



HUMAN DIMENSION  
S E M I N A R

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## 2012 OSCE HUMAN DIMENSION SEMINAR

Rule of Law Framework for Combating Trafficking in Human Beings

Warsaw, 14-16 May 2012

### ANNOTATED AGENDA

#### **I. Introduction**

Human Dimension Seminars are organized by the OSCE/ODIHR pursuant to the CSCE Summit decisions in Helsinki (1992) and Budapest (1994). The 2012 Human Dimension Seminar is devoted to the *Rule of law framework for combating trafficking in human beings* in accordance with PC Decisions No. 1034 of 22 March 2012 and No. 1038 of 19 April 2012.

OSCE commitments on the rule of law, as well as on trafficking in human beings, are numerous and longstanding. In the 1990 Copenhagen Document participating States agreed that “the rule of law does not mean merely a formal legality [...], but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression”. This notion of justice – repeatedly reinforced by participating States - includes human rights compliance of the laws and their application: a commitment to the principle of the rule of law and equal protection under the law for all, based on respect for human rights and effective, accessible and just legal systems (Bonn 1990) and to ensure that everyone will enjoy recourse to effective remedies, national or international, against any violation of his rights (Paris 1990). Furthermore, legislation should be formulated and adopted as a result of an open process reflecting the will of the people and adopted at the end of a public procedure, and regulations published and accessible to everyone (Copenhagen Document 1990, 5.8 and Moscow Document 1991, 18.1). In Helsinki in 2008 the participating States decided to continue and to enhance their efforts to share information and best practices and to strengthen the rule of law.

The concept of rule of law and its elements are fundamental for a successful fight against human trafficking. A number of anti-trafficking commitments also attempt to reflect this, including numerous commitments confirming victims’ rights to effective remedies and access to justice (MC. DEC 8/07 and 5/08).

In practice, however, there are still significant challenges related to the rule of law framework for

combating trafficking in human beings. Key issues in this context are: the criminalization of human trafficking in line with the international definition (including all forms of human trafficking) and clarity about its elements and their interpretation; liability of legal persons and all actors involved in the trafficking chain, including recruitment agencies, contractors and sub-contractors; legal provisions guaranteeing victims' rights protection and assistance, including protection for their families; multi-agency approaches to victim identification and rights protection; adequate investigation, prosecution and sanctioning of human trafficking cases; witness protection, as well as protection for other collaborators with the justice process; international co-operation; due process in all return and removal proceedings and ensuring safe return; access to justice and effective remedies, including the possibility to obtain fair and appropriate compensation for damage suffered; special measures for children; and the protection of migrants' rights, labour rights and victims' rights as inherent elements of an effective fight against human trafficking. Only in very rare cases do States provide victims with adequate residence status and legal assistance to claim their rights and access remedies in criminal, civil or administrative proceedings.

The right to effective remedies, including full information about available remedies, and access to justice are basic principles of the rule of law and human rights. However, practice shows that access to justice and effective remedies are not yet a reality for trafficked persons. In many countries, key pre-conditions for effective access to justice are not in place or not accessible themselves: interpretation, information on rights, residence status and assistance, including legal assistance, to claim rights and pursue (often lengthy) court and administrative proceedings. Victims without a regular immigration status are often legally or practically barred from accessing justice and claiming their rights, including compensation.

General challenges to the rule of law, such as corruption and lack of a victims' rights culture, add to the trafficking-specific obstacles and also need to be addressed.

The 2012 Human Dimension Seminar will address some of the key issues related to the rule of law framework relevant in the fight against human trafficking, namely: 1) the primacy of human rights and the rule of law; 2) criminalization, punishment and redress; 3) the victim in the criminal justice process; and 4) issues of accountability, accessibility and justice. All these elements form part of the foundation for preventing and combating trafficking in human beings in the OSCE area.

## **II. Aims**

In Helsinki in 2008, participating States, decided, with the assistance, where appropriate, of relevant OSCE executive structures in accordance with their mandates and within existing resources, to continue and to enhance their efforts to share information and best practices and to strengthen the rule of law (MC.DEC No. 7/08, para 4).

