number of occasions it has also intervened on behalf of individual cases where concerns were raised.

In the coming year the ODIHR will strengthen its activities to support victims in claiming their rights to assistance, protection and legal remedies, through support for legal representation, outreach and other assistance services. It will also focus attention on current practices in the payment of compensation to trafficked persons and means of improving such practices. It will further explore the incidence of re-trafficking from countries of origin and the measures taken by destination countries to ensure that return is always conducted in safety and ensure that good practices are exchanged. It will continue to pay attention in all its work to trafficking in Roma and trafficking for labour exploitation, alongside issues relevant to children.

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