



Organization for Security and Co-operation in Europe

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

Opening Speech

delivered at
Human Dimension Implementation Meeting

Working Session 8
Humanitarian issues and other commitments (continued)

**Implementation of the OSCE Action Plan
to Combat
Trafficking in Human Beings**

Warsaw, 28 September 2012

Dear Chairperson,
Distinguished participants, colleagues,

It is my honour and privilege to open this session of the annual Human Dimension Implementation Meeting that is the major OSCE monitoring and reporting instrument. No doubt, it has a tremendous value for all, providing a great opportunity to assess the progress achieved and to seek ways for a more comprehensive implementation of our commitments. The due translation of political commitments into practice and action is a challenge which has to be recognized and dealt with vigorously - if we really mean what we agreed upon when we approved the commitments to eradicate modern-day slavery.

In 2011 we took a new step forward. After a two year period in which no anti-trafficking decisions were taken, the participating States adopted the Vilnius Ministerial Declaration on Combating All Forms of Human Trafficking¹, thus reaffirming their strong political will and dedication to put an end to this criminal phenomenon, which has grown into a serious transnational threat, and an abhorrent violation of the human rights of men, women and children all over the OSCE region.

The Vilnius Ministerial Declaration introduced a new chapter to the extensive body of the OSCE anti-trafficking commitments drawing from the strategic OSCE Action Plan to Combat Trafficking in Human Beings of 2003. It is a document of international resonance that we can be proud of, along with more specialised MC Decisions that address labour exploitation, child trafficking, the criminal justice response, and the highest standards of conduct and accountability of persons serving on international forces and missions. Year after year, each Ministerial anti-trafficking Decision reflected our increasing knowledge about new trends in the evolution of this heinous crime and the scope of challenges confronting the participating States.

These decisions provide us with advanced tools to break up criminal networks, rescue trafficking victims and prevent others from being enslaved and severely exploited, though I should add that all of these decisions must be implemented by participating States in order for them to be effective.

Today, however, we face new challenges, and therefore we need a second wave of anti-trafficking action. Why?

The latest data collected globally and analysed by the ILO concludes that about 20.9 million people are in forced labour (actually trafficking) at any single moment². This is much more than we have seen in previous reports by the ILO or other organizations. When looking at the gender dimension of trafficking, we see that women and girls represent the greater share of total forced labour – 11.4 million victims (55%), as compared to 9.5 million (45%) men and boys. Children represent 26% of all forced labour victims³. These estimates show that trafficking is clearly a human rights violation on a massive scale.

¹ MC.DOC/1/11/Corr.1, 7 December 2011.

² ILO, Special Action Programme to Combat Forced Labour, *ILO Global Estimate of Forced Labour. Results and Methodology* (2012), <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf>, accessed on 13 September 2012.

³ Ibid.

This new data reveals that 90% of victims are exploited in the private economy. Of these, 22% are victims of forced sexual exploitation, and 68% are victims of forced labour exploitation⁴, occurring in agriculture, construction, domestic work, manufacturing, fishing, food-processing, tourist and hotel business, and entertainment. Therefore we have to admit that trafficking in human beings is not a contingent phenomenon, but has become a systemic component of global economy and significantly affects some segments of the labour market.

Trafficked persons are also exploited in criminal activities such as selling and carrying drugs across borders, stealing and selling stolen items, engaging in organized begging, the production of pornography, etc. When such cases are detected, however, victims are nearly always treated as criminals, and it is difficult to convince law enforcement officials to apply a non-punishment clause particularly in cases where the trafficked victims are apprehended for other crimes. Still they ARE victims of a grave crime and they ARE entitled to adequate assistance and protection in accordance with international law.

The inconsistent and rare application of a non-punishment clause is just one of many factors impeding an efficient anti-trafficking response. In this regard let me refer to the OSCE Action Plan which strongly recommended “ensuring that victims of trafficking are not subject to criminal proceedings solely as a direct result of them having been trafficked”⁵. Absent a non-punishment clause in national legislation, States will struggle to gain the trust of trafficked persons and will likely fail in efforts to make them allies in investigations and prosecutions.

