

Council of Europe Convention on Action against Trafficking in Human Beings

Expert seminar

Madrid, Spain,

2-3 December 2008

Spanish Diplomatic School



Proceedings

*organised by
the Council of Europe
in co-operation with
the Spanish Ministry for Equality,
the Spanish Ministry of Foreign Affairs
and Cooperation and the Spanish Diplomatic School*



Proceedings of the Expert Seminar on the Council of Europe Convention on Action against Trafficking in Human Beings

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Organised by the Council of Europe
in co-operation with the Ministry for Equality of Spain, the
Ministry of Foreign Affairs and Co-operation of Spain and the
Spanish Diplomatic School
in the framework of the Spanish Chairmanship of the Committee of
Ministers of the Council of Europe

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The Council of Europe

The Council of Europe is a political organisation which was founded on 5 May 1949 by ten European countries in order to promote greater unity between its members. It now numbers forty-seven European states¹.

The main aims of the organisation are to promote democracy, human rights and the rule of law, and to develop common responses to political, social, cultural and legal challenges in its member states. Since 1989 it has integrated most of the countries of central and eastern Europe and supported them in their efforts to implement and consolidate their political, legal and administrative reforms.

The Council of Europe has its permanent headquarters in Strasbourg (France). By Statute, it has two constitu-

1. Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Georgia, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, "The former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom.

ent organs: the Committee of Ministers, composed of the foreign ministers of the 47 member states, and the Parliamentary Assembly, comprising delegations from the 47 national parliaments. The Congress of Local and Regional Authorities of the Council of Europe represents the entities of local and regional self-government within the member states.

The European Court of Human Rights is the judicial body competent to adjudicate complaints brought against a state by individuals, associations or other contracting states on grounds of violation of the European Convention on Human Rights.

Anti-trafficking activities of the Council of Europe

Trafficking in human beings constitutes a violation of human rights and is an offence to the dignity and the integrity of the human being. The Council of Europe, whose principal vocation is the safeguard and promotion of human rights, has been active in the fight against trafficking in human beings since the late 1980s.

The Council of Europe *Convention on Action against Trafficking in Human*

Beings [CETS No.197] was adopted by the Committee of Ministers on 3 May 2005 and opened for signature in Warsaw on 16 May 2005, on the occasion of the Third Summit of Heads of State and Government of the Council of Europe member states.

This new Convention, the first European treaty in this field, is a comprehensive treaty focusing mainly on the protection of victims of trafficking and

the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers. In addition, the Convention provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention.

For further information on the Council of Europe's activities to combat trafficking in human beings please consult our website: www.coe.int/trafficking/.

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Mr Ignacio Sagaz, Ambassador, Director of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation, Spain

Ms Victoria Scola, Ambassador at Large for the Spanish Chairmanship of the Committee of Ministers of the Council of Europe, Ministry of Foreign Affairs and Co-operation, Spain

The ratification process of the Council of Europe Convention on Action against Trafficking in Human Beings in the framework of the Spanish legal system

Ms Concepción Escobar Hernández, Legal Adviser, Head of the International Legal Consultative Service, Ministry of Foreign Affairs and Co-operation, Professor of International Law and International Relations of the National University of Distance Learning (UNED), Spain

Civil society's action to prevent trafficking in human beings

Ms Mila Ramos Jurado, President of Women in Conflict Zone, Spanish Network against Trafficking in Persons, Spain

Identification, recovery and reflection period, residence permit – the Spanish model

Mr Manuel Páez Méndez, Chief Inspector, Ministry of Interior, Spain

Ms Marta González, Co-ordinator, "Proyecto Esperanza", Spanish Network against Trafficking in Persons, Spain

Spanish case-study

Mr Carlos Botrán Prieto, Commissioner, Head of the Central Brigade against Immigration Networks, Ministry of Interior, Spain

Closing Addresses

Mr Fernando Fernández-Arias Minuesa, Director, Office for International Relations, Ministry for Equality, Spain

Mr Ignacio Sagaz, Ambassador, Director of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation, Spain

Introduction

Trafficking in human beings is the modern form of the old worldwide slave trade. It treats human beings as a commodity to be bought and sold. The victims are submitted to sexual exploitation, as well as to forced labour, for example, in the agricultural sector or in sweatshops, for a pittance or nothing at all. Trafficking in human beings directly undermines the values on which the Council of Europe is based: human rights, democracy and the rule of law.

The Council of Europe considered that it was necessary to draft a legally binding instrument which goes beyond recommendations or specific actions. On 3 May 2005, the Committee of Ministers adopted the Council of Europe *Convention on Action against Trafficking in Human Beings* [CETS No. 197]. The Convention was opened for signature in Warsaw on 16 May 2005, on the occasion of the 3rd Summit of Heads of State and Government of the Council of Europe and entered into force on 1 February 2008.

This new Convention, the first European treaty in this field, is a comprehensive treaty focusing mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers.

The entry into force of the Convention enabled the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention, consisting of the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

By 1 December 2008, the Convention had been ratified by Albania, Armenia, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, France, Georgia, Latvia, Malta, Moldova, Montenegro, Norway, Poland, Portugal, Romania and the Slovak Republic and signed by Andorra, Belgium, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Netherlands, San Marino, Serbia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Ukraine and the United Kingdom.

Under the aegis of the Spanish Chairmanship of the Committee of Ministers of the Council of Europe (December 2008 –

May 2009) an *Expert Seminar on the Council of Europe Convention on Action against Trafficking in Human Beings* was organised by the Council of Europe in co-operation with the Spanish Ministry for Equality, the Spanish Ministry of Foreign Affairs and Co-operation and the Spanish Diplomatic School. The seminar took place on 2-3 December 2008 at the premises of the Spanish Diplomatic School in Madrid.

This seminar aimed at providing technical assistance to states in the implementation of the measures contained in the Convention as well as promoting further ratifications of the Convention by states that had not already done so.

At the opening of the seminar Ms Bibiana Aido Almagro, Minister for Equality of Spain. Mr Angel Lossada, State Secretary of the Ministry of Foreign Affairs and Co-operation, Mr Ignacio Sagaz, Ambassador, Director of the Spanish Diplomatic School, Ms Victoria Scola, Ambassador at Large of the Spanish Chairmanship of the Committee of Ministers of the Council of Europe and Ms Marta Requena, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings delivered opening addresses.

The seminar focused on how best to achieve the essential goals of the Convention, such as the prevention of trafficking, protection of its victims and prosecution of traffickers, as well as the need to ensure the effective implementation of measures contained in the Convention through a human rights based and a victim-centred approach.

In addition particular emphasis was put on the importance of the identification of victims and the recovery and reflection period, the differences between internal and transnational trafficking and the importance of an independent human rights monitoring mechanism for successful implementation of a binding international legal instrument.

The expert seminar brought together more than 200 participants and constituted a valuable opportunity to exchange and share experiences of national legislative and practical measures aimed at combating trafficking in human beings.

The present proceedings were prepared on the basis of written contributions available in English.

Opening of the Seminar

Ms Bibiana Aído Almagro, Minister for Equality, Spain

Ladies and Gentlemen,

It is a great privilege for me to be taking part in the inauguration of this Expert Seminar on the Council of Europe Convention on Action against Trafficking in Human Beings. The co-operation by the Spanish Government, via its Ministries of Foreign Affairs and Co-operation and of Equality, in organising this event demonstrates Spain's unambiguous commitment to the fight against the social scourge of trafficking in human beings, this 21st-century version of slavery.

Spain took over the Chair of the Committee of Ministers of the Council of Europe on 27 November last, making this meeting one of the first major events of our term of office. Furthermore, a meeting which was organised the same day in Madrid by the Parliamentary Assembly of the Council of Europe highlighted our country's support for and recognition of the Council's endeavours to promote human rights, particularly in terms of combating gender violence and trafficking in human beings. The Council's campaigns against these serious problems have been highly successful, and we fully support the decision taken by the Parliamentary Assembly last October to invite the Committee of Ministers to draw up a convention to combat "the severest and most widespread forms of violence against women".

I should also like to take the opportunity today of reiterating our recognition of and support for the Council of Europe's action against human trafficking, one of the most degrading negations of human dignity that exist. The Council of Europe has shown outstanding leadership and initiative in this area. The first international treaty on human trafficking was, precisely, the Convention which we shall be considering at this seminar. This instrument is based on the fundamental principle of the protection and promotion of victims' rights, safeguarding them without discrimination of any kind.

This is why the Committee of Ministers transmitted the Council of Europe's Convention to the Cortes Generales for ratification under urgent procedure on 24 October last, the signature of the Convention having been authorised on 23 May 2008. The Congress of Deputies approved the ratification last March, and the Senate will be following suit in the near future, so that Spanish ratification will be final before the end of the year. We shall thus be joining the list of countries which have already rat-

ified the Convention, and simultaneously making a major international commitment.

However, we will also be approving an Action Plan, a comprehensive strategy against trafficking for the purposes of sexual exploitation. This Plan covers measures for prevention, awareness-raising, education and training, assistance and protection for victims, and national and international co-ordination and co-operation. This project necessitates concerted action by eleven ministries and the participation of all government departments, and above all the involvement of the community at large.

I shall just mention a few of the most important practical measures set out in the Plan:

- free legal aid and interpretation into the victim's language, if required;
- protection orders for witnesses and victims of the offences in question;
- a minimum 30-day "cooling-off period" so that victims can decide whether or not to co-operate with the police and judicial authorities;
- involvement of voluntary associations in providing comprehensive assistance to victims;
- provision of temporary financial assistance for victims;
- specialised training schemes for all professionals and staff of institutions dealing with the problem of human trafficking;
- public awareness campaigns on this phenomenon, including a new Anti-Trafficking Day;
- mechanisms to co-ordinate with civil society and the institutions responsible for implementing the Plan.

This Plan is a priority item on the government agenda. We did not, however, wish to approve it without preliminary consultation, and therefore sent out an outline of the Plan to the main organisations concerned with this issue. It was also submitted to the Organisation for Security and Co-operation in Europe on 23 September last. Following an analysis of the observations put forward, the Plan will be approved, with an appended section on the requisite funding for its implementation. This instrument will, in principle, be in force for three years. This is a firm commitment to joint, co-ordinated progress in Europe.

One of the main lines of the Plan, and this a very important aspect, is the commitment to changing the Penal Code definition of the offence of human trafficking. We realised that securing an appropriate penalty for such acts necessitates legal reform, because our current legal definition of the offence does not draw the necessary distinction between trafficking in human beings and the offence of smuggling migrants, and is therefore at variance with the Convention and the European framework decisions. As you know, the government recently approved a preliminary draft reform of the Penal Code, at the instigation of the Justice Minister, which anticipated the commitments set out in the Plan by proposing establishing a new offence of trafficking in human beings. It covers the three types of trafficking (for the purposes of sexual or labour exploitation and organ-trafficking), explicitly stipulates that the victim's consent is immaterial in terms of the offence, considerably stiffens the penalty where the offence involves minors or is committed by criminal organisations or corporations, and provides, in the latter case, for the confiscation of goods, proceeds and profits obtained directly or indirectly from such activities.

Alongside this Plan, we should also remember that the current *2nd Action Plan to Prevent and Stop the Sexual Exploitation of Children and Adolescents 2006-2009* is geared to tackling the social scourge of the sexual exploitation of children and young people by establishing a specially co-ordinated network comprising key players involved in combating the sexual exploitation of children at all levels, from the local to the supranational.

However, trafficking is much more than just a criminal offence. It is above all a violation of human rights which, according to the International Labour Organisation, affects some

2 500 000 individuals every year across the globe. At the same time, it is a transnational business which generates approximately 7 000 million dollars per year, which makes it the third most lucrative illegal trade, after drugs and arms trafficking.

As we have said, in this field, as with virtually all the problems that beset the globalised world in which we live, co-ordinated action is very important. This explains our keen interest in the Monitoring Mechanism mentioned in Article 36 of the Convention, involving the Group of experts on action against trafficking in human beings, or GRETA, which is responsible for ensuring the implementation of the Convention.

The work of this seminar will prove particularly useful to the Spanish Government when it adopts the Action Plan in the near future. We are hoping to tap into your views regarding the appropriate means of implementing the measures laid down in the Convention, and at the same time to contribute our own position on this process, given Spain's status as a country not only of arrival and transit but also of destination of trafficking victims.

The seminar will be dealing with all the main aspects of the Convention, coinciding with the primary concerns arising from this phenomenon: how to prevent trafficking, protect the victims, co-ordinate the operators involved and prosecute the crimes committed.

I would like to thank you in advance for your work over these two days, and express my government's and my own support for the objective of the seminar, which is to ensure that decisive and effective action is taken against trafficking in human beings from the angle of defending and promoting human rights.

Thank you.

Ms Marta Requena, Head of the Gender Equality and Anti-Trafficking Division, Executive Secretary to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe

Minister, State Secretary of Foreign Affairs, Excellencies, Ladies and Gentlemen,

Firstly, I would like to say that it is a pleasure for me to represent the Council of Europe at this seminar devoted to one of the most important international human rights conventions drawn up by our organisation in the last decade: the Council of Europe Convention on Action against Trafficking in Human Beings.

Secondly, I would like to express my gratitude to the Spanish authorities for accepting to host this seminar together with the Council of Europe and particularly to express my warm thanks to the Spanish Ministry for Equality, the Spanish Ministry of Foreign Affairs and Co-operation and the Spanish Diplomatic School for all the support and assistance they have given us in organising it. I would of course also like to thank the Diplomatic School for allowing us to hold the seminar in this magnificent Aula Magna.

Thirdly I would again like to underline the fact that this seminar is taking place under the auspices of the Spanish chairmanship of the Committee of Ministers of the Council of Europe, which began on 27 November 2008, and that it is one of the first activities to take place in this context.

Fourthly, I would like to point out that the Council of Europe, which was founded in 1949, is the oldest intergovernmental international organisation in Europe. The Council of

Europe now has 47 member states, representing over 800 million women and men. Its main aims are to safeguard and promote:

- human rights;
- pluralist democracy; and
- the rule of law.

This is the framework in which the first European treaty on combating trafficking in human beings was drafted and adopted. As a pan-European organisation, whose main aim is to protect human rights, the Council of Europe could not remain indifferent to this new form of slavery, which directly undermines its principles. Combating trafficking in human beings has therefore been one of the main priorities of our organisation since the late nineteen eighties, especially given that its member states include countries of origin, transit and destination of the victims of trafficking.

After a laborious process of negotiation, the Council of Europe Convention on Action against Trafficking in Human Beings was finally opened for signature on 16 May 2005 at the Third Summit of Heads of State and Government in Warsaw. The Convention came into force on 1 February 2008 and has, to date, been ratified by 19 member states of the Council of Europe and signed by 21 others, including Spain (9 July 2008). The Convention is also open to non-member states, which can be Parties to the Convention.

But why is this Council of Europe Convention so important? Because it is the first international convention which states that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being and which makes the protection of victims' rights the centre of the fight against trafficking. The victims cannot be considered as a tool for prosecuting traffickers but as the main reason for combating trafficking in human beings. And the fact that trafficking is considered a violation of human rights implies that states have a responsibility to combat this phenomenon, as stated in a judgment of the European Court of Human Rights in 2005 on a case of trafficking in human beings for the purpose of forced labour.

This Council of Europe Convention is also the first comprehensive international treaty that sets out measures for preventing trafficking, protecting the victims and prosecuting traffickers, irrespective of whether the victims are women, men or children, and the trafficking is national or international, and whether or not it is linked to organised crime or is for purposes of sexual exploitation, forced labour or slavery or the removal of organs.

Finally, the Council of Europe Convention is also the first international treaty which set up an effective monitoring body that is more than a mere Conference of Parties. It is what we in the Council of Europe call a quasi-judicial human rights monitoring mechanism, composed of independent experts who assess and monitor the application by the States Parties of the measures set out in the Convention. This body is similar to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) or the Advisory Committee of the Framework Convention for the National Minorities.

In short, the Council of Europe Convention on Action against Trafficking in Human Beings is a powerful legal tool and part of a new generation of treaties which acknowledge the importance of cross-sectoral and pluridisciplinary action, based on measures for preventing trafficking and protecting the victims and prosecuting and punishing the perpetrators of such acts and also provides for the monitoring of the application of these measures.

Thank you very much for your attention.

First Session: The Council of Europe Convention on Action against Trafficking in Human Beings

Overview of the measures contained in the Council of Europe Convention on Action against Trafficking in Human Beings: Ms Marta Requena, Head of the Gender Equality and Anti-Trafficking Division, Executive Secretary to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe

The extent of trafficking in human beings (THB)

- According to the International Labour Office (ILO), the estimated minimum number of persons exploited as a result of trafficking is at any given time 2.45 million (May 2005).
- Most people are trafficked for sexual exploitation (43%) but many are trafficked for economic exploitation (32%). The others are trafficked for sexual and economic exploitation or undetermined reasons (25%).
- Trafficking in human beings is the third most profitable criminal activity in the world after illegal drugs and arms trafficking.

Action undertaken by the Council of Europe in the field of trafficking in human beings

Since the late 1980s, the Council of Europe has adopted a variety of initiatives:

- Studies and research;
- Awareness-raising activities;
- Co-operation activities at national and regional levels.

The Council of Europe has also adopted texts concerning trafficking in human beings, in particular: *Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation*

Main international instruments

- UN Protocol to the Convention against transnational organised crime to prevent, suppress and punish trafficking in persons, especially women and children (Palermo Protocol).
- EU Directive of 29 April 2004 on the residence permit issued to third-country nationals victims of trafficking in human beings or to third-country nationals who have

been the subject of an action to facilitate illegal migration who co-operate with the competent authorities.

- EU Council Framework Decision of 19 July 2002 on combating trafficking in human beings.
- OSCE Action Plan to combat trafficking in human beings.

Why we need a new treaty?

- Trafficking in human beings violates Human Rights and undermines the values on which the Council of Europe is based.
- The geographical extent of the Council of Europe enables countries of origin, transit and destination to agree on a common binding policy against trafficking.
- Existing international texts are either not sufficiently binding or take into account just "one aspect" of the problem.

Aims of the Council of Europe Convention

The Council of Europe Convention is a comprehensive treaty aiming to (3 Ps):

- Prevent trafficking;
- Protect the Human Rights of victims of trafficking;
- Prosecute the traffickers.

Scope of the Convention

The Convention applies to:

- all forms of trafficking: whether national or transnational, whether or not related to organised crime;
- whoever the victim: women, men or children;
- whatever the form of exploitation: sexual exploitation, forced labour or services, etc.

Definition of trafficking in human beings (3 elements)

- the action of: "recruitment, transportation, transfer, harbouring or receipt of persons";

- by means of: "the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person";
- for the purpose of exploitation: "Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

Trafficking vs. Illegal migration (smuggling of migrants)

- While the aim of smuggling of migrants is the unlawful cross-border transport in order to obtain, directly or indirectly, a financial or other material benefit, the purpose of trafficking in human beings is exploitation. Furthermore, trafficking in human beings does not necessarily involve a transnational element; it can exist at national level.

Forms of exploitation

The forms of exploitation covered by the Convention are not limited to sexual exploitation. It also covers:

- forced labour or services;
- slavery or practices similar to slavery;
- servitude;
- removal of organs.

Victims of trafficking

- No other international text defines victims, leaving it to each state to define who is a victim and therefore deserves the measures of protection and assistance.
- A victim is any person who is subject to trafficking as defined in the Convention.
- Where any of the means set forth in the definition (coercion, fraud, deception) have been used the consent of a victim to the exploitation is irrelevant.

Measures provided by the Council of Europe Convention

- I. Prevention
 - II. Measures to protect and promote the rights of victims
 - III. Criminal law and procedure
 - IV. Co-operation
 - V. Monitoring mechanism
- I. Prevention
 - Prevention of trafficking in human beings by measures such as information, awareness-raising and education campaigns for persons vulnerable to trafficking.
 - Preventive measures to discourage demand.
 - Border control to detect trafficking in human beings and measures to ensure the validity of travel or identity documents.
 - II. Measures to protect and promote the rights of victims
 - Identification process.
 - What type of assistance the victim must have.
 - Recovery and reflection period.
 - Residence permit.
 - Compensation and legal redress.
 - Repatriation.
 - Gender equality.

II.a. Identification process

- Trained and qualified staff identify victims and issue a residence permit.
- During the process, the person is not removed from the territory and receives certain assistance measures.
- Special provisions for a child victim (e.g. representation, establishment of age and nationality and locate family if in the best interest of the child).