In line with these goals, the Human Dimension Seminar aims to serve as a platform for exchanging good practices between the participating States on the issues related to the rule of law framework in the fight against human trafficking. It will also provide an opportunity to discuss how monitoring efforts and reform processes could benefit from such exchanges of good practices. The discussions will be structured in four Working Groups as outlined in the Work Plan below.

## **III. Participation**

Representatives of the OSCE participating States, OSCE institutions and field operations, inter-governmental and non-governmental organizations will take part in the Seminar.

Participation of experts on the rule of law, human trafficking, victims' rights and their access to justice and effective remedies will be particularly encouraged. In this regard, participating States are requested to publicise the Seminar within expert communities and in academic circles focused on human trafficking, the rule of law and access to justice and to include in their delegations, wherever possible, experts on related issues.

The Mediterranean Partners for Co-operation and the Partners for Co-operation are invited to attend and share their views and ideas on the rule of law framework for combating human trafficking.

All participants are encouraged to submit in advance written interventions outlining proposals regarding the subject of the Seminar, which will be distributed to the delegates. Participants are also encouraged to make brief oral interventions during the Seminar. While prepared interventions are welcomed during the Plenary session, free-flowing discussion and exchanges are encouraged during the Working Group sessions.

#### **IV. Organization**

The Seminar venue is the "Novotel Warszawa Centrum" Hotel in Warsaw, ul. Marszałkowska 94/98.

The Seminar will open on Monday, 14 May 2012, at 10 a.m. It will close on Wednesday, 16 May 2012, at 6 p.m.

All plenary sessions and working group sessions will be open to all participants. The plenary and working group sessions will take place according to the Work Programme below.

Four working group sessions will be held consecutively. They will focus on the following topics:

1. The primacy of human rights and the rule of law
2. Criminalization, punishment and redress
3. The victim in the criminal justice process
4. Issues of accountability, accessibility and justice.

The closing plenary session, scheduled for the afternoon of 16 May 2012, will focus on practical suggestions and recommendations for addressing the issues discussed during the working group sessions.

A representative of the ODIHR will chair the plenary sessions.

The Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (Permanent Council Decision No. 476) will be followed, *mutatis mutandis*, at the Seminar. Also, the guidelines for organizing OSCE meetings (Permanent Council Decision No. 762) will be taken into account.

Discussions during the Plenary and Working Group sessions will be interpreted from and into the six working languages of the OSCE.

Registration will be possible during the Seminar days from 8:00 until 16:30.

By prior arrangement with the OSCE/ODIHR, facilities may be made available for participants to hold side events at the Seminar venue. A table for display/distribution of publications by participating organizations and institutions will also be available.

## **WORK PROGRAMME**

Working hours: 10 a.m. – 1 p.m. and 3 – 6 p.m.

	<b>Monday 14 May 2012</b>	<b>Tuesday 15 May 2012</b>	<b>Wednesday 16 May 2012</b>
<b>Morning</b>	Opening plenary	Working group II	Working group IV
<b>Afternoon</b>	Working group I	Working group III	Closing plenary

## **V. WORK PLAN**

*14 May 2012, Monday*

### **10:00-13:00 Opening Plenary Session**

#### **Welcome and introduction from the Seminar Chair**

**Ambassador Janez Lenarčič**  
Director of the OSCE/ODIHR

#### **Welcoming Remarks**

**Ms. Grażyna Maria Bernatowicz**  
Under-Secretary of State  
Ministry of Foreign Affairs  
Republic of Poland

**Ms. Martina Feeney**  
Deputy Head of the Permanent Mission of Ireland to the OSCE

#### **Keynote Speaker:**

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

Statements from Delegations

**15:00-18:00 Working group I: The primacy of human rights and the rule of law – Establishing domestic legislative framework compliant with OSCE commitments and international standards: Key challenges to implementation**

*Moderator:* **Ms. Klara Skrivankova**  
Trafficking Programme Coordinator at Anti-Slavery International, member of the EU Group of Experts on Trafficking in Human Beings

*Introducers:* **Ms. Lidiya Drozdova**  
Deputy Minister for Social Affairs, Ukraine