There are many other areas which require attention and action, including internal trafficking, combating THB-related corruption and money laundering, migration management and identification of the victims of human trafficking amongst labour migrants, who quite often lack a clearly defined legal status in the country of destination. Though they are extremely vulnerable to trafficking and exploitation, they are often the ones prosecuted and punished, while their exploiters enjoy impunity.

Refugees, asylum seekers, IDPs, returnees and stateless persons are also vulnerable to enslavement and in need of protection. What can we do to prevent them from becoming actual victims of trafficking? Are we ready to take steps to identify potential or actual victims among them and implement the norms of international refugee law and the recommendations of the Action Plan related to the principle of non-refoulement? This would imply, for example, establishing interview procedures and allowing NGOs to provide legal counselling to migrants awaiting deportation in reception and detention centres.

Child trafficking is another area which deserves the attention of governments and civil society as a whole. Participating States recognised the special needs of child victims of trafficking by adopting an Addendum to the Action Plan in 2005 in Ljubljana, but current realities require us to give greater prominence to child trafficking in our political agenda. The vulnerability of migrant, undocumented, unaccompanied, separated and asylum seeking children, is too great to ignore. And this is only the tip of the iceberg: the disadvantages of orphans, children brought up in state institutions deprived of family care, or children with disabilities, far too often make them an easy target for traffickers. They often end up exploited in prostitution, pornography or forced begging. Many will never be identified, and

⁴ Ibid.

⁵ The OSCE Action Plan to Combat Trafficking in Human Beings, Chapter III, Art.1.8.

thus never become “eligible to receive immediate assistance”⁶ (safe shelter, medical and psychological care, legal assistance, social services and education), as recommended by the Addendum (art.8).

Trafficking for sexual exploitation remains one of the most violent and harmful forms of this crime. Although there are indications of a decline in a number of countries, we cannot be reassured that this represents a real decrease. We have to take into consideration, for example, the growth of indoor prostitution, which makes it more difficult to detect cases of trafficking for sexual exploitation.

New forms of trafficking are evolving, and trafficking for the removal of organs is just one of them. A proper response is needed. In 2012 my Office provided the delegations with the preliminary conclusions of research undertaken on this subject. We intend to conclude the research in early 2013 and we are grateful to the participating States for providing us with updated and verified information on legal cases investigated and prosecuted in these countries.

To sum up: we face today multiple challenges that are constantly re-shaping themselves, tearing at the social and economic fabric of our countries and undermining the rule of law and human values. The causes of human trafficking, its push and pull factors, its low risk-high profit nature remain in place. Furthermore, trafficking will inevitably increase due to poor identification and prosecution, due to the lack of assistance provided to the victims, due to the lack of co-operation between state authorities and NGOs - the main services-providers for people in need. This situation is a serious concern, especially since it has been nine years since the Action Plan mentioned that the root causes of THB were “insufficiently tackled”⁷ and that we are witnessing “a tremendous increase both in incidents of trafficking in human beings and in the number of victims, while prosecution of perpetrators remains unsatisfactory”⁸. Nearly a decade has passed, yet these quotes from the Action Plan could have been written today. If we compare the ILO estimates of the victims of trafficking and forced labour in 2005 and 2012, we see how alarming the situation truly is.

The Action Plan is relevant in all its parts today – even more than it was in 2003, because we know much more about our enemy. The majority of the participating States have made significant progress in establishing a solid legislative anti-trafficking framework, in supporting hot-lines, funding shelters for women and children, in creating coordinating and, to a lesser extent, reporting mechanisms. We have excellent examples of efficiently working NRMs or advanced laws, dedicated staff and professional NGOs. We have developed an OSCE-wide network of opponents to modern-day slavery, advocates for the rights of trafficked persons, researchers, social workers, dedicated policemen and prosecutors, labour inspectors, human rights activists working with children, NGOs with efficient outreach to all those vulnerable, including minorities, and many other pioneers of contemporary anti-slavery movement. Let me reiterate that the ODIHR, its Anti-Trafficking Programme and its work to promote the Rule of Law across the OSCE region, and our Field Operations significantly contributed to these positive developments.

⁶ Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance, Art.8.

⁷ The OSCE Action Plan to Combat Trafficking in Human Beings, Preamble, point 1.

⁸ Ibid.