II.b. Type of assistance

- Victims must be assisted to recover physically, psychologically and socially, such assistance includes:
 - Standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
 - Emergency medical treatment;
 - Translation and interpretation ;
 - Counselling and information;
 - Access to education for children;
 - Assistance throughout the criminal procedure.

II.c. Recovery and reflection period

- At least 30 days.
- During this period, the person is not removed from the territory and receives certain assistance measures.

II.d. Residence permit

- The main issue is: should it be linked to the victims' cooperation with the law enforcement authorities?
- The Council of Europe Convention has retained both possibilities for states: they can either grant such permit if the victims co-operate with the law enforcement authorities or where this is necessary in the light of the situation of the victim.

II.e. Compensation and legal redress

- Right to legal assistance and the European Court of Human Rights (ECHR).
- Right to compensation for victims, which has to be guaranteed, for instance, through a fund.

II.f. Repatriation

- The Party of which the person is a national or where he/she had the right to permanent residence has to accept the return of such person, with due regard to his/her rights, safety and dignity.
- When a Party returns a person to another state, the Party carries out such return with due regard for the rights, safety and dignity of the person.
- Need to set up repatriation programmes in co-operation with NGOs.
- Children shall not be returned unless it is in their best interest.

II.g. Gender equality

- In applying assistance measures provided by the Convention, Parties aim to promote gender equality and use gender mainstreaming in the development, implementation and assessment of the measures.

III. Criminal law and procedure

- Criminalisation of trafficking.

- Possibility to criminalise those who use the services of victims.
- Criminalisation of producing a fraudulent travel or ID document, procuring or providing such a document, retaining, removing, concealing, damaging or destroying such a document of another person.
- Attempt and aiding or abetting.
- Liability of legal persons.
- Sanctions and measures.
- Aggravating circumstances (e.g. danger to the life of the victim, the victim was a child, offence committed by a public official, criminal organisation).
- Non-punishment provision.
- *Ex parte* and *ex officio* application.
- Protection of victims, witnesses and collaborators of justice.
- Need for specialised authorities.
- Adaptation of court proceedings in order to protect victims' private life and safety.

IV. Co-operation

International co-operation: obligation for Parties to co-operate to the widest extent possible for the purpose of:

- Preventing and combating trafficking in human beings;

- Protecting and providing assistance to victims;
- Investigation or proceedings concerning criminal offences;
- NGOs work with victims; they know their needs and the problems they face. The Convention encourages co-operation with civil society.

V. Monitoring mechanism

- The effectiveness of all treaties is measured by the effectiveness of its monitoring mechanism.
- GRETA [Independent experts acting in their individual capacity, evaluation rounds, Report and conclusions for each Party].
- Committee of the Parties [political body].
- ALL Parties will be subject to the same monitoring mechanism on an equal footing.

Relationship with other instruments

- The Council of Europe Convention does not prejudice the rights and obligations derived from the UN Palermo Protocol and is intended to enhance the protection afforded by it and develop the standards contained therein.
- The fact of being a victim of trafficking in human beings cannot preclude the right to seek and enjoy asylum.

The Council of Europe Convention and the Spanish National Action Plan against trafficking: Ms Isabel Valdecabres Ortiz, Adviser, Ministry for Equality, Spain

Trafficking in human beings is a widespread problem of alarming proportions and one of the most outrageous and scandalous ways of treating human beings as mere commodities and as such it is a serious human rights violation.

Trafficking in human beings includes not only the many forms of trafficking for the purposes of sexual exploitation (prostitution, sexual tourism, mail order brides and slave brides), the extraction and sale of human organs, and trafficking in human beings for the purposes of forced labour, but also for the purposes of carrying out the most arduous forms of work available on our labour markets – in conditions of total subservience – or simply of carrying out domestic work as a slave.

Trafficking in human beings for the purposes of sexual exploitation, especially the trafficking of women and young girls, who are the main victims, is one of the most shocking aspects of this illicit commerce. It is indeed a demonstration of the inequality and relative defencelessness of women in many parts of the world and a clear expression of the violence to which they are often subjected. This blot on society has gone virtually unacknowledged for years, to a large extent because of a lack of awareness, but over the last few years society has become increasingly aware of the problem, owing to a large extent to the work done by international institutions and non-governmental organisations.

The underlying root causes for people trafficking are mainly growing inequality between countries, poverty and the feminisation of poverty, the ongoing discrimination against women, unemployment, the sexual division of work, lack of education and lack of access to resources on the same terms as the rest of the population. All this serves as a breeding ground for a widespread underground market dealing in human beings.

It is therefore necessary to address this issue from four standpoints:

- Firstly, from a gender standpoint. As the European Commission declared "In particular, women and children are vulnerable to become victims of trafficking due to lack of education and professional opportunities."
- Secondly, people trafficking cannot be dissociated from trafficking for the purposes of prostitution. The traditional local and individual form of prostitution has been replaced by something much more comprehensive and far-reaching, by a criminal activity which involves trafficking in women, a violation of women's dignity and a serious violation of their human rights. Policies aimed at effectively combating this phenomenon must therefore focus on the victims of trafficking and sexual exploitation.
- Thirdly, in order to effectively counter the current magnitude of people trafficking, we must arm ourselves with more effective instruments. Given the growing globalisation of the world in which we live, the transnational implications of the networks involved in people trafficking and the close link between trafficking and situations of poverty and vulnerability, these instruments must include effective international co-operation and a growing commitment to the development of the countries of origin.
- Fourthly, there is a policing side to trafficking in human beings, even if it is not the only or the main aspect. Trafficking is, in many cases, controlled by perfectly organised, international, mafia-type networks, which trade and traffic in women, in the same way as they traffic in drugs, arms or any other type of product which allows them to rapidly make large sums of money. Firm action must therefore be taken to prevent these networks from exercising this lucrative activity.

Finally, the problem of trafficking in human beings for the purposes of sexual exploitation must be addressed in a comprehensive treaty which allows us to take action against all types of players and all the processes involved.

Despite the efforts made by governments and international organisations, the figures available on worldwide trafficking in human beings give only a very poor approximation of the scale of the problem.

As far as the structure of global human trafficking movements are concerned, the reports of the United Nations present maps on which countries are classified according to their importance as countries of origin, transit or destination.

The UN reports do not consider Spain to be a country of origin but believe that it is used, to a low degree, as a country of transit for the victims of trafficking from Brazil, South America and Africa. Nevertheless, according to the same reports, our country is used, to a high degree, as a country of destination for trafficking victims from Columbia, the Dominican Republic, Nigeria, Russia, Ukraine, Romania, Bulgaria, Brazil, Croatia, the Czech Republic, Hungary, Morocco, Poland and other countries.

To counter this problem, the government has approved a plan which will serve as a comprehensive national tool for combating trafficking in human beings for the purposes of sexual exploitation in our country.

The Plan advocates the creation of new instruments and means of action, with special reference to the need to strengthen co-operation and co-ordination between public administrations, institutions and civil society, and underlines the important role that must be played by non-governmental organisations and the associations that work with women. It is designed to foster co-operation in the international sphere to make it easier to detect cases of exploitation, identify and become more familiar with the problem and make decisive progress in preventing trafficking.

The aim is also to unite the efforts of all stakeholders so as to secure the broadest possible and most accurate view of the situation, to ascertain the underlying causes and to try to prevent them, to help the victims with all the means available to us and to prosecute and punish the perpetrators of this crime.

The Plan complements the action taken against trafficking in children, set out in the Second Action Plan against Commercial Sexual Exploitation of Children 2006-2009, which was approved by the National Observatory on Children in December 2005.

The various parliamentary initiatives that have been taken in our countries with regard to the problem of trafficking in human beings and the framework provided by the European Union have been taken into account in the preparation of this Plan.

The objectives of the Plan are to:

- make the general public aware of the problem so as to foster "zero tolerance" for criminal activities relating to trafficking in human beings for the purposes of sexual exploitation;
- address the root causes of trafficking through active co-operation policies with the countries of origin and through preventive measures in the countries of origin, transit and destination;
- promote comprehensive judicial, social, educational, police, administrative and immigration policies, with the participation of non-governmental organisations;

- ensure that policies focus on assisting and protecting the victims of trafficking and safeguard their rights and interests;
- take decisive action against trafficking in human beings for the purposes of sexual exploitation and against the active participation of traffickers and procurers.
The Plan focuses on five main areas of action:
- Awareness-raising, preventive and investigative measures to attain the following objectives:
 - Increase knowledge of the phenomenon of trafficking and its true magnitude from a pluridisciplinary standpoint.
 - Draw the general public's attention to the problem of trafficking in human beings for the purposes of sexual exploitation. Make students, families and teachers aware of trafficking in human beings for the purposes of sexual exploitation.
 - Provide information on people trafficking to the press, institutions and organisers of public and professional events and make them more aware of the problem.
 - Improve prevention and rapid detection systems.
 - Improve the security forces' capacity to investigate and combat trafficking.
- Education and training with the following objectives:
 - Promote specialised training in dealing with the problem of people trafficking for the national security forces and public officials at the Ministry of the Interior concerned with people trafficking issues.
 - Promote the training of public officials and staff in public and private administrations and institutions dealing with the problem of people trafficking.
- Measures for assisting and protecting victims.
 - Victims and witnesses of trafficking must be protected under Organic Law 19/1994 of 23 December on the protection of witnesses and experts in criminal lawsuits.
 - Provide victims with more information on their rights and possible remedies
 - Improve services catering for victims.
 - Provide specialised legal aid to the victims of people trafficking in their own language.
 - Provide full protection for victims who are illegally present in the country.
- Legal and procedural measures:
 - Perfect the legal arrangements for giving immediate and appropriate attention to victims.
 - Promote the adoption of measures relating to prevention and pre-trial evidence provided for under the Criminal Justice Act.
 - Deprive trafficking organisations of their economic advantages.
- Co-ordination and co-operation measures with a view to:
 - stepping up co-operation in police operations;

- having a specific statistical instrument on people trafficking, using the same models as the rest of Europe;
- fostering co-operation in the international sphere;
- facilitating more effective co-operation in connection with investigations and criminal lawsuits concerning people trafficking;
- preparing and strengthening co-ordination and links with NGOs and institutions commit-

ted to taking action against trafficking and helping the victims.

The Plan will last 3 years (2009 – 2011), the length of time considered necessary to implement measures in an efficient and appropriate manner which will ensure their effectiveness. An Interministerial Co-ordination Group has been set up under the chairmanship of the Ministry of Equality to monitor and evaluate the Plan. There is a financial report on the implementation of the Plan.

Second Session: Preventing trafficking in human beings

Multidisciplinary approach to preventing trafficking in human beings: Ms Klara Skrivankova, Trafficking Officer, Anti-Slavery International

Ladies and Gentlemen,

It is my pleasure to be able to address you today. First, I would like to extend my thanks to the Council of Europe for inviting me to speak at this conference.

My task is to elaborate on the issue of prevention of trafficking in human beings as outlined in the relevant chapters of the Convention on Action against Trafficking in Human Beings. I will focus on the following three areas in my presentation:

- Prevention of trafficking as delineated by the Convention;
- Concept and development of prevention strategy;
- Practical dimension of prevention – best practices and lessons learned.

As with any other pressing social problems, before we start concrete prevention activities, it is necessary to identify and understand the problem as thoroughly as possible. Frequently, we see rather vague references to awareness-raising and training programmes that fail to meet their objectives because of lack of definition.

The key question is: What do we want to prevent?

We want to prevent trafficking, we want to prevent exploitation of people that is happening as a result of trafficking. This requires looking at the whole process, and more importantly looking at the root causes of trafficking in order to achieve far-reaching impacts in the long-term.

The root causes of trafficking is one of the frequently debated subjects. We speak about the more global ones, such as the rising economic disparity among countries and regions and their impact on vulnerable groups. Also major social changes in countries in transition. Further causes are connected to the individual, group or locality and are embedded in the concrete hardship of an individual, lack of opportunities, discrimination or a conflict situation. Often, prevention is seen as the responsibility of countries of origin. However, as there are push and pull factors playing their roles, root causes ought to be tackled at both ends – in the countries of origin and in the countries of destination. We need to bear in mind that many of the causes of trafficking are at the same time also consequences of trafficking. Discrimination or structural gender-based violence being examples of them.

Prevention of trafficking is covered by Chapter II, Article 5 of the Convention. The same chapter includes two other articles that are also associated with prevention – article 6, Measures to discourage the demand and Article 7, Border measures. I will touch on these two articles later in my presentation.

Trafficking is a complex problem and needs to be addressed in comprehensive ways. The Convention encompasses the complexity very clearly. Any prevention strategy on trafficking thus needs to be comprehensive. Such as strategy is composed of a co-operative framework, has clearly set targets and specific contents.

Co-operative framework carries in itself two key aspects: multi-disciplinary approach and multi-actor involvement. These are often seen written down as prerequisites, however their translation into practice tends to be haphazard. **Multi-disciplinary approach** means that professionals from various areas are involved in the creation of prevention activities. There are various target groups, various levels of risks of trafficking as well as other issues such as gender and culture involved. This approach makes sure that all the variations are counted in.

Various actors in the field have different responsibilities and expertise. Despite their sometimes diverse interests, they often share a similar agenda with regards to combating trafficking. Involvement of all relevant actors is crucial to address the complexity of the issue. Traditionally, governmental agencies, non-governmental organisations and international organisations participate in prevention of trafficking. However, as trafficking for forced labour other than sexual exploitation has finally become a topic on the political agenda, new actors need to be included in the process, such as development agencies, monetary institutions, private sector, unions, labour agencies.

The second element of a comprehensive prevention strategy are its targets. The ultimate target of any prevention strategy is to introduce measures that effectively address prevention of trafficking in the short-, medium- and long-term and create sustainable mechanisms. More importantly, such measures need to be deployed at both ends – in countries of origin, in a form of social and economic development and by applying prevention on all three levels². In countries of destination, on the other

hand, apart from application of prevention programmes at three levels, special attention must be paid to prevention of re-trafficking and creation of legal migration channels.

The third element, and perhaps the most crucial one, is the very **content** of a comprehensive prevention strategy. The building stones of the content is research, information and awareness raising. Knowledge is power. Not in the sense of high and mighty, but in the sense of knowing and understanding the problem and being able to effectively address its causes. Research is a necessary prerequisite of any prevention strategy. Such research needs to be in-depth, oriented at concrete outcomes, looking into the issue also locally and examining its root causes. It is also important to investigate the relations to other phenomena, such as gender discrimination, ethnic or social background. Information that can be provided by trafficked persons themselves is an invaluable source. However, when interviewing a trafficked person with the aim to gain information to be applied in prevention, the principle of sensitivity is of utmost importance. By no means shall the trafficked person be harmed or repeatedly victimised for the purposes of research.

After having carried out the research, information is available that needs to be conveyed to the target groups that were identified. Information should be provided in accurate, understandable, sensitive and an age-appropriate manner. If we take the example of at-risk groups, the information that can be provided would be about safe migration and work opportunities; about work contracts, conditions and labour laws in the place of destination; about places of help, such as migrant support networks, anti-trafficking organisations, embassies; hot-line numbers.

Awareness-raising and education is the final content of a prevention strategy. It is the broader addressing of various groups with the information gained in the research. Firstly, we need to identify who it is that we want to reach. Simply put, it is everybody. All layers of society should be made aware of the human rights violations at all stages of the trafficking process in order to understand that those who are trafficked are victims of a serious crime. At-risk groups need to be made aware of the risks of trafficking and ways how to realise their migration project safely. Those in contact with (potential) victims need to be equipped with information they could disseminate further and know the indicators to identify trafficked people. Societies in the countries of destination should be made aware of the working conditions of migrants. Such violations should be seen as unacceptable in the public domain.

Before moving onto the two other articles of the Convention, I would like to stress one important point – the approach to prevention and its fundamental principles. The principle of non-discrimination is one of the core principles on which the Convention is based. With regards to the concrete prevention measures, Article 5 paragraph 3 foresees that all programmes shall promote a human rights-based approach and use gender mainstreaming and a child-sensitive approach in their development, implementation and assessment.

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2. Primary prevention – focusing on preventing the problem from occurring. In practice mainly focusing on more general awareness raising and informing.
Secondary prevention – focuses on at – risk and especially vulnerable groups through needs-tailored activities.
Tertiary prevention – prevention of re-trafficking of trafficked persons, closely connected to protection and assistance measures.

Article 6 of Chapter II of the Convention contains **measures to discourage demand**. It is the first time the issue of demand is covered by an international legal instrument, recognising the international aspects of demand as one of the underlying causes of trafficking. Similar to any other prevention area definition of the problem is the first step in the process of tackling the demand. What demand, or rather demand for what do we want to tackle? In general demand that is considered to be the underlying cause of trafficking is the demand for services or products created by trafficked persons. Usually, we speak about demand for sexual services and demand for cheap labour driven by the demand for cheap goods and services. Here again, in-depth research is needed to fully understand and describe the problem of demand. In the area of the sex business, alternative approaches need to be applied in the varying settings, as there are countries where prostitution is abolished and countries that regulate the offer of sexual services. Tackling demand from the preventative perspective requires also the process to be carried out at three stages, as I have described previously in connection to a comprehensive prevention strategy. Research is needed to gain understanding of the demand and can be further utilised for awareness raising.

Elaine Pearson (Pearson, *Human Trafficking: Redefining Demand*. ILO, 2005) defines demand as a desire or preference by people for a particular kind of person or service. There are three levels of demand in the context of trafficking:

- Employer demand (employers, owners, managers or sub-contractors)
- Consumer demand (clients (sex industry)), corporate buyers (manufacturing), household members (domestic work)
- Third parties involved in the process (recruiters, agents, transporters and those who participate knowingly in human trafficking at any stage of the process).

The demand is demonstrated in practice by any of these or by their combination. In order to be able to reduce such demand, we need to gather knowledge and understanding of all three levels and find an answer to the question why the demand is met by trafficked persons. Looking at all these factors together then refers to the demand side or destination factors, which mean both the demand per se plus environment that creates or influences demand: the economic, cultural, social, legal and policy factors affecting employers, consumers and third parties.

While it is clear that economic profit is one of the main reasons why traffickers turn to exploitation of women, men and children, it is not the sole reason. They are only able to exploit because they can get away with such activities, preying on the disadvantaged and vulnerable situation of migrants. Studies have shown that employers prefer migrant workers because they are less willing to speak out for labour rights while accepting low wages in a demanding work environment.

To raise awareness and to address demand, sensitisation and motivation proved to be useful instruments. Rather than repeating myself about the various aspects of strategy development, I would mention examples of projects tackling the demand side. In several countries, such as Germany, Switzerland, the Netherlands and the Czech Republic, campaigns have been carried out to sensitise and inform clients of sex-workers about trafficking in human beings. As we speak, a campaign is underway in the Czech Republic organised by IOM, La Strada and the

Czech police. Use of hot-lines, internet and provision of indicators for recognising trafficked women proved to be a good way to get clients involved in assisting trafficked women. In terms of tackling demand for cheap labour (cheap goods) connected to forced labour other than sexual exploitation, little best practice is available so far. One practical example is the setting up of a Rugmark brand. A product with this brand gives customers assurance that no illegal child labour was used in its production.

As with the prevention of trafficking in general, also when tackling demand it is key to apply a human-rights and non-discriminatory approach. Consumers and customers should not be condemned for their ignorance. Rather we should strive to sensitise them, motivate them and empower them to take action and offer possibilities how they can play an active role in preventing and combating trafficking.

Article 7, Chapter II of the Convention talks about **border measures**. While it is important to incorporate border measures into comprehensive anti-trafficking strategies, from the prevention point of view those need not be overestimated. Prevention programmes and campaigns that can be effectively applied at the border have to be carefully designed. It is of utmost importance to apply a human-rights and non-discriminatory approach to prevent creating adverse effects. A primary level of prevention, in particular through provision of information, proved to be the most fitting to be applied at the borders. It is possible to provide basic information about rights, obligations, as well as places of help to the "would be migrants" at the points where they enter the country of destination. At the same time, the borders are probably the first moment when the migrants encounter authorities of the destination country. Creation of an "approachable impression" might be key in cases where the migrant is trafficked and will need to seek help. If migrants perceive the authorities as approachable, they are more likely to ask for help.

An example of a prevention campaign carried out at borders was the Operation Pentameter carried out in spring 2006 in the UK. The positive aspects of the campaign were:

welcome message combined with useful information and contacts of places of help; message that traffickers are also female.