**Mr. Gil Arias-Fernandez**  
Deputy Executive Director at the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)

*Rapporteur:* **Ms. Tatiana Kleymenova**  
Russian Federation

A strong legal framework in all areas of anti-trafficking action – prosecution, protection and prevention - is of fundamental importance in the fight against human trafficking. In the Charter for European Security (Istanbul 1999) participating States committed to “promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims” (Charter European Security, III. Para 24). The OSCE Action Plan to Combat Trafficking in Human Beings (OSCE Action Plan), adopted in 2003, suggests numerous legislative measures to effectively address human trafficking and to ensure the domestic legislative framework is compliant with OSCE commitments and international standards (see for example OSCE Action Plan II., III.1, IV.2.2, 3.2, 3.3, 5. and V. 2., 6. 8. and 10). Recent OSCE commitments have confirmed and complemented these, highlighting the need to enhance relevant legislative frameworks and their implementation. Model laws have been drafted to facilitate the development of strong and effective national legal frameworks related to human trafficking, including the adequate criminalization and sanctioning of trafficking and victim protection provisions. These include the UNODC Model Law against Trafficking in Persons (developed by UNODC in 2009) and the Commonwealth of Independent States Model Laws on Combating Trafficking in Human Beings and on Providing Assistance to the Victims of Trafficking in Human Beings (both adopted by the CIS Inter-parliamentary Assembly in 2008).

OSCE commitments establish that legislative measures, including efforts to combat human trafficking, need to be human rights-based and respect the rule of law (see for example MC.DECs 8/07 and 5/08) The Action Plan recommends that participating States ensure that laws and other measures adopted for preventing and combating human trafficking “do not have an adverse impact on the rights and dignity of persons, including their freedom of movement” (IV. 5.2.) and do not affect the right of all persons, including victims of trafficking, to seek and enjoy asylum and be protected by the principle of *non-refoulement*, which prevents States to return a person to a place where she or he would face further persecution and abuse (V. 9.1.). The return of trafficked persons cannot violate their right to a due process. Return that is not voluntary effectively amounts to an expulsion from a State and arbitrary expulsion is prohibited in international human rights law.

The National Referral Mechanism (see ODIHR Handbook on National Referral Mechanisms, 2004), like the Council of Europe Convention on Action against Trafficking in Human Beings, emphasizes identification as part of a process of assistance and protection. This in turn requires a reflection delay/temporary residency – where immigration status is an issue – to prevent expulsion and possible reprisals from traffickers or re-trafficking and to allow the person to make an informed decision about his or her options such as whether to assist with criminal proceedings, pursue compensation claims or enter a social assistance programme. Once there are grounds to believe that a person is a victim, he or she should benefit from a recovery and reflection period during which time assistance is provided, and such assistance should not depend on the person's willingness to assist in criminal investigations (see MC.DEC 2/03, para 8; MC.DEC 14/06, para 6(f); MC.DEC 8/07, paras 2 and 3; MC.DEC 5/08, para 5).

A rule of law and human rights-based approach to trafficking in human beings and an essential element of the obligation to protect the rights of victims is also that victims of trafficking do not face prosecution solely because they have been trafficked and are not penalized for their involvement in unlawful activities to the extent that they have been compelled to do so. In other words, victims of trafficking should not be prosecuted or punished, including for criminal or administrative offences they committed as a consequence or as a cause of being trafficked. OSCE participating States committed themselves to ensure that the requirement of non-prosecution and non-punishment of victims of trafficking is implemented on the national level (see MC.DEC 1/2000, para 9; MC.DEC 8/07, para 10).

Participating States committed themselves to protect the rights of the victims of trafficking and to cooperate with civil society and other actors to ensure assistance and rights protection. This obligation also includes that victims and their families have access to assistance, as well as effective complaint procedures and assistance to claim these rights (OSCE Action Plan, V. 4. and MC.DEC 8/07 paras 5 and 11, MC.DEC 5/09 para 6).