Still, if we take a closer look at the OSCE commitments and recommendations in all three areas (protection prosecution and prevention), we will see issues that require additional attention. I will name just a few of these issues, where anti-trafficking efforts should be redoubled.

First of all, I would like to highlight “a humanitarian and compassionate approach in rendering assistance” to trafficking victims⁹. We are carrying out a study which shows that in certain cases trafficking victims suffer from the same psychological and health problems as torture victims. This frequently happens in cases of trafficking for sexual exploitation, but often also in cases of domestic servitude. I would strongly recommend increasing States’ attention to “obligations to protect and promote the human rights of the victims of THB in co-ordination and strategic partnership with civil society”¹⁰ through National Referral Mechanisms, unconditional access to assistance and protection, reflection period and residence permits¹¹, – all these and many other recommendations, including effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony¹², are crucial for the protection of victims. In a broader context of protection, let me encourage participating States, who have not done so, to join the Council of Europe Convention on Action against Trafficking in Human Beings (open to non-members of the Council of Europe as well). This is the most advanced regional instrument providing its Parties with efficient and human rights based tools to eradicate modern-day slavery.

In the area of prosecution not many countries introduced criminal liability of legal persons for trafficking offences. Effective and proportionate criminal penalties, including imprisonment, are not always applied – to put it mildly. Offences committed by or involving the complicity of State officials are rarely prosecuted. Confiscation of criminal assets remains a goal to be achieved, and the same can be said about the use of the confiscated proceeds for the benefit of the victims. Not many countries have established state funds for ensuring compensation for the harm suffered by trafficked persons. Active or passive corruption of public officials remains a contributing factor, though the Action Plan strongly recommends “targeting corruption of local law enforcement as a matter of priority, and ensuring that appropriate disciplinary and criminal proceedings are undertaken against law enforcement authorities found to be engaged in corrupt practices related to trafficking in human beings”¹³.

Preventing human trafficking hinges upon how effectively we address “the problem of unprotected, informal and often illegal labour”¹⁴ with a view to ensuring the respect of workers’ rights, increasing opportunities of regular migration, enhancing effective labour inspections aimed at detecting, among others, irregularities relating to work contracts and cases of exploitation. We have to promote more vigorously “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”¹⁵. We have to engage with the private sector to “clean” the supply chains, including by adopting and implementing Codes of Conduct. There is an increasing need to raise “awareness about trafficking among immigration authorities and consular and

⁹ The OSCE Action Plan to Combat Trafficking in Human Beings, Chapter I, Art.3.

¹⁰ Ibid., Chapter V, Art.3.1.

¹¹ Ibid., Chapter V, Art.8.

¹² Ibid., Chapter I, Art. 4.1.

¹³ Ibid., Chapter I, Art. 2.9.

¹⁴ Ibid., Chapter IV, Art. 3.2.

¹⁵ The OSCE Action Plan to Combat Trafficking in Human Beings, Chapter IV, Art.3.3.

diplomatic personnel so that they use this knowledge in their daily contacts with potential victims”¹⁶ – today this provision is extremely relevant to prevent trafficking for the purpose of domestic servitude.

Measures to combat human trafficking are costly, and the implementation of certain provisions requires considerable state funding. But let me assure you: states and societies lose much more if they do not invest in the fight against this horrendous crime. Today, to meet the challenge of trafficking means not only to invest, but moreover, to elaborate new approaches to the challenges posed by organized crime, to dedicate human and material resources, and to mainstream anti-trafficking measures into related policy areas such as economic empowerment, non-discrimination, migration and employment, youth policies, international co-operation and many others. The fight against human trafficking should become a high priority for the sake of the future for all.

To conclude, let me quote Ministerial Council Decision 2/03 which endorsed the OSCE Action Plan. In this important document, participating States acknowledged that “the OSCE, with its well-developed institutional capacity and proven track record, is uniquely placed to effectively assist participating States”¹⁷. I am convinced that in the course of all these years the OSCE has done this on many occasions. Furthermore, its role has been recognised by the international community, by the Alliance against Trafficking in Persons and by civil society. For me it is an honour and privilege to contribute personally to the OSCE anti-trafficking process. Together with all of you, we are building a new world free from slavery.

Thank you for your attention.

¹⁶ Ibid., Chapter IV, Art. 4.2.

¹⁷ MC.DEC/2/03.