As I mentioned earlier, border measures must be carefully considered so as to "prevent" the creation of adverse effects. In this sense the experience of the last ten years shows that preventing persons from entering a country does not prevent them from becoming trafficked. Rather, it might drive them into the hands of traffickers while seeking alternative ways to realise their migration project.

I will conclude by elaborating on three points important in ensuring a prevention strategy is effective. Specificity is a prerequisite of effectiveness. The measures and activities need to address the local reality or needs of a given target group. What works in one country or community might not be completely replicable elsewhere. Furthermore, the aspect of access to information and obstacles to access information must be taken into account. Prevention programmes should be locally oriented in order to also reach people outside of bigger towns, in remote areas where it might be difficult to gain information.

Finally, prevention must not happen in isolation. It is a part of a chain, linked with different actors and having two ends – one in countries of destination, the second one in countries of origin. Prevention needs to be anchored within the so called "national referral mechanism"³ and interlinked with protection and assistance to trafficked people. The national referral mechanism is a bridge between prevention and protection. Proper identification of trafficked persons and subsequent adequate assistance is the beginning of the protection and rehabilitation process as well as the prevention of re-trafficking.

Thank you for your attention. I will be happy to take your questions and also hear about your experience with prevention of trafficking.

3. OSCE/ODIHR defines national referral mechanism as a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their strategic partnership with civil society, in *National Referral Mechanisms, A Practical Handbook*.

Preventing trafficking in human beings, in particular for the purpose of labour exploitation: Ms Konstantia Nikopoulou, representative of the Association "Spanish Catholic Commission of Migration" (ACCEM), Spain

Labour Trafficking in Spain: a study of approximation to the reality

ACCEM is a non-governmental organisation, working for the social inclusion and integration of migrants and refugees based on a human rights perspective and the respect of diversity. The organisation is present at national level and carries out its work in 12 autonomous communities as well as Ceuta and Melilla.

Since 2006 ACCEM has been involved in the fight against trafficking in human beings in Spain through various initiatives. At the beginning, through the creation and co-ordination of the Spanish Network against trafficking in human beings, which is currently a platform of more than 20 organisations and in which

ACCEM is actively participating. Also, since May 2008 ACCEM is launching a territorial network against trafficking in human beings in the autonomous community of Catalonia.

More importantly, in 2007 ACCEM carried out an exploratory study on trafficking for the purposes of labour exploitation in Spain, as a response to the complete lack of concrete information on the phenomenon and the need to obtain a profound knowledge of the characteristics and the extent of this problem. The study was based on qualitative methodology and included the participation of 34 experts, representatives of public institutions, of the Police Corps and of civil society.

Objectives and limitations of the study

The primary objectives of the study were to:

1. analyse the existing legal framework on trafficking in human beings for the purposes of labour exploitation at national, European and international level;
2. obtain further information on the actual situation of trafficking in human beings for the purpose of labour exploitation in Spain, mainly on: the extent and nature of the phenomenon, the factors that contribute to the development of labour trafficking, the characteristics of the victims, the economic sectors and frameworks in which it takes place;
3. understand the level of knowledge on the phenomenon on behalf of the institutions involved, the existing institutional responses that deal with labour trafficking, as well as the existing assistance and protection programmes for the victims;
4. produce recommendations based on the conclusions of the study and the needs detected for the efficient fight against trafficking for the purpose of labour exploitation in Spain.

One of the principal methodological limitations faced during the study was the understanding and use of the term

trafficking in human beings and the confusion that this terminology provokes. Many of the experts interviewed, all of them representatives of institutions active in the field of combating human trafficking, didn't seem to distinguish clearly between human trafficking and human smuggling. This is particularly important since it restricts the ability to establish the limits between the two phenomena and distinguish clearly the characteristic aspects of labour trafficking.

Another important limitation was the distinction between labour trafficking and severe labour exploitation. Although we are dealing with two completely different phenomena, the boundaries between the two are so delicate that during the interviews it wasn't always easy to distinguish them. Even if conceptually the differences might be easy to mark, in practice detecting the process through which the victim has previously passed is not always feasible, in order to distinguish the cases of labour trafficking. For the above-mentioned reasons it was decided to include in the research both concepts and to present cases of extreme labour exploitation that reach the limits of slavery.

Defining the profile of victims of labour trafficking in Spain

Although there are no concrete data on labour trafficking and the real extent of the problem is unknown, we can still identify some basic elements that constitute the profile of the victims of labour trafficking:

- Labour trafficking mainly affects immigrants from countries with short experience of migration in Spain. In that sense, there is not a strong support network of the migrant community once in Spain and there is insufficient information about their rights and obligations in the country of destination.
- It mainly affects men, between 20–40 years old, with limited knowledge of the Spanish language and from a low socio-economic background.
- Regarding the nationalities of male victims, the most common are EU citizens from Romania and Portugal, especially Roma Portuguese, Chinese citizens, Latin American countries with recent migration history in Spain, especially Equator, Bolivia, and Peru, and a lesser extent to other CEE countries, or other Asian countries, especially Pakistan.
- With regards to male victims of trafficking, labour exploitation takes place in various economic sectors, mainly in agriculture, construction and catering services. The Chinese victims were primarily detected in activities related to illegal textile fabrication workshops, in working and accommodation conditions of extreme exploitation. One of the limitations is that this community is very hermetic and it is extremely difficult to penetrate it in order to obtain information on possible trafficking situations and be able to persecute the cases detected.
- Regarding women victims of trafficking, the pattern seems to be slightly different regarding the nationalities

and the economic sector where exploitation takes place. The victims come from Romania, Latin American countries and other CEE countries and they are mainly employed in domestic service, under conditions of extreme exploitation, or they are used in begging activities.

Regarding the criminal networks active in labour trafficking in Spain, the experts interviewed state that their *modus operandi* is not one of high level of organisation and structure. Trafficking in human beings for labour exploitation is a crime of low risk and there is no need for a strongly organised crime band or for high numbers of participants. The use of force is not employed during the recruitment phase, since travel and transportation take place with the consent of the victims. It is once in the country of destination that the deception and coercion appear.

It is necessary to highlight that trafficking is also occurring through the legal means of contracting in the country of origin. In these cases, although the whole process is within the premises of the law and the victims obtain a temporary residence and working permit in the country of destination, once in Spain they are submitted to extreme exploitation and their freedom of decision and movement is restricted.

Another element that arose during the research is the particular figure of the intermediary, a person usually from the same country as the victims, who is responsible for negotiating with the employers based on their needs of a work force. In that case it is the intermediary that exploits the victims, by receiving their salaries and retaining a part of it, restricting their freedom of movement, and providing them with accommodation in extremely bad conditions.

National legal framework against trafficking in human beings

The Spanish legal framework on trafficking of human beings presents some very important limitations as a mechanism for the protection of the victims and the efficient prosecution of the crime.

In the current penal code, there is misconception and confusion regarding trafficking in human beings, due to the inadequate typification of the crime. Currently, there is not a concrete definition of human trafficking as a crime, nor one following the definition already adopted at international level by legal instruments to which Spain has adhered. As a result, the detection of cases of human trafficking and the prosecution of the crime is extremely difficult, since the term as such does not exist in the penal code and the crime is not foreseen in its totality, that is, as a crime comprising the three different phases defined by the Palermo Protocol.⁴ Rather it is partially introduced in title XV against the rights of foreign citizens in Article 318bis which sanctions the smuggling of migrants

4. According to the *Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organised crime* trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (Article 3).

("tráfico" in Spanish terminology) and defines the purpose of sexual exploitation as an aggravating factor. Trafficking for labour purposes is not included in this article, but is partially defined in title XV on the rights of workers in Articles 312-313. Article 312 sanctions the smuggling of illegal workers, the recruitment of workers using deceptive conditions and the recruitment of migrants without a working permit in conditions that suppress the labour rights recognised by legal resolutions, collective agreements or contract. Article 313 sanctions those promoting clandestine immigration into Spain by simulation of a false contract or use of other deceptive means. It is obvious that these articles sanction some conducts associated with labour trafficking, not the trafficking as such, and that their focus is on smuggling of workers.

The misuse of the terminology and the inexistence of a clear and inclusive definition of trafficking render more difficult the identification and prosecution of the crime and the protection of the victims. The actual legal framework does not foresee a recuperation period for the victims and the possibility to be granted a permanent or temporary residence permit is very complicated and is conditioned by the co-operation of the victims with the police, the judiciary or other authorities. The will to collaborate is not the decisive factor in these cases. Rather the collaboration has to be against organised criminal networks and by contributing essential information. In other cases, the law insinuates that the collaboration to a judicial process has to be accompanied by the conviction of the responsible persons, thus protection to the victims is tied to their role as information providers.

The detection and prosecution of the crime and the limitations of victim protection in Spain

The experts interviewed during the research identified various restrictions when it comes to identifying cases of labour trafficking in Spain. The first and most important limitation is the lack of the victims' will to report the crime and press charges against their exploiters. As known, in cases of trafficking, the initiative of the victims to report their condition is one of the primary sources for bringing these cases to light. In cases of labour trafficking, the victims are particularly reluctant to report the crime, for various and different reasons:

- Firstly, because of fear and lack of confidence towards the Police, fear can be the result of their condition of irregularity and the threats faced by their exploiters, or of previous experience with the Police forces in their country of origin, that they usually regard as corrupt.
- Secondly, due to their inability to identify themselves as victims. This can be due to misinformation about the working rights guaranteed in the country of destination or because of cultural reasons. In that case, when in the country of origin the working conditions are extremely hard and can reach the limits of exploitation, it is difficult to place some limits and to be conscious of the exploitation to which they are submitted in Spain. This factor is particularly valid for victims coming from countries where the protection of labour rights is not guaranteed, such as some Asian countries.
- Thirdly, because of the need to maintain their job, even an exploitative one, in order to be able to provide for their families. In many cases, victims of trafficking do not

report their case unless the exploitation becomes insupportable.

Another limitation is the difficult access to the sites where exploitation takes place. This is particularly the case for exploitation in agricultural work, where detection depends on proactive actions of the Work Inspection, and in domestic service, where exploitation takes place in the private sphere of the family unit and intervention can only take place when there is concrete information, suspicion or evidence of the crime. Regarding the proactive activities for the identification of cases of trafficking, the limited resources of the Work Inspection, the lack of extensive co-operation and common interventions with the Police are some of the factors that make the identification of cases difficult. In that sense more flexibility and better co-ordination would be necessary, in order to be able to reach more cases.

Another problem, as already mentioned, is the limitation provoked by the inadequate penal type that makes it impossible to identify a victim of trafficking as such. This fact, in combination with the principle of the least penal intervention, explains why many possible cases of trafficking are reduced to offences of labour law and social security, rather than to penal cases. In the same way, it is common that victims of trafficking are primarily identified as offenders of the immigration law, that means as irregular migrants rather than as possible victims of a crime against their fundamental rights.

The difficulty in proving the crime of trafficking is another factor that complicates the prosecution of the crime,

given the fact that it is not always easy to provide evidence for concepts such as deception, abuse of vulnerability or threat. In addition to the above, the current legal framework does not recognise EU citizens as possible victims of trafficking which, given the fact that Romanian and Portuguese victims are common in Spain, means that this population is left unprotected.

With regards to protection of victims of labour trafficking, the research revealed a complete lack of adequate structures and programmes for their assistance. There exists no established mechanism for the referral of the victims to adequate structures; shelters and recuperation centres for male victims, who are the majority in labour trafficking, do not exist. Apart from the above, there is not an established period for the

Prevention of and fight against labour trafficking in Spain

In order to prevent the phenomenon of labour trafficking it is absolutely necessary to understand clearly the characteristics of this problem. For that reason there is need for an adequate system of data collection and analysis that would permit obtaining clear information on the victim profile, the methods of recruitment and the countries mostly affected. Based on such information awareness raising campaigns could be established in the countries of origin in order for possible victims to be able to distinguish possible fake job offers, to understand the process of legal migration towards Spain, the rights and obligations that a worker has and to know where to address themselves in cases of exploitation. Apart from information campaigns, the preparation of informative material on labour rights and exploitative situations in various languages would be an asset in order to assure the accessibility of possible victims of trafficking to such kind of information.

The role of the Embassies and Consulates of Spain abroad is a key factor in order to detect at an early stage possible cases of trafficking in the countries of origin. For that reason it is important that the consular personnel is adequately trained and informed about indicators that can help identify possible victims of trafficking. The creation of a specific figure for labour issues (i.e. Labour Attaché) would be an important step for the promotion of legal migration and to combat criminal activities related to trafficking and smuggling of migrants.

As already mentioned, labour trafficking also occurs through the legal means of contracting abroad. In these cases it is necessary that the candidates to nominal contracts or group contracts are adequately trained and informed prior to their departure. Making sure that they have a clear understanding of their rights and obligations and of the working and contractual conditions that they have in Spain is the first step in order for the victims of trafficking to be able to recognise themselves as such and to encourage them to report the labour exploitation that they might face. Finally, it is necessary that the employers involved in the process of contracting abroad assume the responsibility to guarantee the fundamental labour rights of their workers through signing Codes of Conduct or other legally binding documents and agreements.

Although prevention is very important, further steps need to be taken in order to guarantee the efficient detection and prosecution of the crime and the protection of the victims. Firstly, as already mentioned, there needs to be an adjustment of the legal framework to the international standards, in order for trafficking to be correctly typified and recognised in all of its

reflection and recuperation of the victims, a mechanism that is considered necessary for providing the victims with a calm and safe environment and for offering them the possibility to contemplate their future decisions with regards to returning to their country of origin or staying in Spain. Last, what is most important is that the victims of trafficking have been so far considered as irregular migrants and have been subject to a deportation order before having the chance to report the crime, collaborate with the police and receive some kind of assistance. This fact is particularly significant in order to address efficiently the problem of labour trafficking in Spain and offer adequate protection to the victims.

forms. In that sense, the recent initiative of the Spanish government for the reform of the penal code is considered a step forward in combating human trafficking. With regards to domestic service, it is necessary that the legislation be revised, since the conditions offered by the current law are absolutely exploitative and do not guarantee the protection of the rights of the domestic service workers.

For the detection of cases of trafficking, the activities of the Work Inspection are crucial. However, more resources, both economic as well as human resources, and more flexibility are necessary in order for these controls to be effective and to manage to reach cases of exploitation outside the urban sites or in clandestine environments. For this reason there needs to be a multi-agency approach when dealing with penal aspects of labour rights. Although currently there is some collaboration between the Work Inspection and the Police forces, this needs to be more extensive and institutionalised and be accompanied by common detection activities in order to prosecute cases at the moment of the detection without losing precious time.

Emphasis should be given also to early detection of cases of labour trafficking on behalf of social agents and professionals of other sectors. In that sense, there is a lot of work to be done for the training and sensitisation of professionals in the health sector, in social services and non-governmental organisations, since trafficking for labour exploitation is a problem currently unknown and not easily identified. Spanish society should also become conscious of the problem of trafficking and of the violation of fundamental human rights that it implies. There should be full rejection of such a phenomena, for that reason sensitisation campaigns are necessary in order to create a social alarm against human trafficking.

In addition, there is need for a human rights perspective when dealing with trafficking of human beings. Victims cannot be treated as offenders of immigration laws or as a source of information for police and judicial processes. The establishment of a reflection period is necessary in order to provide them with the tools necessary for their recuperation, as well as the creation of specific sources for the assistance and protection of the victims, mainly residential centres and other social services.

Last, what is most important is that there is political will to deal effectively with the problem of trafficking and to place the victims at the core of the intervention. For that reason, measures have to be taken in order to create the adequate mechanisms for victim identification and protection. The establishment of a protocol for the identification of the victims and

of a national referral mechanism, the transposition of the European directive on residence permits for the victims that collaborate and the elaboration of a National Plan against labour trafficking, the latter already announced by the Spanish gov-

ernment, can be important steps in order to create tools for victim protection and place the victims in the centre of the intervention.

Trafficking in human beings: a violation of Human Rights: Mr Cástor Díaz Barrado, Professor of Public International Law, University Rey Juan Carlos I, Madrid, Spain

Human rights and the Council of Europe Convention on action against trafficking in human beings

The drafting, adoption, and implementation of the 2005 Council of Europe *Convention on Action Against Trafficking in Human Beings*, responds, in essence, to the defence and protection of human rights. Here we have an international legal instrument, in the form of a convention, which, both because of the process and elements leading to its adoption and with regards to its purposes, objectives, and scope, we can consider an expression of the international community promoting the defence of victims of trafficking in human beings, and therefore, of their rights. This Convention responds, therefore, to the principle expressed by the United Nations High Commissioner for Human Rights, when she recommended that "The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims." (*Recommended Principles and Guidelines on Human Rights and Human Trafficking*. Text presented at the Economic and Social Council as an addendum to the Report of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1).

In this Convention, and the work of the Council of Europe in the same area, we can clearly see that human trafficking represents, on the one hand, a violation of human rights; and on the other, that we are dealing with a serious violation of these rights.

Regarding the first aspect, the Council of Europe itself has repeatedly stated that "Trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being. The Council of Europe, whose principal vocation is to safeguard and promote human rights, became the "natural home" for activities aimed at combating this phenomenon which constitutes a violation of people's dignity and integrity, their freedom of movement, as well as, in some cases, their right to life." (Council of Europe. Directorate General of Human Rights and Legal Affairs. Gender Equality and Anti-Trafficking Division, *Action against Trafficking in Human Beings*, 2008).

Regarding the second aspect, the reach and scope of the consequences – for the victims and the international community – of human trafficking undoubtedly means equating it with the phenomenon of slavery, so that international society today considers the practices and actions involved to be an extremely serious matter. In the words of Philippe Boillat, "Trafficking in human beings is a grave violation of human rights and a heinous crime. (...) It is also our Organisation's duty to make the fight against human trafficking, which is a modern form of slavery, one of its top priorities." (Council of Europe Convention on Action Against Trafficking in Human Beings, Conference on the Monitoring Mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA) – Proceedings of the Conference, Strasbourg, 8-9 November 2007.)

From this viewpoint, it could be added that the Convention upon which we are commenting constitutes one of the instruments that have contributed to the codification of international human rights law, being one of those that establish very specific prohibitions regarding certain actions that involve very serious violations of rights. Human trafficking, insofar as it is a serious violation of human rights, consequently requires its own legal framework, independently of the fact that this phenomenon presents multiple dimensions, and that prohibitions may be stipulated in different international instruments with a more sectorial scope. Human trafficking takes very different forms, and so the measures to be adopted in order to prevent and eradicate it may affect different sectors of international legal system.

What we must not forget is that the human person is the focal point in combating human trafficking. Therefore, Amnesty International was absolutely right in saying, in the Call on Member States to Ratify the European Convention against Trafficking, released on 11 April 2006, that "Trafficking is a violation of human rights and an offence to human dignity and integrity. Governments must ensure protection and respect of the rights of trafficked people – including women and children trafficked into forced prostitution." Such an approach situates this phenomenon in an ideal context for dealing with it from a regulatory perspective, since it places respect for the human person at the central point inspiring the adoption of measures for preventing trafficking and for prosecuting the perpetrators of such acts.

But even more importantly, not only is human trafficking considered a serious violation of human rights; rather, at the same time, the defence of human rights represents a limit to the implementation of measures aimed at preventing or eradicating these acts. In the words of the United Nations High Commissioner for Human Rights: "Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, internally displaced persons, refugees and asylum-seekers." (loc. cit.).

Only from this standpoint is the Council of Europe Convention fully understandable, independently of whether its articles set forth either criminal or procedural stipulations or whether, sometimes, it gives the impression that its approach is aimed solely at measures to combat actions that facilitate human trafficking or make it feasible. The major contribution of the Council of Europe Convention is not only that it represents the first specific, self-standing treaty on this issue, but rather that it encompasses, in a general way, the phenomenon of human trafficking and, above all, that its stipulations as a whole are aimed at defending human rights. In the words of the Council of Europe: "This new Convention, the first European

treaty in this field, is a comprehensive treaty focusing mainly on the protection of victims of trafficking and the safeguarding of their rights." (Conference on the Monitoring Mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA) – Proceedings of the Conference, Strasbourg, 8-9 November 2007.)

This is, moreover, the main contribution of the Warsaw Convention: It stipulates that the objective and the principal

goal of the treaty is the defence and protection of human trafficking victims, and it makes clear, from the start, that the ultimate motive inspiring those drafting such a Convention was to ensure respect for human rights. As aptly pointed out by Philippe Boillat, "The main added value of the Council of Europe Convention in relation to other international instruments lies in the affirmation that trafficking in human beings is a violation of human rights and human dignity and integrity." (loc. cit.).