Questions to be addressed in this session could include: How have existing OSCE commitments, the OSCE Action Plan on Combating Trafficking in Human Beings and existing Model Laws on Human Trafficking helped to shape national legal frameworks? Which procedures are in place at the national level to ensure that anti-trafficking measures are compliant with the rule of law and human rights (including judicial review and appeal mechanisms)? Which guidance exists for practitioners at the national level to ensure effective implementation of anti-trafficking legislation, and in which areas is more guidance needed? What case law and jurisprudence has been developed at the national level in relation to human trafficking cases and related offences, in particular with regard to the interpretation of the elements of the crime? How are participating States implementing the principle of non-prosecution/punishment of trafficked persons and which challenges do they face in this context?

*15 May 2012, Tuesday*

**10:00-13:00 Working Group II: Criminalization, punishment and redress – Effective investigation, prosecution and adjudication of trafficking: Establishing an appropriate institutional framework**

*Moderator:* **Ms. Kristiina Kangaspunta**  
Deputy Director of the United Nations Interregional Crime and Justice  
Research Institute (UNICRI)

*Introducers:* **Mr. Noel J. Clarke**  
Detective Superintendent at the Human Trafficking Investigation and  
Coordination Unit, An Garda Síochána, Ireland

**Ms. Corinne Dettmeijer-Vermeulen**  
Dutch National Rapporteur on Trafficking in Human Beings

*Rapporteur:* **Mr. Hendrik Roggen**  
Belgium

The OSCE Action Plan and recent OSCE commitments recommend the establishment of National Referral Mechanisms, a co-operative framework within which participating States fulfill their obligations to protect and promote the human rights of the victims in strategic partnership with civil society (OSCE Action Plan V. 3 and MC.DEC 14/06, para 2.). National Referral Mechanisms are frameworks for cooperation between state actors and civil society that allow for the effective protection of the rights of the victims and, as a consequence, also increase the chances for the successful prosecution of the perpetrators. Practice shows that where trafficked persons are given the opportunity, in an environment of trust and protection, to come forward and denounce exploitation to the authorities, they are far more likely to provide valuable evidence and testimony. Participating States have acknowledged this in the 2008 MC Decision on enhancing criminal justice responses to trafficking in human beings through a comprehensive approach, calling adequate assistance and enhanced victim identification “prerequisites for an effective criminal justice response, including the prosecution of traffickers”.

Participating States should ensure that all state actors likely to encounter trafficked persons are aware of their role and responsibility to identify and protect them. The Handbook on National Referral Mechanisms, developed by ODIHR in 2004, outlines basic principles and good practice in relation to National Referral Mechanisms (NRMs). These include multi-disciplinary groups - which crucially include civil society – which work together to develop anti-trafficking responses, as well as institutionalized cooperation, for example, between civil society and law enforcement in victim identification and assistance. Establishing NRMs can help ensure a comprehensive, integrated and pro-active system of support targeted at and accessible to all trafficked persons through their referral to relevant assistance services and protection. NRMs also facilitate the conclusion of cooperation agreements between service providers and law enforcement defining roles and responsibilities in multi-agency identification and referral; and include provisions in relation to the entitlements of presumed victims and identified victims (such as protection from detention and deportation, protection from further harm/re-trafficking, reflection delay, residence status, access to support services and safe return). This session will consider standards and good practices in co-operation between victim support providers and criminal justice actors.

Participating States also committed themselves to adequately identify, prosecute and sanction traffickers, including through the use of special investigatory measures, financial investigations and asset seizure and confiscation (MC.DEC 14/06, para 6; MC.DEC 5/08 paras 1, 8, 11 and 12). This

working session will discuss challenges and good practices in relation to anti-trafficking investigations and prosecutions, including those outlined in the OSR's Occasional Paper 'A Summary of Challenges Facing Legal Responses to Human Trafficking for Labour Exploitation in the OSCE Region' (2007) and ODIHR's Study on Compensation for Trafficked and Exploited Persons in the OSCE Region (2008). The working session will also consider different models for developing a specialist response capacity within investigatory and prosecutorial functions. In this context, also the application of the multi-agency approach to investigations and prosecutions will be discussed, including the possibility of deploying specialized mixed teams of investigators-prosecutors in cases of THB.