1. Instruments that are precedents to the adoption of the Convention highlight the priority consideration of trafficking in the human rights area by the Council of Europe

We should bear in mind that, at the beginning of the 1990s, within the framework of the Council of Europe, various initiatives were carried out, which, in one way or another, were going to have a direct impact on the fight against human trafficking, even though they had a partial scope and were aimed, above all, at protecting women with regard to this practice. Indeed, the adoption of the *Action Plan against trafficking in women* marked a first step in combating human trafficking; above all, because it established the areas for preventing and combating trafficking, determined the most important regulatory and judicial aspects, and also addressed the eventual establishment of prevention programmes, as well as support measures for victims.

However, from a regulatory standpoint, the affirmation contained in the *Final Statement of the Second Summit of the Council of Europe*, held in Strasbourg, in 1997, in which the Heads of State and Government expressed their "determination to combat violence against women and all forms of sexual exploitation of women", provided an opportunity to move forward, not only in the defence of women in cases of trafficking and exploitation, but also made it possible to advance decisively in combating human trafficking. Although this affirmation appears in the Final Statement within the section concerning threats to security and democracy in Europe, nothing could lead us to believe that this rules out its being considered another example of the Council of Europe's objectives in defending human rights.

In any case, both the efforts of the Parliamentary Assembly and the work carried out by the Committee of Ministers have contributed not only to drafting and adopting the convention on human trafficking, but also to establishing the foundations for preventing and combating practices of this kind, and to placing the Council of Europe in the line of defence for trafficking victims. The important thing now is that all of this has been based on the fact that human trafficking constitutes an attack on human rights and that the prosecution of its perpetrators involves the essential objective of guaranteeing victims' rights.

For this reason, the different recommendations adopted by the Parliamentary Assembly and which, in one way or another, form part of the regulatory efforts of the Council of Europe in the fight against human trafficking, give pride of place to defending human rights. Thus, *Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states* makes it very clear that it considers "traffic in women and forced prostitution thus defined to be a form of inhuman and degrading treatment and a flagrant violation of human rights", and so situates the adoption of measures in this area within the regulatory framework of human rights. Moreover, this Recommendation indicates, in general terms, that the

Council of Europe is an organisation characterised precisely by its defence of human rights and that it is therefore "ideally placed to take the lead in combating traffic in women and forced prostitution, and should do so without further delay." And in addition, as part of its reflections regarding the future drafting of a convention on this issue, the Parliamentary Assembly indicates that this convention "should focus on human rights, stipulating repressive measures to combat trafficking (...)".

The same conclusion could be drawn from the indications in *Recommendation 1610 (2003) on Migration connected with trafficking in women and prostitution*, when apropos of pointing out that a convention on human trafficking should be adopted as soon as possible, the Parliamentary Assembly justifies this by pointing out that it "will bring added value to other international instruments with its clear human rights and victim protection focus and the inclusion of a gender perspective."

Furthermore, from the viewpoint of what we could call situations of "domestic slavery", emphasis is laid on the need to adopt measures, always based on the consideration that we are dealing with situations that violate human rights, and so in *Recommendation 1663 (2004) on Domestic slavery: servitude, au pairs and "mail-order brides"*, the Parliamentary Assembly leaves no room for doubt, saying that "The Council of Europe must have zero tolerance for slavery. As an international organisation defending human rights, it is the Council of Europe's duty to lead the fight against all forms of slavery and trafficking in human beings. The Organisation and its member states must promote and protect the human rights of the victim and ensure that the perpetrators of the crime of domestic slavery are brought to justice so that slavery can finally be eliminated from Europe."

The approach of these instruments does not leave aside – quite the contrary – the vision of human rights that inspires the efforts of the Council of Europe when it approaches the issue of human trafficking from a regulatory standpoint. Respect for and defence of human rights therefore constitute the main thrust of the Council's actions in this area.

Likewise, the Committee of Ministers, particularly in one of the two Recommendations that were most relevant and that, in the clearest way, influenced the drafting of the 2005 Convention, put the accent on how human trafficking and, above all, its regulatory treatment, should be dealt with from a human rights standpoint. Thus, *Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation*, says, in very general wording, that human trafficking with the aim of sexual exploitation attacks human rights, and particularly, "constitutes a violation of human rights and an offence to

the dignity and the integrity of the human being." Based on this premise, it stipulates, on the one hand, that there is a need to adopt "appropriate legislative and practical measures to ensure the protection of the rights and the interests of the victims of trafficking, in particular the most vulnerable and most affected groups: women, adolescents and children"; and on the other, more specifically in the area of education, it aims to "Introduce or step up sex education programmes in schools, with particular emphasis on equality between women and men and on respect for human rights and individual dignity, taking into account the

2. The provisions of the Convention state, in general terms, the importance of recognising and protecting human rights in the combat against trafficking in human beings

One of the most distinctive features of the Council of Europe Convention on Action against Trafficking in Human Beings is, precisely, the fact that it is a legal instrument that was conceived as an expression of the defence of human rights and, moreover, that it has specific content embodying the basic principle that it is aimed at defending and protecting these rights. This is expressly stated in the Convention, and it is also evident in its methodology and content. We can prove this claim by making the following considerations in this respect:

Firstly, in reading the Preamble it can be clearly seen that respect for human rights constitutes an inspiring principle for adopting the Convention and its ultimate basis. The initial premise is "(...) that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being" and afterwards, mention is made of the protection of victims as the true motive leading the Council of Europe to address this issue. The last paragraph of the Preamble is the summary of the purpose and content of the Convention, and states the "need to prepare a comprehensive international legal instrument focusing on the human rights of victims of trafficking and setting up a specific monitoring mechanism". This underscores the claim of the *Explanatory Report*, which states that "Action to combat this persistent assault on humanity is one of a number of fronts on which the Council of Europe is battling on behalf of human rights and human dignity".

Secondly, the Convention is not only focused on preventing trafficking in human beings, or on prosecuting the perpetrators of such acts. On the contrary, in order to ensure the effective end of such practices, the issue is approached from various regulatory standpoints. This is a comprehensive Convention in which the human rights perspective is not overlooked. According to the *Explanatory Report*, "To be effective, a strategy for combating trafficking in human beings must adopt a multi-disciplinary approach incorporating prevention, protection of human rights of victims and prosecution of traffickers, while at the same time seeking to harmonise relevant national laws and ensure that these laws are applied uniformly and effectively".

The core aim in the process of drafting and adopting the Convention will be to imbue all its provisions with the concept of respect for human rights, thereby making the defence and protection of victims the purpose and aim of this legal instrument. This was clearly stated in the *Explanatory Report* in the following words "The European public perception of the phenomenon of trafficking and the measures which need to be adopted to combat it efficiently have evolved, thus rendering necessary the elaboration of a legally binding instrument,

rights of the child as well as the rights of his or her parents, legal guardians and other individuals legally responsible for him or her."

What can be deduced here is that the regulatory approach to human trafficking could not be implemented without always taking into account that we are faced with a case of violation of human rights, and that the instruments adopted by the Council of Europe and which stem from the 2005 Convention, show very clearly that victims and their rights are the centre of concern for the Organisation and its member states.

geared towards the protection of victim's rights and the respect of human rights, and aiming at a proper balance between matters concerning human rights and prosecution".

It could even be said that, indeed, the Convention addresses the prosecution of traffickers and the adoption of all kinds of measures, both to prevent trafficking in human beings and to establish an international framework for co-operation or to punish traffickers. But this does not preclude the comprehensive approach from being focused on defending human rights. If need be, we could say, as in the *Explanatory Report*, that it is concerned with "focusing on the protection of the human rights of the victims of trafficking and, balanced with this concern, the prosecution of traffickers".

Thirdly, various provisions are specifically aimed at establishing a protection framework – one as complete as possible – for the victims of trafficking in human beings. This is in response to one of the elements that define the Convention, according to the *Explanatory Report*, that is, that "The added value provided by the Council of Europe Convention lies firstly in the affirmation that trafficking in human beings is a violation of human rights and violates human dignity and integrity, and that greater protection is therefore needed for all of its victims".

The importance granted to victims is proved by at least two elements that are present in the Convention: on the one hand, because there is a definition of victim, in Article 4, as "any natural person who is subject to trafficking in human beings as defined in this article"; and on the other, because an entire chapter (III) addresses measures to protect and promote the rights of victims, guaranteeing gender equality. Throughout this chapter, particular attention is paid to defending their rights (identification, assistance, protection, recovery, compensation, etc.). What we can restate, with the *Explanatory Report*, in this case, is that "This chapter is an essential part of the Convention. It is centred on protecting the rights of trafficking victims, taking the same stance as set out in the United Nations *Recommended Principles and Guidelines on Human Rights and Trafficking in Human Beings*: "The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims."

Finally, the fact that the Convention imposes obligations upon individuals, or at least envisages the prevention and prosecution of acts perpetrated by them, in no way precludes stating that we are faced with a Convention on human rights. On the one hand, because it has been proved that individuals, for themselves, may perpetrate severe violations of human rights, giving rise to international responsibility; and on the other, because

the Council of Europe has recognised the horizontal implementation of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) as regards "the applicability of the ECHR to relations between private individuals in the sense that the Court has recognised the liability of contracting states for acts committed by individuals or group of individuals when these states failed to take appropriate measures of protection" (*Explanatory Report* cit.).

In sum, all the above leads us to affirm that the Convention on Action Against Trafficking in Human Beings, adopted by the Council of Europe, is a Convention on human rights and this statement is neither a platitude nor is it without effect because, to begin with, the impact on domestic legal systems could vary depending on whether it is a convention of such nature or not. As stated in the *Explanatory Report* "The recognition of traffick-

ing as a violation of human rights would have consequences for some legal systems which had introduced special protection measures in cases of infringement of fundamental rights". But the content of this Convention has also been completed from the perception that the priority is respect for and protection of rights. Conceiving it as a convention on human rights means including provisions concerning the defence and protection of victims, or at least giving a more precise content to the obligations relating to them. This is the option – and in my opinion it is the correct one – taken by the Council of Europe and that has led it to claim, justifiably, that "Action against trafficking in human beings should be understood to include prevention and assistance to victims as well as criminal law measures designed to combat trafficking" (*Explanatory Report* cit.).

3. Comparison of the Convention with other international instruments reveals the nature of the convention intended to regulate matters concerning human rights

Both globally and at regional levels, instruments are being adopted that, directly or indirectly, regulate issues related to human trafficking and that, above all, establish norms prohibiting certain forms of behaviour and which grant rights to the victims of such practices. Perhaps an examination of some of the contributions made by the United Nations together with those made within the European Union and in the OSCE are more than sufficient for it to be seen and confirmed that human trafficking is an activity that is contrary to human rights, although it is within the Council of Europe where most emphasis has been placed on this view.

i.) Various instruments adopted within the framework of the United Nations condemn human trafficking and certain related actions, establish prohibitions on certain forms of behaviour involving human trafficking and, in other cases, grant rights to the victims of this type of illicit behaviour. In fact, there is a wide diversity of views concerning the meaning, content and scope of these instruments aimed at human trafficking. Nevertheless, there is no legally-binding and universally applicable international instrument that, as an autonomous agent, is responsible for this question. The closest to be found is the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, which complements the United Nations Convention against Transnational Organized Crime, adopted in New York in 2000. This Protocol, it can be seen, is linked to an instrument aimed at combating transnational organised crime. It is perhaps in this area where measures are most frequently, and most seriously needed to prevent and eradicate human trafficking, but in consequence the Protocol is not focused in a specific, prioritised way on the standpoint of human rights.

The Protocol, which contains a multitude of provisions concerning the behaviour of individuals and at the prevention, prosecution and punishment of their illicit behaviour, nevertheless pays little attention to questions concerning respect for human rights. In the first paragraph of the Preamble, the States Party observe that "effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of ori-

gin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognised human rights". In Article 2, it is stated that "The purposes of this Protocol are: (a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives", it being stated that the aim is to protect the victims. Subsequently, in II, Articles 6, 7 and 8 address the Protection of victims of trafficking in persons.

ii.) With respect to the European Union, a large number of norms have been adopted with the aim of preventing and combating human trafficking, whether against organised crime, to fight against the sexual exploitation of minors, against irregular immigration, against pornography or, even, with respect to the protection of women. Nevertheless, there also exist instruments that specifically address human trafficking. Let us observe that, on the whole, these instruments do not set out from the fundamental consideration that this concerns a question of human rights. Rather, they are situated in the configuration of a space of freedom, security and justice within the Union. In this same line, we should also mention at least two of the most important instruments that are specifically focused on the fight against human trafficking, and which cannot indisputably be said to implement an approach predominantly oriented towards human rights. On the one hand, the Resolution approved in 1996 by the European Parliament on human trafficking says little more on the question than the following, in its first paragraph: "(...) trafficking in human beings (men, women, children and young adults) is incompatible with human dignity and worth and constitutes a serious violation of human rights". And on the other, the Framework Decision taken by the Council in 2002, on the fight against human trafficking goes no further than to state: "Trafficking in human beings comprises serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable

persons, as well as the use of violence, threats, debt bondage and coercion."

- iii) As regards the OSCE, it should be noted that over and above the different political commitments made to fight against human trafficking, the most important action taken by this Organisation was the adoption of Decision 557: the 2003 Action Plan against human trafficking which, basically, stresses measures concerning co-operation, prosecution and punishment more than the focus of human rights. This does not mean that the OSCE does not take into account the above consideration, but it does reveal beyond doubt that the issue is given a lower priority than by the Council of Europe. What is said in the Action Plan is that "trafficking in human beings (THB) and

other contemporary forms of slavery constitutes an abhorrent violation of the dignity and rights of human beings" and, at the same time, a recommendation is made that "a multidimensional approach to combating trafficking in human beings should be taken. It addresses the problem comprehensively, covering protection of victims, the prevention of THB and the prosecution of those who facilitate or commit the crime".

Summing up, one of the most significant contributions made by the Council of Europe to the fight against human trafficking is doubtless the understanding, from all standpoints, that this phenomenon constitutes a violation of human rights and thus it defends victims' rights.

Third Session: Protecting the victims of trafficking in human beings: identification, recovery and reflection period, residence permit

Identification, recovery and reflection period, residence permit – the Italian model: Ms Isabella Rauti, Head of Department for Equal Opportunities, President of the Counter Trafficking Interministerial Commission, Italy

Mr President,
Hon. Colleagues,

In my role as Chief of Department for Equal Opportunities and President of the Interministerial Commission for the protection of victims of trafficking it is with true pleasure that I attend this meeting. I want to particularly thank the Council of Europe for this invitation and for the attention always showed towards the Italian experience in the field of fighting the trafficking of human beings.

Before talking about the Italian model I would like to stress the fact that on July 2008 the Italian Ministry for Foreign Affairs took the first steps to proceed to the Ratification of the Warsaw Convention also with the contribution of the Italian State in particular for all those regulations aimed at protecting the victims of trafficking even without the co-operation of the victims themselves.

The problem of trafficking of human beings aimed at sexual and labour exploitation represents a serious violation of the primary human rights and affects women, men and children subjecting them to exploitation and violence; the hidden direction of this trafficking is held by international criminal organisations which control the lives of the victims.

Italy has started some time ago a regulatory process in order to establish the proper instruments to fight the trafficking phenomenon and to assist the victims; the system adopted by Italy is built on modern and efficient instruments and it is aimed to create actions to prevent and protect the victims. At the same time the aim is to counter the activities of the above-mentioned criminal organisations addicted to trafficking and the exploitation.

The concerned legislation and the regulations which contributed to the building of the Italian system for the intervention and social protection are the following:

Article 18 – Dlgs 286/98, which also allows, once ascertained, the violence and serious exploitation of foreign citizens – the release of a special "staying permission" that gives access to a programme of assistance and social integration; the Law 17/2007 modified Article 18 – Dlgs 286/98 which foresees also the possibility to extend the programmes of social protection to citizens of other states members of the European Union.

The main characteristic of this kind of permission is that first of all we consider the defence of the victims' rights, introducing dispositions having mainly a humanitarian point of view.

According to the Italian law, the permission is not allowed to be at the judicial authority's disposal, to give evidence and co-operate with Police corps but essentially to help the foreign citizen to escape from violence and conditioning of the criminal organisation and to participate in an assistance and social integration programme.

- Law 228/2003 "Measures against trafficking of human beings" foresees the creation of a "Special Fund" that supports temporary assistance programmes and "protection" for the victims of slavery and trafficking of people submitted to either sexual and labour exploitation. Moreover, this Regulation, introduces also devices aimed to protect the rights of those victims (for example the closed trial) that safeguard the victim's personal security in case the victim should give evidence in a trial.

By means of the said Law 228/2003 we first of all provided to re-define in our system some types of criminal offences and, particularly, those concerning the curse of slavery, trafficking of human beings and we also provided to introduce other criminal figures.

We also provided to tighten up the penalties foreseen for all those new types of criminal offences, from 8 to 20 years of prison, also increasing the penalty when the victim is younger

than 18 years old and when the slavery is finalised to prostitution or to the removal of organs.

Based on the Italian Regulations and on the "Italian Model" of social protection we have derived the following types of intervention:

- 1) assistance to the victims of serious abuse when they are subjected to violence also because they decide to escape from the slavery's mechanism. The assistance is not limited to first aid but the victim is helped to start an individual social protection process, during 12 months, with psychological, medical and social support as well as legal support.

The social protection process is conceived on the following different phases:

- the first one, aimed at the physical and psychological recovery of the victim by means of a social protection assistance (police intervention, toll free number etc.) leading to protected houses, families etc. During this phase the victim is helped to start the necessary steps to obtain the "staying permission". We also assure the victim adequate legal and psychological assistance in order that they can rediscover their own cultural identity and autonomy.
 - the second one has as its main target the social integration by means of working orientation, courses, teaching of Italian language, tutorship inside companies etc.
- 2) social and working integration of the victims, foreseen after the assistance and first phase; the victims, once they have completed the 12 months programme, can obtain a "staying permission" for working reasons in case of formal occupation
 - 3) creation and development of different interventions between local services, police corps, private companies in the non-profit field. It is by means of these synergic actions between different actors involved that we can realise procedures having as their primary objective the human rights and the protection of victims from all points of view
 - 4) realisation of a National Toll Free number against trafficking that collects the help queries. The objective of such a number is to assist the victims that want to escape from the abuse and that can be immediately put in contact with the social territorial services
 - 5) promotion of developing co-operation by means of programmes of assistance, professional training in the victims' countries. We also would like you to take note of the Protocol subscribed in last July with the Romanian Government finalised to fight trafficking by means of a project financed from the European Social Fund.

The Department for Equal Opportunities co-ordinates the realisation of assistance and social integration of victims and I would like to draw your attention to some data related to the activities undertaken: The Department for Equal Opportunities from year 2000 to 2008 has issued 9 Advices concerning projects to be submitted in the said area and co-financed 533 projects on the whole National territory (Table A).

Furthermore, the Department issued 3 Announcements foreseeing the creation of a "Special Fund" for the realisation of an assistance programme aimed to build projects to help victims

of slavery or trafficking in human beings. Up to now the Department has co-financed 72 projects (Table B).

In Tables 1-5 (below) you can see evidence of the number of persons contacted who received assistance between 2000 and 2007; of the "staying permissions" obtained and of the actions undertaken to integrate the persons inside the social and working tissue during the same period.

These programmes are actually carried out by regions and local institutions and by non-governmental organisations linked with the said institutions.

Among the different duties carried out by the Ministry for Equal Opportunities there are those aimed to contribute to the protection and sustain the victims of trafficking. Pertaining to this area the Department manages the "Interministerial Commission for the sustainment to the victims of trafficking, violence and serious abuse", Commission that I am honoured to preside over and which is composed of representatives of the Ministry of Interior, Justice, Work, Health and Social Policies.

The Commission manages the financial funds for the supply of economic contribution (up to 70%) to the Local public Institution and to the private ones that are properly registered (such as Institution having social engagements without economic purposes) based on social protection's projects.

Furthermore the Commission plays the role of verification of the status of the programmes and of their efficacy by means of on the spot investigations.

Of the projects realised by the different organisations we are aware either of the data related to how many persons have actually started individual protection's process on a voluntary basis and of the information on the problem with its territorial different characteristics. The quarterly reports on the data collected are sent to a technical department of the Commission and constitute the know how basis of the Department and the Ministries directly involved.

To optimise the actions undertaken in this anti-trafficking area, a Committee of co-operation between government action against trafficking of human beings has been instituted. This committee is composed of representatives of civil society (trade union organisations, third parties, catholic world and in general non-profit organisations), representatives of Security and Judicial Police Corps, as well as judges. The committee has the duty to analyse the problem of trafficking and its structural modifications in order to define the quantitative and qualitative aspects and find out new intervention scenarios.

Among its targets the Committee has the one to define the correct strategies in favour of the victims of serious sexual, working and begging exploitation as well as to contribute to the sensitisation of mass media and public opinion on the problems of trafficking of human beings and deprivation of human primary civil rights.

Furthermore we have created an Observatory on the trafficking of human beings with the scientific scope of studying and analysing the above-mentioned problems.

The main engagement of this Observatory will be to monitor the problem and the actions undertaken to solve it in order to check and re-programme the strategies for the interventions to prevent, check, protect and fight the phenomenon on a national and transnational basis.

The Observatory on the trafficking of human beings will also proceed to collect the data to be studied and elaborated by implementing the computerised system.

I also wish to stress the strategic importance of the constitution of a data bank related to the problem together with the joint efforts of all our Organisations that currently contribute to reinforcing the National Plan to fight trafficking.

Finally allow me to anticipate now that the Minister for Equal Opportunities, Hon. Mara Carfagna, proposed to the government to add to the Agenda of the next G8 Meeting in 2009, an interministerial meeting with the aim of addressing the problem of trafficking of human beings with particular atten-

tion to the labour exploitation (convict and proslavery exploitation).

The steps undertaken and those indicated for the future, actually confirm and reinforce the Italian engagement in this fight against trafficking of human beings; Italy really wants to show good practice examples being aware of the fact that international strategies are required to face such a phenomenon that either for the quantity of people involved or for its own characteristics can be defined a world that crosses another world.

Table 1: Calls for projects in the framework of Article 18 Legislative Decree 286/98 issued and co-funded by the Department for Equal Opportunities

Article 18 D.lgs 286/98
Call 1 – 10.12.1999 (public funds: 16 billions e 500 millions of Lire) Total projects approved n. 48 on 63 presented
Call 2 – 6.11.2000 (public funds: 7 billions e 500 millions of Lire) Total projects approved n. 47 on 69 presented
Call 3 – 10.10. 2001 (public funds: 7 billions of Lire) Total projects approved n. 58 on 75 presented
Call 4 – 26.09.2002 (public funds: 2.480.513 euros) Total projects approved n. 69 on 79 presented
Call 5 – 02.01.2004 (public funds: 4.131.700 euros) Total projects approved n. 72 on n. 84 presented
Call 6 – 24.01.2005 (public funds: 4.272.000 euros) Total projects approved n. 77 on 82 presented
Call 7 – 20.01.2006 (public funds: 3.861.400,00 euros) Total projects approved n. 77 on. 84 presented
Call 8 – 21.02.2007 (public funds: 4.000.000 euros) Total projects approved n. 42 on n. 76 presented
Call 9 – 4.02.2008 (public funds: 4.400.000 euro) Total projects approved n. 43 on n. 63 presented
Total projects approved and co-funded by Department: n. 533

Table 2: Calls for projects in the framework of Article 13 of the Law 228/2003 issued and co-funded by the Department for Equal Opportunities

Article 13 Legge 228/93
Call 1 – 3.08.2006 (public funds: 2.500.000,00 euros) Total projects approved n. 26 on n. 39 presented
Call 2 – 31.07.2007 (public funds: 2.500.000,00) Total projects approved n. 23 on n. 34 presented
Call. 3 – 5.08.2008 (public funds 2.500.000,00) Total projects approved n. 23 on n. 29 presented
Total projects approved and co-funded by Department: n. 72

Table 3: Number of victims of THB contacted and assisted from 2000 to 2007

No. of victims contacted and accompanied to:	2000/01	2002	2003	2004	2005	2006	2007	Total
Health services	–	6 671	3 643	3 981	3 711	3 594	5 051	26 651
Legal assistance services	–	1 235	1 343	2 353	2 421	1 894	2 066	11 312
Psychological assistance	–	865	1.100	1.939	1.506	1 248	1 099	7 757
Other kind of assistance	–	30	–	390	981	849	1 012	3 262
Total	5.577	8 801	6 086	8 663	8 619	7 585	9 228	54 559

Source: Department for equal opportunities (2007)

Table 4: Residence permits from 2000 to 2007

	2001	2002	2003	2004	2005	2006	2007
Residence permits required (A)	1 148	1 386	1 082	1 081	1 217	1 234	1 158
Residence permits granted (B)	833	1.062	962	927	942	927	1 009
% (A) (B)	73%	77%	89%	86%	77%	75%	87%

Source: Department for equal opportunities (2007)

Table 5: Vocational training – educational courses – employment from 2000 to 2007

	2000/01	2002	2003	2004	2005	2006	2007	Total
Educational courses	330	552	486	442	429	342	588	3 169
Vocational training	1 187	537	501	431	477	450	313	3 896
Tutorship workshop	482	395	313	389	268	315	436	2 598
employment	921	944	925	944	891	903	907	6 435
Total	2 920	2 428	2 225	2 206	2 065	2 010	2 244	16 098

Source: Department for equal opportunities (2007)

Ms Alessandra Barberi, Co-ordinator of the Secretariat of the Counter Trafficking Interministerial Commission, Department for Equal Opportunities, Italy

1. The Italian support system for victims of trafficking and its models of intervention

The Italian legislation has so far implemented a good number of international standards, granting special attention to the safeguard and protection of victims of trafficking, thus ensuring the achieving of an urgent and primary aim and the setting of a useful intervention tool for encouraging the victims to escape from exploitation circuits. This kind of approach proved extremely successful as it allows not only for the victim's social and work integration but also for the identifying of the criminal activities.

The outstanding character of the Italian legislation depends on its considering the victim's protection first from the point of view of the safeguard of victims' rights, by introducing some provisions safeguarding the trafficking victim's security.

Article 18 of the Consolidated Law on immigration – Legislative Decree 286/98 – foresees the issuing of a permit of stay for reasons of social protection.

This measure is particularly innovative as it foresees a double path, both a social and a judicial one, with no risk of the one being influenced by the other. The granting of a permit of stay for reasons of social protection is totally independent from filing a complaint by the victim, thus providing the victim with the possibility of a social and psychological recovery, which sets the basis for establishing a climate of trust, a fundamental premise for the following judicial co-operation.

The victim of trafficking is entitled to access to a one-year-long social protection programme (co-financed according to Article 18 of the Legislative Decree 286 of 1998) to be

adapted to his/her needs and to the general aim of making the victim as autonomous as possible through a social and professional integration path. This path foresees several phases ranging from physical and psychological recovery (with protected accommodation at shelters or families) to integration and social inclusion with interventions aiming at vocational guidance and social and professional integration (through training courses, Italian language learning, supported job placement, guided tutorship in firms, etc.).

It is important to note that the granting of a permit and insertion in a social protection programme does not imply the obligation for the victim to report to the police but rather to supply the authorities with information and co-operation. This provision is very innovative for two aspects: the first is the possibility to extend immediate protection to all victims of trafficking; and the second represents an incentive for consequent co-operation to the investigation in consideration that victims can more effectively co-operate when they are in a position of security and when they are aware of being the true holders of rights.

The repression of offences and the forms of punishment, which are as crucial issues as the victim's protection, are regulated by Law 228 of 2003, which applies the directives of the Palermo Protocol of December 2000 approved during the UN Convention against Transnational Organized Crime and considers trafficking in human beings as a specific and autonomous crime hypothesis.

2. Identification

To identify a trafficked person may be very complex and long and it may require specialised and suitable staff. Beyond the complexity of the operation we have to consider the diffidence of the victim or his/her unwillingness to consider him/herself as a victim.

It should rely on multidisciplinary co-operation and co-ordination between all concerned actors and stakeholders, including law enforcement agencies, NGO, labour organisations and other relevant city society actors. The priority is to develop a national referral mechanism to ensure the adequate identifi-

cation and referral of trafficked persons and to harmonise the interests of trafficked persons with those of law enforcement agencies.

Although the identification procedure has not been established in Italy, through adequate norms or guidelines, victims of trafficking are actually identified by a wide range of anti-

trafficking actors and mechanisms through consolidated procedures, such as police officers, outreach workers, clients, helpline, social services of local authorities, trade-unions, network of projects Article 18, victims themselves.

3. Reflection period

In Italy the reflection period is overcome by the granting of a residence permit for reasons of social protection through Article 18 of L.D. 286/98, above-mentioned, available even without the victim reporting the trafficker, but demonstrating the fact of exploitation and the associated danger. Thus providing the victim with the possibility of a social and psychological recovery, which sets the basis for establishing a climate of trust, a fundamental premise for his/her ensuing judicial co-operation.

It is interesting to note the relationship between the number of residence permits issued and requested. The percentage fluctuates, reflecting in this case also a complex range of factors (attitudes on the part of the persons requesting protection, capacity of the support services to assist them, guidelines observed by the police authorities, etc.). In any case, the total number of permits granted is fairly high, approaching 80 per cent of the number requested (Table 6).

Table 6: Residence permit requested and granted

	2001	2002	2003	2004	2005	2006	2007	Total
Residence permits requested	1 148	1 386	1 082	1 081	1 217	1 234	1 158	8 306
Residence permits issued	833	1 062	962	927	942	927	1 009	6 662
%	73%	77%	89%	86%	77%	75%	87%	79%

Source: Department for Equal Opportunities (2007)

4. Monitoring

The Department of Equal Opportunities in 2008 developed a call for proposal for the establishment of a National Permanent Observatory on trafficking. The aim of the Observatory is to collect and elaborate national data in order to support monitoring mechanisms and future research on trafficking

dealing with causes, impact on victims, dimension, routes, care, provisions, etc.). The Research Organisation selected is Transcrime, a joint research centre on transnational crime of the University of Trento (Italy).

5. Recommendations for improvements

Prostitution and human trafficking are sometimes confused by the media and are considered as the same phenomenon, as well as trafficked migrants and irregular migrants.

On this subject it's necessary to promote right information among civil society. The Department for Equal Opportunities has organised an institutional campaign to launch and spread information on this field whose aim is not only to raise awareness among the general public but also to reach potential

victims or their friends or even the clients with information about the several possibilities provided by the Italian provisions.

The most important aim is to turn former victims into protagonists of their life as citizens. It is therefore necessary to launch more and more integrated policies including measures ranging from damage reduction, to housing policies, to social/occupational integration minimum income, to micro-credits, to education and training, to co-operation agreements with companies.

Indicators for identification of victims of trafficking in human beings: Ms Kristin Kvigne, Assistant Director, Trafficking in Human Beings Sub-Directorate, OIPC, INTERPOL

INTERPOL is the world's largest global police organisation with 187 member countries. Its General Secretariat is situated in Lyon in France.

INTERPOL's four core functions are secure global police communications, centralised data services and data bases, operational police support service and building capacity among police globally.

In the area of trafficking in human beings INTERPOL holds an annual global working group meeting as well as organising global training programmes for law enforcement.

Following INTERPOL's General Assembly in Greece in 2000, the INTERPOL Specialist Working Group on Trafficking in Women and Children for Sexual Exploitation was established.

The first of the objectives of the group was to research, develop and publish a manual of best practice guidance for investigators, and the first edition of the manual was published in 2002.

Since the publication of the first edition, the crime of trafficking has evolved significantly, as have the methods of investigating it and it was recognised that the best practice

manual needed to be revised and updated to reflect these developments. At the same time, concern was expressed that the focus of the best practice guidance – on trafficking of women and children for sexual exploitation – was too narrow and failed to take account of the growth in trafficking of men, women and children for a range of non-sexual exploitative purposes.

These concerns were raised at the 6th Working Group meeting held in Lyon in May 2005 and agreement was reached that the guidance contained in the second edition of the manual should incorporate best practice advice for investigators in the combat of all forms of trafficking crimes committed against men, women and children.

The latest version of the Manual is available on a CD – at the moment only in English, but INTERPOL is working on the Spanish and French translation and will hopefully get that funded.

INTERPOL also provides its member countries with analytical reports on trafficking.

Identifying victims of trafficking in human beings is one of the many obstacles law enforcement investigating this form of crime faces. The *modus operandi* of trafficking has a number of features in common with migrant smuggling and other forms of irregular economic migration; as a consequence, many victims of trafficking are wrongly identified as illegal immigrants rather than the victims of serious crime. INTERPOL's manual on best practices looks extensively into the issue of identifying victims. I will not be able to go into details here, but will speak about the obstacles of identification, the 3 step identification process and the potential of pro-active monitoring.

As the *modus operandi* of trafficking and smuggling is similar in parts, especially in the transportation phase it can be very difficult to identify clear distinguishing factors between the two. The victims themselves might not even be aware that they are in fact trafficked.

The first obstacle officers are likely to face is not having enough time to assess and apply identification procedures to their full extent. The greatest impact of lack of time will be at the borders. Border officers are often pressed for time especially at main border crossing points. It is estimated that on average they will have 3 to 5 minutes to make the decision if someone is a victim of trafficking, making the task virtually impossible. Also away from the border the shortage of time is an issue for the uniform police patrol or the non-specialist investigators that will have other issues as their main responsibilities and do not usually have time to stop and assess this type of situation. If one believes that the victim is an illegal alien the issue of expulsion and the need to execute this before the illegal immigrant disappears will also play a prominent role.

There is often a lack of co-operation from the victim – there are at least three elements to this:

- A general fear towards law enforcement officers based on experience
- Intimidation and threats from the traffickers against themselves and their families prevents co-operation with law enforcement
- The victims might genuinely believe they are on the way to a better life and will continue to maintain the story they have been instructed in by their traffickers.

As to the lack of knowledge in law enforcement it is a fact that, apart from specialist units law enforcement in most countries are still unaware of the scale, the *modus operandi* and the

indicators of trafficking. In many case studies victims will have had prior contact with law enforcement but were not rescued because their situation was not accurately assessed and recognised. And added to this the victims themselves, as said before, may have a lack of knowledge – this is particularly true for the transportation and recruitment phase.

The identification process consists of three sequential stages:

1. Assessment of a range of pre-interview assessment indicators
2. Structured interviewing of the individual consisting of recruitment, transportation and exploitative questions
3. Assessment of any available additional corroborative material.

Stage 1 is about considering the circumstances surrounding each case before asking the individual concerned specific trafficking-related questions. The following should be noted: these indicators are intended to assist in the overall assessment process and there will of course be exceptions in relation to all of them. They can give officers a preview picture of the circumstances involved. Local circumstances and experiences must be used to fill out the picture. No single indicator is likely to enable positive indication on its own.

The following are examples of the indicators that should be assessed:

- Age – generally the older –the less likely the case is one of trafficking. A prominent exception to this will be trafficking for street-begging.
- Gender – depending on the form of trafficking gender is important – most victims of trafficking for sexual exploitation will be women – again there are exceptions to this.
- Nationality must be assessed – where a countries economic status will be a pull-factor.
- Documentation – this is a very difficult assessment indicator – and will vary if the potential victim is intercepted at a border or later. The absence of documents can indicate a victim of trafficking, but could also indicate an asylum seeker.
- Last location – where the victim is located prior to notice may give indications – is it a sweatshop, a call-girl agency, a bar, etc. it will be a strong indicator of trafficking because of the close connection to exploitation and illegality. Also if the victim was referred by an NGO partner to the police this can be an indicator of trafficking.

Any signs of physical injury or traumatisation can be a positive indicator of trafficking.

The second stage of the identification process is the victim interview. How to best facilitate victim interviewing is a separate theme and I will not cover that in depth – just outlining the challenges faced in interviewing victims of trafficking in that they may be deeply traumatised, fearful, distrustful to law enforcement, there is the boundary of different languages, cultural differences etc. this means that how to conduct interviews with victims of trafficking will have to be a well thought through process to be successful.

The assessment interview is divided into the three structural elements of the trafficking crime: recruitment, transportation and exploitation. It is important to note that the questions and pointers are generalisations and exceptions are possible to all of them, no single answer can resolve the issue, the relevance of the question will vary according to the stage of the traffick-

ing process, answers should be assessed cumulatively with the indicators from stage 1.

How the contact with the recruiter was initiated can be of importance. An emerging trend in trafficking is the use of persons who are already victims of trafficking to recruit new victims – this is particularly reported in trafficking in women for sexual exploitation.

In a limited number of cases trafficking victims are abducted – recruitment by abduction followed by exploitation will of course be a powerful indicator.

It is always useful to be able to contrast the current circumstances of a victim with what he or she was promised before leaving home. The work, the pay and the living conditions will, if they can be determined, contrast to the promised, reveal the deceptive means of recruitment.

Money is usually not paid in advance by victims of trafficking – this is more the *modus operandi* in smuggling cases. Many victims will not have had travel documents and these will be facilitated by the traffickers. Fake or real.

Victims rarely pay for their own travel up-front – I will address the debt bondage later.

The current whereabouts of the travel documents is of interest as the victim rarely will be able to keep them as they make him or her able to abscond from the trafficker.

A significant time spent in a country of transit is common in cases of trafficking and less so in smuggling cases. Has the victim been exposed to violence or exploitation in countries of transit will be an additional indicator.

What activity has the victim engaged in since arrival and has the victim been coerced into engaging in these activities after arrival – the existence of a coercive relationship is of course central to the crime of trafficking.

Has the victim earned any money – how much money has he or she kept and how much has gone to the traffickers.

Has the victim been presented with a debt for travel and accommodation that needs to be paid off by providing sexual services, domestic services etc.

How controlled is the victim by the traffickers – usually victims will have very little freedom to move.

The issue of juju rites and voodoo is extremely complex and needs a full presentation. However being aware of these rites is important to trafficking investigators and if possible also to be able to establish if the victim has been subjected to juju or other voodoo rites.

Stage three of the identification process is assessing the additional corroborative material that might be found. This can corroborate the victims account and may help in the decision making process. This may be material from the victims them-

selves like diaries and letters, but in most cases they will come from other sources. Like police or immigration reports, police intelligence, documentation of travel: tickets, landing cards etc. medical records and reports of injuries as well as reports from referral agencies like NGOs, social services or others.

The final decision should be based on a cumulative evaluation of all the available material from the pre-interview assessment, the victim interview and the corroborative material. If there is an element of doubt that should be given to the individual. This is of course in relation to determining the status as victim, not in relation to the prosecution of the traffickers.

Pro-active monitoring of the trafficking scene makes sense in terms of preventing trafficking and identifying victims of trafficking as quickly as possible, making your jurisdiction a hostile environment for traffickers.

Monitoring the potential markets is possible because trafficking needs to be visible to attract customers.

The sex industry, the labour market, where what activity will be most prevalent to trafficking will differ from country to country.

Monitoring and collection and exchange of intelligence will also allow for the development of a more accurate profiling of likely victims of trafficking on a national level.

To end this presentation I want to raise the issue of the web as a marketplace for trafficking – that will make the indicators that I have described more difficult to apply. The web creates an arena that, for now, is safer for the traffickers – where they do not have to "display" the goods live for the customers and where arrangements can be made almost anonymously and without physically crossing borders with the trafficking victims. We see web sites of women offering sexual services – in the virtual world or by visiting their customers. To find the traffickers or the pimps in the virtual world gives law enforcement new challenges. This web site I have put up here is a genuine web site that was a front for child trafficking and child abuse images. Most of the children on this web site are still unidentified. These web sites in themselves are not illegal in most of our countries as they will nor display nude children – but as you can see these girls clearly do not model anything but themselves. There are hundreds if not thousands of these web-sites available. And many of them will offer the customer an opportunity to meet with the girls for private photo sessions – clearly putting them in danger for trafficking and exploitation. Unless law enforcement is able to step up to the challenges of the internet as a market place these young girls and hundreds like them will be left to fend for themselves.

Thank you for your attention.

Transnational versus internal trafficking in human beings: specific measures to identify victims of internal trafficking: Ms Maja Varoslija – Manager of Programme for Social Assistance of Victims, La Strada, the "former Yugoslav Republic of Macedonia"

I am representing the NGO Open Gate La Strada Macedonia – an organisation which is a member of La Strada International together with 8 other country members (Netherlands, Poland, Czech Republic, Ukraine, Moldova, Bulgaria, Belarus and Bosnia & Herzegovina).

The aim of La Strada International is to influence the authorities, the media and public opinion to address trafficking as

a severe human rights violation. On a practical level, La Strada develops and offers protection and prevention activities for trafficked persons, people vulnerable to trafficking and other affected groups.