OSCE commitments also call for increased cooperation between national law enforcement and prosecution agencies with relevant international bodies, including Interpol and Europol, and with their counterparts of other participating States. This includes ensuring mutual legal assistance and judicial cooperation between States in investigation and the judicial processes, through common prosecution methodologies and joint investigations (MC.DEC No. 5/08, paras 3 and 11).

Questions to be addressed in this session could include: Which institutional framework exists at the national and local level to effectively develop and implement anti-trafficking strategies and measures? Where have NRMs been established, and have they been helpful in ensuring victim assistance and enhancing effective prosecution of the perpetrators in trafficking cases? Which State and civil society partners are included in NRMs and what is their role in victim identification and assistance? What are the biggest challenges in implementing effective National Referral Mechanism and what measures should be taken to overcome these challenges? How have institutional frameworks been adapted to deal with cases of all forms of trafficking, including of trafficking for labour exploitation in particular?

### **15:00-18:00 Working Group III: The victim in the criminal justice process: A focus on justice and human rights**

*Moderator:* **Ms. Marieke van Doorninck**  
La Strada International, representing also COMP.ACT, the European Action on Compensation for Trafficked Persons

*Introducers:* **Mr. Sergey Vinokurov**  
Senior Researcher, Academy of the Prosecutor General's Office of the Russian Federation

**Ms. Agnieszka Fryszman**  
Partner at law firm Cohen Milstein, United States of America

*Rapporteur:* **Ms. Odile Robert**  
Switzerland

Criminal justice responses to human trafficking should be aimed at both ending the impunity of traffickers and securing justice for the victims. Victims of human trafficking are still sometimes reluctant and unwilling to assist in criminal investigations for fear of retribution, harm to themselves and their families or distrust in law enforcement agencies and the justice system.



Participating States must take steps to ensure that criminal proceedings are sensitive to the needs of trafficked persons as both victims of crime and victims of human rights violations, that proceedings do not cause further harm to the victims, and that effective measures are in place to protect victims from intimidation and retaliation and ensure their security (UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, para. 6; Council of Europe Convention on Action against Trafficking in Human Beings, Art. 28; and UN Convention on Transnational Organized Crime, Art. 24). This requires effective rights protection from the first contact with the authorities, with special attention to the needs of children and victim witnesses.

The human rights-based approach to combating trafficking also requires that those who assist victims, including civil society organizations and lawyers, are able to work in safe environment. In the 2006 Brussels Declaration on Criminal Justice Systems States acknowledged that “lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards” and agreed to “take all necessary measures to respect, protect and promote the freedom of exercise of the profession of lawyer”. Participating States also committed to ensure that civil society organizations are not penalized or criminalized for providing assistance to victims of trafficking (MC.DEC 8/07, para 9).

Effective victims’ rights protection will be enhanced through institutionalized co-operation between victims’ organizations and support networks, as well as the investigation and prosecution authorities, as supported by the framework of the National Referral Mechanism. As practice shows, unconditional assistance is crucial for the recovery of victims and for their ability to take an informed decision on whether to cooperate in criminal proceedings. In accordance with a human rights-based approach to trafficking, assistance should not be conditional on the willingness or ability of a victim to cooperate with law enforcement or act as a witness in criminal proceedings. Where victims choose to cooperate with law enforcement or/and testify in legal proceedings, assistance should not be discontinued simply because the proceedings end or because victims’ collaboration is no longer necessary for other reasons (MC.DEC 5/08, para 6 and Council of Europe Convention on Action against Trafficking in Human Beings, Art. 12; EU Directive 2011/36/EU, para 18).

The OSCE Action Plan encourages participating States not to rely exclusively on victim testimonies and to explore alternative investigative strategies to reduce the need for victims to testify in court. OSCE commitments also urge participating States that have not yet done so to ensure that investigations into or prosecution of human trafficking shall not be dependent upon a report or accusation by a victim (MC.DEC 5/08, para 8). Where victims step forward and submit complaints about their exploiters to the law enforcement authorities, participating States – both the country of origin and the country of destination – need to ensure that these reports are investigated and prosecuted with due diligence. This obligation to investigate and prosecute with due diligence also includes the obligation to adequately identify victims of trafficking. Practice has shown that due to a lack of due diligence victims have not been protected or in some cases have been prosecuted as traffickers.