Internal trafficking is a new phenomenon not only happening in Macedonia, but in most European countries. Nevertheless I can speak from my practical experience since from

there I gain all facts and figures that can make this problem more clear. Therefore I will mostly refer to my national situation rather than the general situation.

Until recently Macedonia was considered as a transit and destination country for women coming from South-East Europe. Since 2005 there have been some changes in the trends of trafficking and increasingly Macedonian citizens are victims of trafficking within the country borders.

The pattern of recruitment and exploitation is quite similar in all cases; mainly the boyfriend or potential partner is the recruiter and mediator in transferring and selling the girl from one part or city of Macedonia to the other mainly western part. In most of the cases the trafficking is for the purpose of sexual exploitation and forced labour (restaurants or begging).

Exploitation of child labour is also an issue in the country initiated by the poverty and low standard of the families. In most cases the victims are Roma children forced to beg on the streets.

Further, there are lots of cases of labour exploitation in the textile factories, where women are working in very bad conditions and often without a pay.

According to our experience root causes for the increase in internal trafficking are different. Many of the victims suffered psychological and other violence in their environments before ending up in a trafficking situation. Low socio-economic status of the families and loose family structure is reported in almost all of the cases. Insufficient access to education is also present – many of the victims drop out from school before completing primary education. This pulls them in to a vulnerable situation where they do not qualify for available employment opportunities in society. Another reason for ending up in a trafficking situation is lack of information about the issue of trafficking in human beings. Many of the victims do not have any knowledge of the problem of trafficking and even if they heard about it before their opinion is that it is happening somewhere abroad.

As we can see the root causes presented are quite similar to the victims of trans-national trafficking and this leads us to the dilemma – is there really a big difference in groups of victims regardless as to whether they are trafficked abroad or within the country?

On the other hand, the recruitment of victims for internal trafficking is easier because there is no need to cross borders and thus issue travel documents/visa which is quite motivating for traffickers.

This is supported with the following national statistics, for the first 9 months in 2009 in Macedonia: there were 30 persons charged for trafficking in minors; 15 victims – all Macedonian citizens – were identified of those 14 minors and 1 adult. Further, 1 domestic minor victim exploited in Serbia, Italy, France at the age of 15 for sexual, labour exploitation and forced to commit criminal acts, and 13 domestic minors victims – exploited in Macedonia, of which: 8 victims of labour and sexual exploitation; 4 victims of labour exploitation; 1 victim of sexual exploitation at the age of 8 years.

This leads us to the profile of a victim of internal trafficking:

Generally aged between 12-25 years; often from high risk rural areas and poor families; concerning education – in most of the cases – unfinished primary education. Regarding family status almost 90% are coming from dysfunctional families;

coming from all ethnic communities (Albanian, Macedonian, Roma) and concerning mostly sexual and labour exploitation in restaurants in the west parts of Macedonia.

It seems that there is a big difference in the identification of the internal trafficking victims.

The identification is more difficult since border controls cannot identify them. As for the trafficking process there is no need to obtain a legal stay & issue any passports and visas. The victims are in the home country and except for the ID document, they don't need any additional papers.

The majority of the victims of internal trafficking are minors, since the process of issuing documents for minors is more complicated. When issuing a passport and visa for minors, the parents have to sign the consent for issuance, and the whole procedure is more complicated. Therefore, for the perpetrator it is much easier to recruit minors within the country, since they don't need any documents.

Further, physical violence is not used (instead psychological control is more present) the difficulties in identification come from the fact that now the traffickers do not use physical abuse towards the victims. Instead traffickers use threats, linked with their strong connections with the police structures, and threats that the families of the victims will find out about their past.

Movement is "possible" but controlled, also the freedom of movement is not limited so much, the victims can return home for a while and can even go to school, but they are controlled by the traffickers and cannot speak about their situation. (E.g. almost all of the victims reported that they were recorded with a camera during giving sexual intercourse to the clients, and the traffickers always use threats that the video will be shown to their parents).

Worrying is also that in many countries not much is organised regard shelter and support for domestic trafficking persons, as only infrastructures have been set up (among which support services of IOM, GO and NGOs) that support foreign trafficked persons, moreover much support and regulation was related to alien policies.

On a national level there are separate structures offering services for victims of internal and transnational trafficking.

The La Strada Macedonia shelter for Victims of Human Trafficking was opened in June 2005 as a part of the Social Assistance Programme to the victims of trafficking. This is the only shelter in the country for victims of trafficking, Macedonian citizens. The clients can be accommodated long-term (from six months till one year) and receive complex services such as: food; clothing; psycho-social support; medical treatment; legal aid, vocational training/education, on-job training and help with opening small business. Personal information of clients is kept highly confidential. 10 trained professionals are working on 24 hour working shifts.

In addition to this there is also a HELP LINE for information and prevention of trafficking in human beings – started in October 2002 which is toll free for the callers and it's unique in the country.

Moreover there is also the National Referral Mechanism office for victims of trafficking in human beings co-ordinated by the Ministry of Labour and Social Policy, which supports the creation of a co-operative framework and strategic partnership with all relevant partners; police, local authorities, social workers and NGOs in order to ensure a standard referral system.

The role of NRM is to refer victims to assistance providers, shelter for victims of human trafficking or other adequate accommodation. Further, to collect all necessary documentation for victims, to inform victims on their rights status and opportunities for recovering and to follow the socialisation and reintegration process.

As for the transnational trafficking victims there is the Transit centre for illegal migrants (State centre) run by the Ministry of Interior in co-operation with IOM and local NGO.

Consequently R. Macedonia is a member of the Trans-national Referral Mechanism (TRM) for Trafficked Persons in South-Eastern Europe. The TNRM provides comprehensive assistance and trans-national support to the victim. The Trans-national Referral Mechanisms link the entire process, from identification, through the return and assistance between the transit, destination and origin countries and foresees concrete co-operation between government institutions and NGOs.

The services for both national and foreign women are provided according to Standard Operating Procedures for treatment of victims of trafficking in human beings. The SOP is a document adopted by the government in January 2008, and regulates the procedures for a unified approach and actions of all the entities dealing with anti-trafficking, with a special emphasis on child victims and witnesses.

Other official bodies for combating trafficking in human beings in R. of Macedonia are:

- National Commission for combating trafficking in human beings and illegal migration, established in 2002 and consisting of the governmental representatives. The National Commission has the task to monitor and analyse the situation in the field of trafficking in human beings and illegal migration and to co-ordinate the activities of the competent institutions, international and non-governmental organisations involved in the resolution of problems in this area.
- Secretariat of the National Commission which is a working body of the National Commission, and the Secretariat implement the decisions of the Commission and represent this body, in which representatives of the international non-governmental organisations and experts from government institutions participate.
- Subgroup for Combating Trafficking in Children established in 2004, consisting of 13 members, representatives from: Ministry of Interior, Ministry of Labour and Social Policy, Ministry of Education, Deputy-Ombudsman for the Protection of the Rights of Children, 2 NGOs and international organisations: INICEF, OSCE, IOM and ICMPD. In 2006 and Action Plan for Combating Trafficking in Children was produced and currently is being implemented.

As I already mentioned internal trafficking is a new phenomenon not only happening in Macedonia, but in most European countries. Nowadays, most La Strada offices report increasingly internal trafficking cases. Regardless that interpretations of internal trafficking differ per country, it is not recognised as such in the legislation of all countries. Further, those national laws that refer to internal trafficking still use different definitions. Differences appear not only in the legislation, but in particular in implementation of the law. Possibly this is because most measures and international legislation relate to transnational trafficking.

Therefore more attention and action is needed on the issue of internal trafficking, it should be clear what we define as internal trafficking, more research and information needs to be collected and based on that, measures and policies on trafficking might have to be adapted. Further the issue of internal trafficking between 'free border zones' like the European Union could be looked at and explored further.

Bearing in mind the previously presented information I would like to emphasise that all La Strada Members and National as well as international NGOs support the Council of Europe Convention because it creates a binding human rights instrument to effectively fight trafficking in human beings. Although the Convention is still set up within the criminal justice framework, it is intended to enhance the protection afforded by the Protocol and to develop the standards it contains. Moreover, it sets out standards and provides policy guidance in a number of areas not covered by the Palermo Protocol, such as internal trafficking, trafficking not involving organised criminal groups and it states the principle that the victims of trafficking should not be punished for crimes that they have been compelled to do.

Most important is that the Convention sets out standards to ensure the protection of the human rights of trafficked persons, including a recovery and reflection period for trafficked persons and renewable residence permits to victims of trafficking.

The focus on the human rights aspects of trafficking in human beings is very necessary because it emphasises that trafficked persons are victims of severe human rights violations. They are bearers of rights that have been violated and are entitled to support to regain the control over their lives. Therefore, the protection of human rights should be at the core of anti-trafficking policies.

Equally important is the establishment of the independent mechanism to monitor the implementation and help ensure the compliance by member states: GRETA. Because the Council of Europe is a human-rights based intergovernmental organisation and the convention is more human rights based than previous treaties, the work of GRETA should focus on monitoring the effects of anti-trafficking and related policies on the human rights of trafficked persons and affected groups.

Fourth Session: The need for national co-ordinating bodies

National co-ordinating bodies for action against trafficking in human beings – Spanish model: Ms Ana González, Adviser, Ministry for Equality, Spain

As you know, in the next few days the Spanish Council of Ministers will approve a comprehensive plan against trafficking in human beings for purposes of sexual exploitation (2009–2011). The ratification process for the Council of Europe Convention on actions against trafficking in human beings of 3 May 2005 is also at a very advanced stage.

This plan involves recognising rights, and positions us among the leading countries in the fight against trafficking for purposes of sexual exploitation. It provides for a reflection period of at least 30 days, free, specialised legal assistance for victims in their own language, and a network of reception centres.

We have already introduced new provisions in the preliminary draft revised Penal Code under which trafficking for purposes of sexual exploitation is classified as a specific offence and the assets of mafia organisations are liable to confiscation. For the implementation of these provisions we will be able to count on a budget of 44 million euros and the co-operation of the Autonomous Communities and NGOs.

All of this presupposes a change of situation in terms of public action. What best defines this change is probably the move from a situation in which there was no overall vision of the phenomenon of trafficking or its consequences for the women who suffer from it – and no distinction was drawn between trafficking in human beings and people smuggling – which led to isolated measures of differing scope and to informal co-ordination which did not impact sufficiently on the causes of trafficking for purposes of sexual exploitation or the consequences it has for its victims, to the development of this plan which first pinpoints and identifies the problem and then sets out on that basis a series of actions and measures aimed at achieving an overall, comprehensive vision.

It is a complex plan comprising 62 measures affecting 11 ministries, although the majority come under 6 ministries. These measures are geared to achieving the 5 objectives of the plan, focusing on social care, victim protection, prosecution of the offence and of mafia organisations which trade in women, all from a gender and human rights perspective and based on an international co-operation approach.

These measures can be divided into the following categories:

- Studies
- Changes to the law
- Protocols
- Instructions
- Training
- Information and education campaigns
- Comprehensive assistance to victims

All these measures are interrelated, which will call for an effort on our part to achieve co-ordination and co-operation, not only between the ministries responsible, but also, where some measures are concerned, with the Autonomous Communities, the local authorities and NGOs.

The need for co-ordinated and collaborative work by a wide range of players operating in an ordered fashion to develop an effective response was already present during the drafting of the plan. A participatory method was therefore adopted for the drafting process: a working group consisting of specialists from the police and the Guardia Civil was set up initially in the Ministry of the Interior and participation was subsequently opened to other ministries.

Throughout the drafting process, contributions were also received from NGOs, the judiciary and the Autonomous Communities. A draft was also sent to the OECD so that it could make a contribution.

This idea of collaboration is found in the plan as regards not only the initiation and implementation of the different measures but also the monitoring and evaluation of those measures. Indeed, one of the plan's components is concerned precisely with co-ordination. An interministerial co-ordination group composed of the ministries figuring most prominently in the plan is also established. These are the Ministries of External Affairs and Co-operation, Justice, the Interior, Education, Social Policy and Sport, Health and Consumer Affairs, Labour and Immigration, and the Ministry of Equality, which will chair the group.

This group is the "driving force" behind the plan as regards both implementation and monitoring. Its functions are specified in the plan itself:

- Monitoring and evaluating measures taken.
- Formulating proposals.
- Liaising with the Forum against Trafficking in Human Beings for purposes of Sexual Exploitation, to which I will refer later.
- Presenting proposals and conclusions to the Monitoring Committee of the Human Rights Plan.
- Approving an annual report for submission to the Equality Committee and the Council of Ministers.

This interministerial group will meet regularly, at least once every quarter and whenever it is deemed necessary. In addition, to give it a more operational character, a technical working group will also be appointed. Each of the ministries involved in the plan will appoint technical staff responsible for its implementation, who will also meet regularly under the co-ordination of the Ministry of Equality to set actions in motion and co-ordinate and monitor them.

As I mentioned earlier, the plan is designed for joint work with the Autonomous Communities, the local authorities and NGOs. It refers explicitly to their work, especially in the field of social care, and they are key players as regards implementation and monitoring of the plan. The anti-trafficking plan accordingly specifies in Field V, on Co-ordination and co-operation measures, the following operational objective 5: Create and strengthen co-ordination mechanisms and effective links with NGOs and institutions involved in the fight against trafficking and assistance to victims. This objective finds concrete expression in the following action: Creation of a forum against trafficking consisting of the competent public authorities, non-governmental organisations and other institutions involved.

The purpose of this participation forum is to create an institutional space for permanent exchange, co-ordination and

co-operation between all the institutions and organisations involved in the fight against trafficking in human beings for purposes of sexual exploitation, within the framework of the Comprehensive Plan against Trafficking in Human Beings for purposes of Sexual Exploitation.

Its primary aim is to achieve maximum coherence and efficiency in the implementation of the different measures contained in the anti-trafficking plan in order to achieve the objectives set out therein.

Ultimately, the plan itself incorporates specific mechanisms for its co-ordination by establishing two clear levels: the central government level, via the Interministerial Co-ordination Group, and the Forum, which brings together both central government and the NGOs, Autonomous Communities and local authorities.

The plan against trafficking in human beings for purposes of sexual exploitation is one of the priorities of the Spanish Government and the Ministry of Equality, which is responsible for it. Our goal is to achieve maximum efficiency in the fight against trafficking and in care for its victims, bearing in mind that we are talking about complex processes which require the participation of many players at different political and administrative levels, but also of civil society, and that all this calls for efficient co-ordination machinery to enable us to achieve the objectives we have set.

We believe that this plan is a good way forward and will enable us to make decisive progress in the fight against trafficking and, depending on how it develops, implement new measures. It is a dynamic plan which provides for monitoring and ongoing review in order to tailor actions to the reality on the ground.

Thank you for your attention.

National co-ordinating bodies for action against trafficking in human beings – Norwegian model: Ms Birgitte Ellefsen, Project manager, National Co-ordination Unit for Victims of Trafficking, Norway

Thank you, Chair.

I want to start by thanking you so much for inviting me to speak at this seminar. And not least for getting the possibility to listen and learn from all the other speakers and participants here.

I will give you a short orientation on how we co-ordinate our action against trafficking in human beings in Norway.

I will start with some background information about Norway.

Norway is a small country with a small population – so the facts presented in this speech may seem small in a European setting.

Nevertheless – Norway has had a fast growing economy – and therefore it's an attractive market for traffickers. Norway is mainly a country of destination, but also a country for transit and origin. When I say origin, I refer to situations where people are being recruited into trafficking when staying in Norway – with or without a residence permit. People who get a negative answer on their asylum application are especially vulnerable for being recruited into trafficking.

As of legal framework, Norway:

- ratified the Palermo protocol in 2003
- we ratified the European convention in February 2008

- our government just passed a law that will criminalise the buying of sexual services from January 2009
- we are currently on our third national action plan, of which the national referral mechanism that I'm managing is one of the measures. The referral mechanism is called the national co-ordinating unit for VOT.

Furthermore:

- we've succeeded to bring 9 larger criminal cases to the courts with convictions on human trafficking
 - 8 regarding sexual exploitation, 1 regarding forced labour.
 - the victims in these cases are from Russia, Lithuania, Estonia, Albania, China, Thailand, Romania, Great Britain, Brazil and Nigeria.
 - we also have many ongoing investigations.

The fact that we have had three action plans does, however, not mean that we have a long experience of taking actual action against trafficking at a local or national level.

From 2000 till 2004 we had little knowledge and no action in Norway. A few devoted people reported about worries of women being sexually exploited in our country – but the official police reports described them as rumours with little evidence.

In 2003 we had the first criminal case of sexual exploitation of women in Norway (girls from Russia and Lithuania) – but it was regarded as a rather uncommon episode, and no structured actions were implemented at national or local level.

Nevertheless, trafficking in human beings had high attention in politics and media, and we did have an interministerial commission. In 2004 we got our first safe house project, called ROSA, funded by the ministry of justice and the police, and administered by the NGO Women shelter movement.

A lot of NGOs in Norway were focusing on trafficking, and especially amongst the NGOs that do outreach work in the prostitution field. Many of them identified possible victims, but there was a tendency for each NGO to "own" the victims. Therefore the victims would get different advice according to which NGO they spoke with.

Since we had not implemented the action plans at national or local level, we didn't have sufficient instruments to take the necessary co-ordinated action.

The result of this was:

- Confused victims who didn't know who they could trust.
- Confused NGOs who fought about who owned the victims. All fought for what they meant was the victims best interest, but they didn't agree on what that interest was.
- Every NGO fought for their solution by going directly to media and the politicians
- The politicians let the NGOs start different projects which were not co-ordinated
- National and local authorities were frustrated that they hadn't been asked what they considered would be the best solutions.



I've tried to illustrate the situation with the above figure.

The figure illustrates that it was no horizontal co-operation. This meant that a lot of individuals in NGOs and local authorities were struggling with their cases and victims without knowing whom they could co-operate with and what solutions were best practice. When they got really frustrated they complained to media, and the politicians would get such short notice to solve the problem that they didn't have time to check with the directorates and local authorities. New measures were decided without properly checking what could be done within the system as it was.

Who profited from this?

The victims?

No – at least not all of the victims. It depended on which care giver offered what, what city they were identified in, and

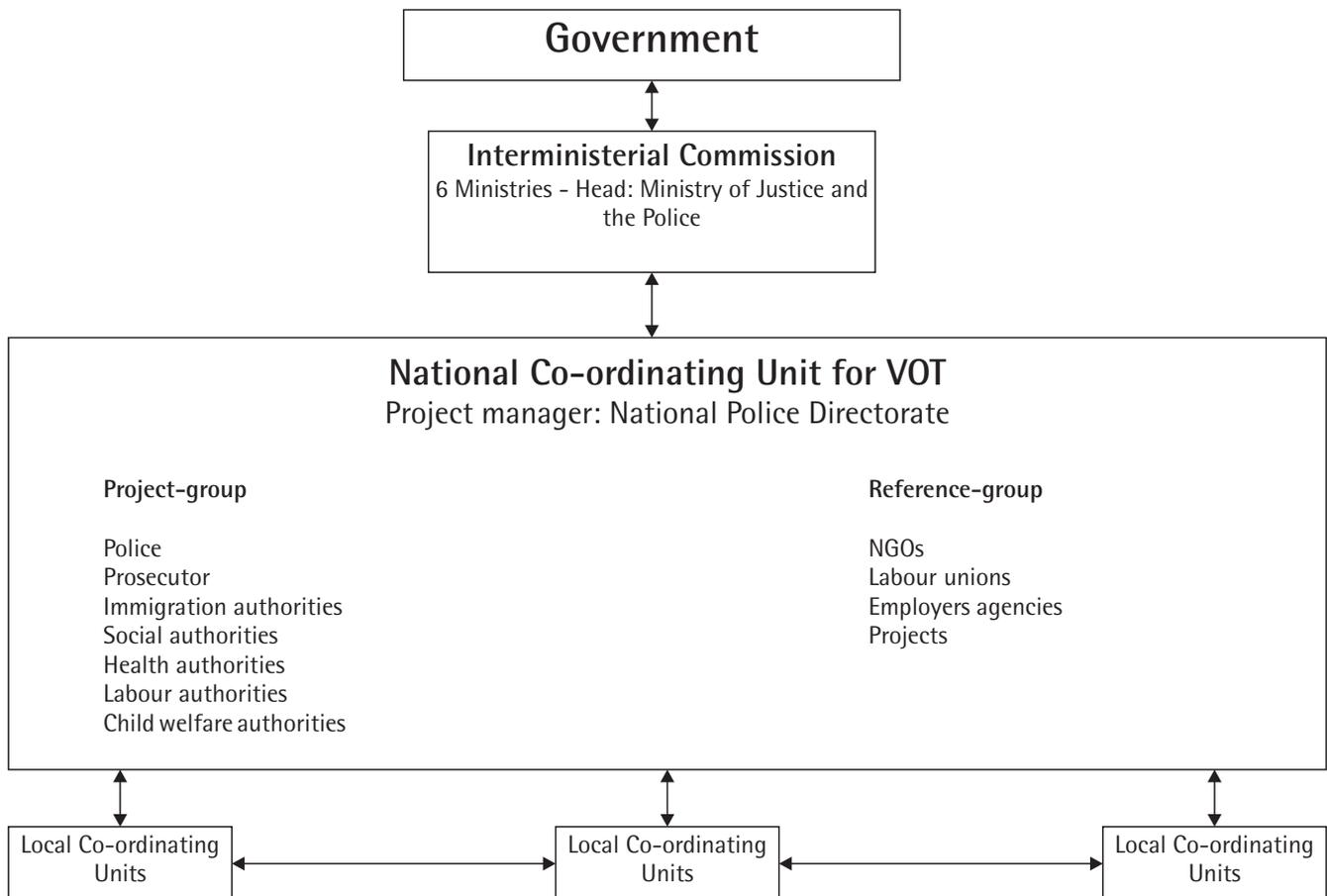
how much effort the individual person working with them were able to put in.

The police or other authorities?

No – The results were meagre, only a few cases were being identified and the different authorities used a lot of effort on claiming that it wasn't their responsibility or fault that the victims weren't identified and given the proper protection and assistance.

You could say that the real profiteers in this situation were the criminals – the kingpins – and media.

Of course. I'm pushing this to extremes to illustrate a point. There were individuals and bodies that did a great job. The point is, however, that it was much up to the individual or his/her boss to make sure that victims were identified and properly treated.



In 2007 we got the National Co-ordinating Unit for VOT. It was a result of measure number 29 in the National Action Plan.

The government decided that this national referral mechanism was to be administered by the national police directorate. This was the most efficient solution, because the police directorate reports to the ministry of justice and the police, who administers the Interministerial Commission against human trafficking.

This figure shows how the interdisciplinary co-ordination now is structured in a horizontal and vertical system from the ministry level to the local level. As the manager of the co-ordinating unit, I decided to establish two groups. The project group consists of representatives from all responsible directorates and agencies.

The project group has terms of reference that have been approved by the leaderships of the representatives' directorates and agencies.

The second group is the reference group consisting of representatives of projects and non-governmental organisations who offer different services to victims of trafficking.

Finally we are driving for the establishment of local co-ordination units with a similar organisation and representatives. Today there's established local co-ordinating units in the five major cities in Norway and more are on their way. The local units report to the national unit, and all units are urged to co-operate also on a horizontal basis.

How do we work

We are two persons working full time in the co-ordinating unit.

On a daily basis we receive reports by phone and email on problematic cases/issues from different local authorities and NGOs.

We offer guidance and assistance when needed, and we collect and analyse the different problems that are being raised. If the problem can be solved by reference to the already existing system, we do that. When not, we bring it up for the members of the project group.

We organise monthly meetings in the Reference group where the representatives report on the current situation, raise problematic issues and so forth.

We also arrange monthly meetings in the Project group. Here we refer the issues that have been raised by the reference

group and by the different local actors. If the problems can be solved by the members in the project group, we tend to it right away. If not, we report to the Interministerial Commission.

Twice a year we arrange joint 3 days seminars for all the members of the Project- and reference group and the members of the different local units.

We have contact information lists and a general agreement on 24 hour readiness for all members in both groups.

The national co-ordinating unit has a lot of tasks. I cannot go into detail on all of them, so I will just mention that we have made:

- National guidelines for identification of VOT
- National indicators for VOT

We just finished translating them into English, and I have brought some copies with me here for those of you that are interested.

We are now working on:

- National guidelines for information on VOT rights
- National guidelines for interdisciplinary co-operation in assistance and protection of VOT

Hopefully they will be finished and distributed to all relevant actors in January 2009.

The co-ordinating unit has established a:

- National system for report and monitoring on VOT
- National system for voluntary safe return of VOT to home country
- Finally we offer assistance and guidance to local actors when needed, professional training of personnel and other kinds of information activities.

After nearly two years in business we are beginning to see some results:

- The number of persons identified as possible VOT have increased
- The percentage of identified VOTs that accepts our offer of assistance and protection has increased
- Approximately 300 VOT have been given assistance and protection
- The percentage of victims deciding to co-operate with the police has increased from 30% to 40% of VOTs
- Number of investigations and prosecutions has increased
- In a joint effort we have succeeded in altering the alien law in favour of victims of trafficking:

- May 2008 the government decided to grant 6 months reflection period for possible VOT from all nationalities + this also goes for further temporary residence permit to all VOT that co-operate with the police. This is vital in order to grant EU citizens the same possibilities to protection and assistance as third country citizens.
- At the same time we managed to make sure that the reflection period and the temporary residence permit is restricted to Norway only. This is important in order to prevent exploitation of victims in other Schengen member countries
- November 2008 the government granted permanent residence permit to all VOT that have given evidence in court.

But we still have a long way to go. Current challenges we are facing are:

- Closer focus on minors as victims of trafficking
- Closer focus on people being exploited in labour, begging, petty crimes...
- Safe houses for men
- More suitable long term accommodation for VOT
- Stronger co-operation between police and care providers across the borders

Thanks for your attention.

National co-ordinating bodies for action against trafficking in human beings – Croatian model: Ms Maja Bukša, Adviser in the Government Office for Human Rights, Secretary of the National Committee for Suppression of Trafficking in Human Beings, Croatia

Firstly, I wish to thank the Council of Europe for organising this seminar on The Council of Europe Convention on Action against Trafficking in Human Beings and for extending the invitation for participation to the Republic of Croatia.

We find that this Convention is of great importance, not only as an international instrument for suppression of trafficking in Human Beings but also, and more importantly, as an instrument that deals with the protection of victims of this crime.

I would like to stress that the Republic of Croatia ratified this Convention in June 2007, as one of the first 10 countries to do so. Its mechanisms are included in our national system of suppression of trafficking in Human Beings.

In my presentation I will focus on the system of the national co-ordinating body and the responsibilities of the national co-ordinator.

I will also briefly cover the other important institutions in the field of suppression of THB as well as the role of NGOs.

To proceed, the most important institutions that deal with the phenomenon of THB in the Republic of Croatia are: Government Office for Human Rights, Ministry of Interior, Ministry of Health and Social Welfare, Ministry of Foreign Affairs, Ministry of the Family, Veterans Affairs and Intergenerational Solidarity, Ministry of Justice, State Attorney's office and non-governmental organisations, each in their field of expertises.

Let me now address the established system of the national co-ordinating bodies in the Republic of Croatia. The Gov-

ernment Office for Human Rights, as an expert advisory body to the government in the field of promotion and protection of human rights, is also the Office of the national co-ordinator for suppression of trafficking in Human Beings. Also, the National committee for suppression of trafficking in human beings was established as a council body with its two operational bodies: the Operational team and the Secretariat of the National committee.

Let me now present (to you) in more detail the responsibilities of each body:

- Government Office for Human Rights as the Office of the national co-ordinator. The Head of the Office is *ex officio* the national co-ordinator for suppression of THB. I would like to explain a bit the logic behind such a decision, that is to say why was the Office for Human Rights specifically chosen for such an important task. One of the reasons is for sure the fact that this office represents a part of the government and as such has the power to promote and address the problem of trafficking in human beings at the highest level. The other very important, and I guess self-explanatory reason is that trafficking in Human Beings represents the most severe violation of human rights and dignity of a person. These are the reasons why this phenomenon lies in the competence of the Office for Human Rights. Being the national co-ordinating body, the Office is responsible for co-ordinating all activities of the relevant

institutions in the Republic of Croatia in the field of suppression of THB, as well as for implementation of the measures and activities that the Office is in charge of by the national strategic documents and Action plans. The office of the national co-ordinator is also responsible for providing the expert legal opinion on legislative proposals.

- In May 2002 the Government of the Republic of Croatia established the National Committee for the Suppression of Trafficking in Human Beings, as a body whose members include representatives of all relevant ministries, representatives of international organisations and non-governmental organisations.

The deputy prime minister responsible for social affairs and human rights also acts as the chairperson of the National Committee and is responsible for directing its efforts. With such high official as the chairperson, the Republic of Croatia shows its determination for combating this global problem.

The National Committee for the Suppression of Trafficking in Persons is responsible for drawing up of programmes and plans in the area of the suppression of trafficking in persons. Similarly, the National Committee proposes the most important political guidelines in this area.

The so far adopted national documents are the National Plan for suppression of trafficking in human beings adopted in 2002. It was the first document to provide a comprehensive coverage of the issue. The Plan includes the following chapters: legislative framework, prevention, education, international co-operation and co-ordination of activities. In order to monitor and control the implementation of activities the National programme for suppression of trafficking in Human Beings 2005-2008, and the National Plan for suppression of trafficking in children 2005-2007 were adopted. For each year the Operational plan is adopted, and they further develop measures set up by the National programme.

As you can see we are at the very end of the period covered by the National programme, and the need for a new strategic document has presented itself. For that reason the new national plan is in preparation that will cover the period from 2009 until 2011. The focus of this new strategic document will be on repatriation and reintegration of victims of THB.

In its premises the Government Office for Human Rights also accommodates the Secretariat of the National Committee, which prepares its sessions and ensures the implementation of its tasks and conclusions. Also, the Secretariat is responsible for preparing the sessions of the National Committee and the Operational team. One of its duties includes the preparation of the annual report on the conduct of all activities set by the national strategic documents. And maybe the most important task, the Secretariat of the National Committee runs the comprehensive data base on the identified victims of THB. It is maybe good to mention that the data base on the perpetrators is run within the Ministry of Interior.

Since the National Committee is an advisory council body for the purpose of efficient problem solving, the Operational team was established. The operational Team meets once a month and when needed more frequently. It was established in order to resolve problems related to the specific cases of trafficking in persons and to co-ordinate the activities of all parties involved in their resolution. Head of the Operative team is the National co-ordinator who also convenes its sessions. The members of the Operational team are representatives from the

Government Office for Human Rights, Ministry of Interior, Ministry of Health and Social Welfare, Ministry of Foreign Affairs, Ministry of justice, State Attorney's office, Croatian Red cross, IOM and non-government organisations.

Let me now briefly say a few words about the position and responsibilities of the National co-coordinator, who is, as I mentioned earlier, *ex officio* the head of the Government Office for Human Rights. A national Co-ordinator operatively leads and co-ordinates all activities connected with the suppression of trafficking of persons in the Republic of Croatia.

The position of the National co-ordinator was established by the ruling on Amendments to the Ruling on the establishment of the National Committee for the suppression of trafficking in Human Beings.

The responsibilities of the national co-ordinator also include the co-ordination of the National Committee in collaboration with the chair of the National Committee, monitoring and co-ordination of the implementation of the National strategic documents on a national level, leading the work of the Operational Team. One of the important roles is also active participation in the international and regional initiatives on the issues of THB. This aspect of international co-operation is extremely important for the constant revision of the national system and integration of best practices.

It is important to emphasise that the role of the national co-ordinator is not a political one, but an operational one, and we can say that in the Republic of Croatia the national co-ordinator plays an active role in the suppression of THB.

He is involved in regular meetings and exchange of experience with all the relevant national as well as international institutions.

Also, he is actively involved in trainings for target groups organised either by the Office or other institutions and NGOs.

According to the Protocol on identification, assistance and protection of victims of THB, immediately upon identification of a victim by the MOI the national co-ordinator must be informed, who then informs the Secretary of the National Committee who is in charge of the data base.

Allow me to say a few additional words about the responsibilities of the Office for Human Rights. Apart from all the previously mentioned responsibilities and tasks one of the very important duties is the work on prevention of THB. For that purpose the Office has launched 3 awareness raising national campaigns: "Stop human trafficking", "Stop trafficking in children", and the latest campaign (in June 2008) aimed at the potential users of the services of victims was developed in co-operation with the Ludwig Boltzmann Institute for Human Rights from the Republic of Austria, which was our twinning partner in the CARDS 2004 project "Combating THB". One other preventive action is the web page of the Office that provides information and data connected with the suppression of trafficking in persons for all participants on the national and international levels, as well as the general public.

Non-governmental organisations are indeed considered as relevant and important partners. The co-operation between the national co-ordinating body and the network PETRA (the network of NGOs that are active in the field of suppression of THB) is extremely good. In order to illustrate the extent of this co-operation let me just briefly go through the most important factors.

As I mentioned before members of the PETRA network are members of the National committee and the Operational team so they are involved in the decision making about each case as well as the preparation of national strategic documents. Also, the two national shelters are run by the NGO and are fully financed by the Government of the Republic of Croatia. The national SOS phone line is operated by 3 organisations from the PETRA network.

In order to establish even better co-operation, the office for Human Rights finances the projects and programmes of the NGO in the field of providing help and assistance to the victims.

It is extremely important to establish the close and permanent co-operation with the NGOs and so the national referral system recognises civil society as most valid partners in providing help and assistance to victims and also in preventive work.

In order to formalise this co-operation, two co-operation agreements were signed:

- Co-operation Agreement between the Office of Human Rights and the PETRA network was signed on 4 December 2007
- Co-operation Agreement between the MOI, MHSW and NGOs on providing help and assistance to victims of human trafficking was signed on 27 June 2008
- Protocol for Identification, Assistance and Protection of Victims of Human Trafficking was adopted on 14 October 2008 (the Protocol also regulates work of the mobile teams whose members include non-governmental organisations).

I'd like to conclude by saying that the Republic of Croatia has put a lot of effort into establishing an efficient and comprehensive system for suppression of trafficking which is aligned with all international standards in this field, since the republic of Croatia is a party to all relevant international treaties. This is why we were able to ratify the Council of Europe Convention on suppression of THB, which we consider to be an important document and revolutionary document from the human rights perspective because a great deal of its provisions have the purpose to protect the human rights of victims, and not only to prosecute the perpetrators of this crime. We consider this to be of utmost importance because in the Republic of Croatia the human rights approach to suppression of trafficking in Human Beings was adopted. The main elements of this system are:

- A person is identified as a victim of trafficking on the basis of her testimony (and is presumed to be a victim until proven otherwise)
- There is no precondition for achieving the status of victim or to use the system of assistance and protection (as for ex. her testimony in the criminal proceedings)
- The victim is given protection and assistance according to the national system
- There is only voluntary repatriation.

As extremely important we also consider the fact that in the State Department Report on THB for 2007 the Republic of Croatia was classified as TIER 1 (along with some of the most developed European countries) meaning that it has reached a high standard of suppression of THB.

Fifth Session: Criminalising trafficking in human beings, investigation and prosecution

Measures contained in the Council of Europe Convention on Action against Trafficking in Human Beings: Mr David Dolidze, Anti-Trafficking Administrator, Gender Equality and Anti-Trafficking Division, Directorate General of Human Rights and Legal Affairs, Council of Europe

Ladies and Gentlemen,

Numerous speakers have already stated that the Council of Europe Convention on Action against Trafficking in Human Beings is a groundbreaking instrument of a comprehensive nature, which aims to protect the victims of trafficking in human beings and to prevent trafficking as such.

We also heard from this panel that the Convention is or can be placed in the domain of the international penal instruments. In my presentation I will argue that the Convention goes far beyond that domain.

By now it is clear that trafficking in human beings, which constitutes an offence to the dignity and the integrity of the human being, is a very serious crime and should be punished accordingly. However, it is completely erroneous to think that a mere criminalisation of trafficking would be an effective measure to eradicate this phenomenon.

The major goals of the Convention, as stipulated in Article 1, are "to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance to victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution". Therefore, even the provisions of Chapters IV and V on substantive criminal law and on investigation, prosecution and procedural law are drafted with a view to serving all the above purposes as effectively as possible. Consequently, one of the values of the Convention is that it expands and enriches the repressive nature of the criminal law by making it victim-centred.

Allow me to explain this further by a few examples from the Convention. First of all, quite naturally, the Convention requests the parties to criminalise the conduct defined by this legal instrument in Article 4. It contains a number of other "classic" criminal provisions, such as criminalisation of attempt and aiding or abetting, provisions concerning sanctions and measures etc., on which I will not dwell now.

The two very important, innovative provisions of substantive nature, are under Articles 18 and 26. Article 18 of the Convention obliges parties to consider criminalising the knowing use of services of a victim of trafficking. Article 26 confirms the victim-oriented nature of the Convention by stipulating that "Each party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities to the extent that they have been compelled to do so". This provision is also known as the "non-punishment clause".

Generally speaking, effective action against trafficking in human beings requires co-operation on the part of the victims. However, such co-operation is risky, as often traffickers use threats and violence against victims and their families even if those families have remained in the country of origin. In order to take account of this basic fact, the Council of Europe Convention contains several provisions designed to protect victims in investigations and court proceedings.

The first condition which must be met if victims are to cooperate with the police is that they must feel secure in the knowledge that they will not suffer twice, first at the hands of the traffickers and second at the hands of the police, by being prosecuted for offences that they were forced to commit as victims of trafficking.

The "non-punishment clause", read in the context of the purpose of the Convention, should allow victims to be free from prosecution for such acts as illegal presence in the country, illegal work, prostitution etc., in other words all those activities and consequences that were inflicted upon them as the result of being trafficked and/or exploited.

While not punishing victims should encourage them to go to the authorities, making an official complaint is still liable to be a hazardous exercise. That being so, paragraph 1 of Article 27 of the Convention provides that investigations and prosecution are not dependent upon the report or accusation made by a victim. In other words, offenders may be prosecuted *ex officio*.

This principle only applies, however, if the offence is committed within the territory of the party in which proceedings are to be instituted. If the offence is committed abroad and the party has jurisdiction to try it as it is encouraged to do in paragraphs 1 d and e of Article 31, a complaint or report may be required.

The aim is to stop traffickers from subjecting victims to pressure and threats in an attempt to deter them from complaining to the authorities or to get them to withdraw their complaint. Admittedly, however, such pressure exists even in countries where prosecutions can be brought *ex officio*.

Paragraphs 2 and 3 of Article 27 are designed to make it easier to file a complaint. Paragraph 2 allows victims to make a complaint before the competent authorities of their state of residence. If the competent authority to which the complaint has been made does not itself have competence, it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. The obligation here is merely to forward the complaint to the competent authority of the state on whose territory the offence occurred and does not place any obligation on the state of residence to institute an investigation or proceedings, even if it has the ability to do so.

Under paragraph 3, each Party is required to ensure non-governmental organisations and other associations which aim at fighting trafficking in human beings or protection of human rights the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

Articles 26 and 27 are thus designed to encourage and facilitate the filing of a complaint by the victim, while at the same time rendering it unnecessary, at least technically. Such measures, however, are by no means sufficient to ensure proper protection for victims and witnesses.

Article 28 of the Convention likewise seeks to address the issue of adopting witness protection measures. It requires the Parties to provide protection for the persons listed therein, namely victims, persons who co-operate with the authorities including collaborators with the judicial authorities, witnesses and, when necessary, members of their families as well as members of NGOs which seek to combat trafficking and/or protect victims' rights. Such protection is to be provided, when necessary, at any time, whether before, during or after prosecution.

Examples of such measures might vary from safeguarding the person's details held at the registry office, installing preventive technical equipment such as an alarm system all the way to additional protection measures, such as bodyguards, a change of identity, employment and place of residence, if the threat is particularly serious.

While Article 28 is concerned with extra-judicial protection for persons, another one, Article 30, deals with the procedural measures required to protect victims in criminal proceedings.

Unlike Article 28 which sets an objective and suggests, by way of example, ways in which this might be achieved,

Conclusion

To conclude, it should be emphasised that protection for victims of trafficking and the need for punishment are complementary rather than conflicting.

Article 30 is a framework provision, as it only states the objectives:

- protecting victims' private life and, where appropriate, their identity
 - victims' safety and protection from intimidation
- but leaves it to the Parties to decide, according to the particular nature of their domestic law, how these objectives are to be attained.

The Convention expressly refers to the situation of child victims, stating that Parties must take special care of their needs and ensure their rights to special protection measures. Once again, the Convention gives no indication as to what these specific measures should be.