Participating States have also adopted specific commitments in relation to access to effective remedies and justice for victims of human trafficking (MC.DECs 8/07 and 5/08). They have committed themselves: to ensuring that victims have access to justice (MC.DEC 8/07, paras 1, 7 and 11), including access, without undue delay, to counseling regarding their legal rights and the services available to them, in a language that they can understand (MC.DEC 5/08, para 6); to

consider elaborating or strengthening their legislation that offers victims the possibility of obtaining compensation for damages suffered, including wages owed to them; and to ensure effective complaint procedures, where individuals can report in a confidential manner circumstances that might be indicative of a situation of trafficking. Finally, in the OSCE Action Plan participating States agreed to consider measures to allow confiscated assets to be used to supplement government funding for programmes that address the needs of victims of trafficking in human beings and to compensate victims (MC.DEC 2/03, Annex III.1.5).

During the session, particular attention will be given to key victims rights' issues following the findings of the ODIHR 2008 study on Compensation for Trafficked and Exploited Persons in the OSCE Region, as well as raised by the June 2011 Report of the United Nations Special Rapporteur on Trafficking in Persons. The report focused on the right to an effective remedy for trafficked persons, and contained the Special Rapporteur's proposed Draft Basic Principles on the right to an effective remedy for trafficked persons.

Questions to be addressed in this session could include: Which rights do victims of crime, and trafficking victims in particular, enjoy in relation to criminal proceedings, and are these rights enshrined in laws or policy documents? Is it possible for victims of trafficking for the purpose of sexual and labour exploitation to claim compensation for moral and material damages during criminal proceedings? How can victims of trafficking without regular immigration status effectively claim their rights, in criminal, civil and administrative proceedings? What steps can be taken to ensure that assistance, including legal assistance, is available to victims who want to participate in criminal proceedings? What good practices and challenges can be noted in the context of implementing witness protection measures for victims of trafficking who act as witnesses and testify against their exploiters? Where public legal aid system are in place, are victims of crime, including trafficking victims, eligible for receiving legal aid in criminal and civil proceedings? How can criminal justice professionals - police, prosecutors and judges – be trained to ensure that they treat victims of trafficking with sensitivity and respect for their dignity? Where can victims who have had their rights violated by a criminal justice professional file a complaint about this?

*16 May 2012, Wednesday*

**10:00-13:00 Working Group IV: Issues of accountability, accessibility and justice: Preventing trafficking in human beings**

*Moderator:*                   **Ms. Cindy Dyer**  
Vice President of the Vital Voices Global Partnership

*Introducers:*               **Mr. Nicolas Le Coz**  
President of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA)

**Ms. Maria Ghervas**  
Judge at Botanica District Court of Chisinau municipality, trainer/lecturer at the National Institute of Justice, Moldova

*Rapporteur:*               **Mr. Paul Welsh**  
United Kingdom

OSCE participating States have committed to prevent trafficking in human beings. Effective prevention also requires addressing the root causes of trafficking and factors that contribute to the vulnerability of groups and individuals to being trafficked, which underlies human trafficking. This includes unjust and discriminatory migration regimes; trade policies that exacerbate inequalities within and between countries; discrimination and violence against vulnerable groups, including women, children, migrants and minorities; and demand for cheap and unprotected labour. In the 2002 Porto Declaration on Trafficking in Human Beings, participating States recognized “the need to address root causes of trafficking and to reduce the economic and social inequalities and disadvantages [...] which may be exploited by organized criminal networks for their profit.” Participating States also recognized that the creation of job opportunities, the protection of labour rights and the provision of safe migration opportunities are essential parts of strategies to prevent human trafficking (OSCE Action Plan and MC.DEC 14/06, paras 4 and 6(b)). They have committed to reducing the invisibility of exploitation and ensuring that minimum labour standards are reflected in their labour laws and that these labour laws are enforced. (MC.DEC 8/07, paras 14, 15 and 17).

An effective rule of law framework is necessary to prevent human trafficking. Prevention can include a wide range of measures – from providing vulnerable groups, such as migrants, women and minorities with fair and equal migration and job opportunities to strengthening the criminal justice response in order to end impunity and deter future trafficking-related crimes. During the session participants will consider and discuss strategies and measures that prevent trafficking and related exploitation, such as providing job opportunities, raising awareness about exploitation and human trafficking and how to prevent it, empowering vulnerable communities, including minorities, to claim their rights and access justice; cooperation with private business to monitor supply chains and capacity building of the various State and civil society actors that come across trafficked persons or persons vulnerable to being trafficked; and effective reintegration measures to prevent re-trafficking. The session will also draw from the work of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, and in particular from the outcomes of the 2011 *Alliance against Trafficking in Persons* conference “Preventing Trafficking in Human Beings for Labour Exploitation: Decent Work and Social Justice” (20-21 June 2011) and her 2011 Annual Report, “An Agenda for Prevention”.

Effective prevention of human trafficking also requires combating corruption. Participating States have committed to “adopting such legislative and other measures to establish as criminal offences acts of active or passive corruption of public officials, as referred to in Articles 8 and 9 of the United Nations Convention against Transnational Organized Crime” and to “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” (OSCE Action Plan, III. 1.7, 2.9). In line with MC.DEC 7/08 on Further Strengthening the Rule of Law in the OSCE Area Decision this session will provide a valuable forum for participating States to share information and best practices with regard to the fight against corruption, with particular focus on lessons learned relevant to human trafficking cases.

A human rights-based response to trafficking requires that measures to combat human trafficking do not affect the human rights or dignity of any person adversely. This principle and legal

obligation extends to individuals who are suspected or convicted of trafficking offences. In practice, often a failure to properly identify victims of trafficking leads to their prosecution as perpetrators, which often does not comply with fair trial standards. The international standards and rules governing the administration of justice guarantee to all persons the right to receive a fair and public hearing by a competent, independent and impartial tribunal established by law (International Covenant on Civil and Political Rights, Art. 14; European Convention on Human Rights, Art. 6). Oversight mechanisms should be put in place to ensure that a fair trial takes place in accordance with international standards, as well as to ensure the transparency of the entire investigation, prosecution and judicial proceedings.

It is of critical importance to monitor the impact of anti-trafficking measures to ensure that they do not adversely affect established rights. In this context National Referral Mechanisms can also help improve national legislation, policies and procedures through their capacity building measures, as well as in-built review and monitoring systems and by setting benchmarks to check whether goals are met (OSCE Action Plan, VI, 1. and MC.DEC 15/06, para 3). Independent National Rapporteurs or equivalent mechanisms represented a valuable reporting and monitoring mechanism for States to assess the impact of anti-trafficking measures and make recommendations for addressing challenges and gaps (see OSCE Action Plan, VI, 1. and EU Trafficking Directive 2011/36, Art. 27).

Questions to be addressed in this session could include: What strategies and measures have been taken to prevent human trafficking, with particular focus on protecting migrant and workers rights? Similarly, what measures have been taken to address factors that increase vulnerability to trafficking, such as tackling discrimination against women, migrants and minorities? What good practices exist to empower vulnerable groups and communities, including through enhancing their access to the job market and through measures to strengthen legal migration, particularly for women and minorities? Which institutions/bodies are monitoring the implementation of anti-trafficking strategies and measures and how is their impact being measured? Where have any anti-corruption measures been taken in the context of human trafficking cases? Which lessons learned and good practice from other areas could be used in human trafficking cases in this context? How is it possible to involve the private sector in prevention of human trafficking? What oversight mechanisms exist to ensure that fair trial standards are upheld, particularly in cases of human trafficking?

### **15:00-18:00 Closing Plenary Session**

Rapporteurs' summaries from the Working Groups

Statements from Delegations

#### **Closing Remarks**

**Mr. Douglas Wake**

First Deputy Director of the OSCE/ODIHR

Closing of the Seminar