The Convention does state, however, that the measures taken must respect the Convention for the Protection of Human Rights, in particular Article 6. For legislators, this means having to comply with two potentially conflicting requirements: victim protection and effective prosecution on the one hand and safeguarding the guarantees of fair trial on the other. The measures taken must maintain the balance between the rights of the defence and the interests of the victims and witnesses.

National law-makers can use various techniques to protect victims' private life and ensure their safety. They include:

1. *Non-public hearings*

The possibility of these is provided for in Article 6§1 of the ECHR.

2. *Audiovisual technology*

In some cases, for example, states allow the use of video-conferencing in court, the aim being to avoid any unwelcome influence that might deter victims and witnesses from making statements.

In states whose criminal proceedings are based on the inquisitorial system, audiovisual recording of hearings in the context of the preliminary investigation and the admission of such recordings as evidence may be permitted as well.

3. *Anonymous testimony*

Anonymous testimony is an especially tricky issue in that protection for threatened persons must go hand in hand with protecting the rights of the defence.

The European Court of Human Rights has stated several times that the ECHR does not preclude reliance, at the investigation stage of criminal proceedings, on sources such as anonymous informants but that subsequent use of anonymous statements as sufficient evidence to found a conviction is a different matter and can raise problems with regard to the Convention. Witness anonymity is therefore permissible at the investigation stage for reasons of expediency in so far as the information obtained in this way is to be used not as evidence but to enable evidence to be found.

Trafficking is an infringement of fundamental human rights. That is why states have a duty not only to treat traffick-

ing as a criminal offence in the abstract but also to ensure that it is actually prosecuted by means of effective investigations.

The only way to achieve the effectiveness of investigations is by providing adequate protection for the victims. Tailoring criminal proceedings to take account of the need for protection of victims is the only effective way to contribute to the successful conclusion of those proceedings.

In this context, the Convention provides a basic framework which will need to be implemented by each state with due regard for the specific features of its legal system and national traditions, but also, most importantly, with the aim of combating trafficking and protecting its victims.

Thank you very much!

Norwegian case-study: Mr Harald Bøhler, Detective Chief Inspector, Oslo Police District, Norway

Human trafficking and prostitution in Oslo – 2008

Advertisement market	apprx. 1500 individuals (?)
Oslo street market	apprx. 967 individuals (of which 500 Nigerians)

The Norwegian Governmental Plan of Action to Combat Human Trafficking (2006–2009)

The main goal is to fight all forms of human trafficking, locally and internationally.

Problem-oriented policing (POP) is the preferred method employed by the police for crime prevention in general. The

government also wishes this method to be more apparent in the fight against human trafficking.

Traditional police work

Identify and process crimes relating to trafficking of humans and procurement

- Extensive use of special investigative methods
- "Head" of organisations often abroad
- Exposing victims in court
- Interpretation costs

Leads to:

- Small scale convictions of individuals
- Focusing on the problem area

But – renders little effects on the marked as such.

Alternative strategies

- "Reflection period" limited to giving country
- Follow the money – identify whitewashing, seizure of all illegal income/goods
- Prosecute and close Internet sites and magazines soliciting prostitution

- Reduce apartments and massage parlours used for purposes of prostitution (OP Husløs)
- Alternative criminal cases against persons also known for procurement and human trafficking
- Criminalise purchasing of sex.

Sixth Session: Ensuring the effective implementation of measures against trafficking in human beings

The monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties) and other international monitoring mechanisms to ensure effective implementation of treaties: Mr Santiago Ripol Carulla, Professor of Public International Law, Faculty of Law, Pompeu Fabra University, Barcelona, Clerk of the Constitutional Court, Spain

I. The monitoring mechanism, a key aspect of the Convention

States' methods for monitoring the application of international law have developed significantly over recent years. First of all, they are now used not only in certain sectors such as disarmament and arms regulation but in all substantive areas of public international law. Furthermore, the growing link between international treaties and international organisations means that the bodies responsible for supervising compliance with treaties are growing in number and gaining in stability.

The Council of Europe Convention on Action against Trafficking in Human Beings adopts a comprehensive approach to a complex phenomenon and offers new solutions to an old

problem but one which, owing to globalisation, is extremely complex and widespread. That is why, as has been pointed out at this seminar, the Council of Europe Convention is described as a complex, innovative and modern international treaty.

These characteristics are also reflected in its monitoring mechanism, which is a key aspect of the Convention. As Ms Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe, said: "In our experience, proper monitoring is indispensable to the effectiveness, credibility and impact of our legal instruments".

II. Main features of the monitoring mechanism

A) *A mechanism made up of two bodies: the Committee of the Parties and the Group of Experts on Action against Trafficking in Human Beings (GRETA)*

Articles 36 to 38 – which constitute Chapter VII of the Convention – concern the monitoring mechanism, which consists of 2 bodies: the Committee of the Parties and the Group of Experts on Action against Trafficking in Human Beings, known as GRETA. The first of these two bodies, the Committee of the Parties, is made up of Representatives of all the States Parties to the Convention. It is therefore a political body with a general membership.

GRETA, on the other hand, is a technical body whose members are independent experts with a high level of competence in the various subject matters that come within the remit of the Convention, in other words human rights, assistance to and protection of victims, and action against trafficking in human beings. GRETA is a select body, in other words it com-

prises a smaller number of members than the total number of States Parties to the Convention. As stipulated in Article 36, GRETA is composed of a minimum of 10 and a maximum of 15 members. The Convention expressly states that it takes into account "a gender and geographical balance, as well as a multi-disciplinary expertise". The members of GRETA are elected for a term of office of 4 years, renewable once; they are elected by the Committee of the Parties by means of a procedure set out in Resolution 7/2008 of the Committee of Ministers of the Council of Europe, adopted on 11 June 2008. The Committee of the Parties held its first meeting on 5 December 2008. At this meeting it adopted its rules of procedure, appointed its chair and vice-chairs and elected the members of GRETA. Once it has been established, GRETA will adopt its rules of procedure.

This dual composition of the monitoring mechanism is important because

- 1) it allows all States Parties to take part in the process of monitoring the application of the Convention and, moreover, to do so on an equal footing,
- 2) which means that they are more closely involved in its implementation
- 3) without this detracting from the technical rigour and independence which is expected of any monitoring process.

B) *Evaluation rounds*

According to Article 38 of the Convention, the evaluation procedure concerns all the Parties to the Convention and is divided in rounds. It is for GRETA to determine: 1) the length of each round, 2) the articles or group of provisions to be examined during a specific round, and 3) the means to be employed in each evaluation.

Although they vary according to the nature of the obligations that are being monitored, the means to be employed are, generally speaking, the following:

- 4) adoption of a questionnaire for each evaluation round, which will serve as a basis for the evaluation. All Parties must answer this questionnaire, as well as any other request for information from GRETA;
- 5) checking the information supplied with civil society;
- 6) GRETA may subsidiarily organise country visits, in cooperation with the national authorities and the "contact person" appointed by the latter. During these visits, GRETA may be assisted by specialists in specific fields.

GRETA prepares a draft report containing its analysis of the way in which the state in question has implemented the provisions of the Convention. This report mentions both the achievements and the shortcomings in complying with the Convention. The report also includes suggestions and proposals concerning the way in which the Party concerned might address the problems identified.

This report is, however, provisional, given that it is transmitted to the Party for comment. GRETA takes these comments into account when establishing its final report, which is accompanied by a number of conclusions.

Both documents – the Final Report and the Conclusions – are sent to the Party concerned and to the Committee of the

Parties. Both documents are made public as from their adoption (together with any comments by the Party concerned).

The evaluation procedure is therefore a combination of a system of compilation of information, based on a questionnaire which States Parties are obliged to answer, and of on-site visits (of a subsidiary nature). The procedure also provides for dialogue between the state and GRETA. It is a twofold dialogue given that, on the one hand, it includes the dialogue relating to the monitoring round in question, whose purpose is to allow the state to explain its actions to the members of GRETA, and, on the other, it involves a more sustained dialogue, over a longer period, based on GRETA's conclusions and on the points that need to be re-examined during the next technical evaluation.

C) *Stages of the evaluation procedure*

As we have seen, the Convention therefore provides for a two-stage procedure: the first stage entails the gathering of information and an examination of the situation, while the second stage entails an appraisal of the situation, the formulation of proposals and dialogue with the country in question.

These two stages will be followed by a third, during which the Committee of the Parties will take political measures to ensure that states comply with the recommendations.

The Committee of the Parties can adopt recommendations to states concerning the measures they must take to comply with GRETA's conclusions; this may include setting a date for submitting information on their implementation. The Committee's recommendations may also have another objective: to encourage and promote co-operation with a State Party with a view to its future implementation of the Convention.

In this respect the evaluation procedure serves a dual purpose: not only to ensure proper compliance with the Convention but also to promote and improve the Convention itself. From this point of view, it is important that, under the Convention, states are informed of the steps they must take both by the technical body (GRETA) and by the political body (the Committee of the Parties). The latter's involvement presupposes the participation of all States Parties on an equal footing, which ensures that each state is more closely involved and constitutes a sort of peer review. This has proved to be very useful and effective in other spheres of international public law such as the international protection of the environment.

III. **Overview**

In the light of all the foregoing, it may therefore be said that the monitoring mechanism, like the Convention itself, is:

- complex: the evaluation rounds concern particular themes or areas of law and a variety of monitoring methods (questionnaires, consulting civil society, visits) are used,
- innovative: joint action by its technical and political bodies; combination of different monitoring techniques; de facto establishment of an ongoing three-party dialogue (state/GRETA/Committee of the Parties), and

- modern: it seeks to encourage rather than to penalise and provides for the publication of all final adopted documents.

There is no doubt that the Council of Europe, aware of the importance of the monitoring mechanism, put a lot of work into framing the provisions of Chapter VII. The great importance that it attaches to the Convention on Action against Trafficking in Human Beings led it to focus particular attention on these detailed and innovative provisions governing the mechanism on which its effectiveness depends.

Implementation of other measures against trafficking in human beings: Ms Gulnara Shahinian, United Nations Special Rapporteur on Contemporary forms of slavery

Dear Ladies and Gentleman,

I would like to congratulate the Council of Europe for this excellent conference and rich discussions and thank them for inviting me to take part in it. Being present at all negotiations of the Convention on Action Against Trafficking in Humans beings, I am really very happy that ratifications of the Convention have taken such a speedy pace and am sure that this important human rights and victim's rights centred Convention is becoming an integral part of anti-trafficking legislation of the European continent and, I am sure, an example for other non-member states. It is especially important that very soon the countries which have ratified will also have a dynamic, professional and independent body – GRETA – to monitor and assist them in bringing the actions against trafficking into a comprehensive co-ordinated process.

The architecture of the conference brought us very swiftly to discussion of the important mechanisms that provide the International legal documents with energy and vitality, create comprehensive long term co-operative relationships with implementers in the field – Monitoring mechanisms.

GRETA – part of the monitoring mechanism of the Convention that has been presented earlier – is an important body, composed of independent experts and its functions, as stated in the Convention, such as carrying out this evaluation with developed appropriate means, co-operation with civil society in requesting information, organising country visits, preparing a draft report on implementation of the provisions of Convention, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems, are vital tools.

The functions of GRETA and methods of work have many parallels with the functions of experts (or groups of experts) within Special Procedures of the UN Human Rights Council. "Special procedures" is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Currently, there are 30 thematic and 8 country mandates within Special Procedures. Special Rapporteurs are the monitoring arm of the UN.

Special procedures' mandates call on mandate holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates, or on major phenomena of human rights violations worldwide, known as thematic mandates. Various activities can be undertaken by special procedures, including responding to individual complaints, conducting studies, providing advice on technical co-operation at the country level, and engaging in general promotional activities.

There are four thematic mandates adopted at a certain period of time and thematically covering various aspects related to trafficking in humans or certain elements of the phenomenon: Mandate of Special Rapporteur on Violence against women, Mandate on SR on the human rights aspects of the victims of trafficking in persons, especially women and children, SR on child prostitution and child pornography and SR on modern forms of Slavery, its causes and consequences.

As Special Rapporteur on modern forms of Slavery I will concentrate my presentation on the content of my mandate, its working methods and tools of the mandate and co-operation with other thematic mandate holders and Special Procedures and other UN and regional mechanisms.

The mandate of Special Rapporteur on Contemporary forms of slavery is an eight month old baby within the system of UN Special Procedures and doesn't have an institutional history. The mandate has been established to replace the Working Group on Contemporary Forms of Slavery, which covered quite a wide array of issues: from child labour and child prostitution to trafficking and forced marriages, forced labour and traditional forms of slavery, cult or religion based practices.

The mandate of SR on Modern forms of Slavery takes as its basis the definitions set out in Article 1 (1) of the Slavery Convention of 1926 and Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956. Article 1 (1) of the Slavery Convention of 1926 defines slavery as 'the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised'. Under Article 1 (2) it goes on to define the slave trade as 'all acts involved in the capture, acquisition or disposal of a person with intent to reduce him (or her) to slavery'. The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956 used the definition of the 1926 Convention, but further extended and broadened it. The provisions of Article 1 oblige states to abolish certain institutions and practices analogous to slavery which is referred to as "servile status and includes debt bondage, serfdom, forced marriage, early marriage of children".

The Resolution establishing the mandate sets the working tools and states: that the Special Rapporteur will "focus principally on aspects of contemporary forms of slavery, which are not covered by existing mandates of the Human Rights Council; promote[ing] the effective application of relevant international norms and standards on slavery; request[ing], receive[ing] and exchange[ing] information on contemporary forms of slavery from governments, treaty bodies, special procedures, specialised agencies, intergovernmental organisations, and non-governmental organisations and other relevant sources, including on slavery practices and, as appropriate, and in line with the current practice, respond effectively to reliable information on alleged human rights violations with a view to protecting the human rights of victims of slavery and preventing violations; and recommend[ing] actions and measures applicable at the national, regional and international levels to eliminate slavery practices wherever they occur, including remedies which address the causes and consequences of contemporary forms of slavery, such as poverty, discrimination and conflict as well as the existence of demand factors and relevant measures to strengthen international co-operation". The Council also requested that the Special Rapporteur "give careful consideration to specific issues within the scope of the mandate and to include examples of effective practices as well as relevant recommendations; and takes into account the gender and age dimensions of contemporary forms of slavery".

Resolution 6/14 requests that the Special Rapporteur “co-operate fully and effectively with other existing human rights mechanisms and treaty bodies, including but not limited to the Special Rapporteur on trafficking in persons, especially women and children, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, The Special Rapporteur on violence against women, its causes and consequences, the Special Representative of the Secretary –General on children in armed conflicts and the Special Rapporteur on human rights of migrants, as well as the Board of Trustees for the United Nations Voluntary Fund on Contemporary Forms of Slavery and take full account of their continuation and avoid duplication of their work”.

In the same Resolution the Council requested the Special Rapporteur to submit an annual report to the Council on the activities of the mandate and measures and recommendations foreseen to combat and eradicate modern forms of slavery and slavery like practices and to protect the human rights of victims of modern slavery.

As has been seen the methods of work have been clearly stated in resolution and have quite a similarity with the terms of work of GRETA.

As was mentioned co-operation is the key tool in effective delivery of the work of the mandate: co-operation on data collection, research, getting evidence, collection and distribution of examples of best practices to eliminate slavery is foreseen on many levels: the national, regional and international, with special accent on co-operation on national level as vital to effectively monitor the causes and consequences of slavery, such as poverty, discrimination, conflict. Work on national level is also important to have a clearer picture of how the causes and consequences of slavery have an impact on men, women and children especially during country visits.

Country visits are an important tool in collecting information about best practice and provide relevant policy and/or practical recommendations to eliminate slavery. In countries continuous dialogue with individuals, governments, national human rights institutions, local civil society organisations and relevant UN country offices will be conducted. It has become a practice for two or more thematic and/or country Rapporteurs to conduct country visits. Mandate holders typically send a letter to the government requesting to visit the country, and, if the government agrees, an invitation to visit is extended. Some countries have issued “standing invitations”, which means that they are, in principle, prepared to receive a visit from any special procedures mandate holder. As of October 2008, 63 countries had extended standing invitations to the special procedures. After their visits, special procedures’ mandate-holders issue a mission report containing their findings and recommendations.

To analyse regional trends and their impact on the causes and consequences of slavery co-operation with regional organisations is necessary. At the regional level the mandate seeks to work with organisations including the Inter-American Commission on Human Rights, the African Union, the African Commission on Human Rights, the Council of Europe, Organisation for Security and Co-operation in Europe, and relevant UN regional offices.

Important is the co-operation with UN agencies, UN special procedures and treaty bodies, UPR, international NGOs,

academia and the private sector in order to ensure that minimum international standards are set and are in practice to prevent contemporary forms of slavery.

The research, as mentioned above, is important to develop action to raise awareness on what constitutes modern forms of slavery, as commonly shared understanding is almost non-existent.

Allegation letters is another important tool of co-operation of the Special Rapporteur. The Special Rapporteur takes action in cases where reliable allegations of slavery or slavery like practices are likely to, or have, already taken place. The Special Rapporteur communicates with governments or any other relevant actors such as private entities that may be of importance to the allegations that he/she will receive. Due to the broadness of the mandate and the need to avoid duplication of work, the Special Rapporteurs co-ordinate with other special procedures and, wherever possible, send joint communications. In 2007, more than 1 000 communications were sent to governments in 128 countries. 49% of these were joint communications of two or more mandate holders.

Promotion of effective use of international norms and standards on slavery is another area of work of the SR and as such the Special Rapporteur shall continue to have a dialogue with governments, various UN specialised agencies, treaty bodies, intergovernmental organisations, academia, private sector and non-governmental organisations in order to further understand the work currently being done on contemporary forms of slavery, create awareness about the mandate, and explore ways of complimenting each others work.

Joint initiatives with other existing human rights mandate holders, mechanisms, treaty bodies, governments, specialised agencies, intergovernmental organisations, NGOs and other relevant sources is another method of work of the SR. Human Rights Council Resolution 6/14 requests the Special Rapporteur to: “co-operate fully and effectively with other existing human rights mechanisms and treaty bodies, including, taking full account of their contribution while avoiding duplication of their work as the root causes and consequences of slavery have many synergies on areas that other existing human rights mechanisms and treaty bodies may be working on it is important to compliment the work of the existing mandate holders, mechanisms and treaties in order to avoid duplication. Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Racial Discrimination (CESCR), Committee on Economic, Social and Cultural Rights (CESCR), Committee on Migrant Workers (CMW) and Committee on the Rights of the Child (CRC).

In June 2007, the Council also adopted a Resolution 5/2, containing a Code of Conduct for special procedures mandate holders. At the Annual Meeting of special procedures mandate holders in June 2008, special procedures mandate holders adopted the Manual of the UN special procedures, which provides guidelines on the working methods of special procedures mandate holders. At the same meeting, an Internal Advisory Procedure to review practices and working methods, by which the Code of Conduct and other relevant documents, including the Manual of the UN special procedures were implemented to enhance the effectiveness and independence both of the special procedures system as a whole and also of individual mandate-holders, was adopted.

At its 8th session, the Human Rights Council adopted a Presidential statement concerning the terms of special procedures mandate holders and their compliance with the Code of Conduct.

In 2005 another important mechanism was established: the Co-ordination Committee (CC). The Committee's main function is to seek to assist co-ordination among mandate holders and to act as a bridge between them and the OHCHR, the broader UN human rights framework, and civil society, promot-

ing the standing of the special procedures system. The mandate of the CC has evolved since its creation, especially in respect to developments at the Human Rights Council and increasing dialogue and co-operation between mandate-holders.

As can be seen there is much similarity in the goals of our work, values, mechanisms and methods of work. Co-operation and co-ordination of our work is vital to eradicate slavery, its traditional and modern forms.

Thank you.

Closing addresses

Ms Marta Requena, Head of the Gender Equality and Anti-Trafficking Division, Executive Secretary to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe

Ambassador, Director, Ladies and Gentlemen,

I would like to begin my address at this closing session in the same way as I ended my address at the opening session, by repeating that the Council of Europe Convention on Action against Trafficking in Human Beings is a powerful legal tool and is part of a new generation of treaties which acknowledges the importance of cross-sectoral and pluridisciplinary action, based on measures for preventing trafficking, protecting the victims and prosecuting and punishing the perpetrators of such acts. It also sets up a specific mechanism for monitoring the application of these measures.

Although I cannot claim to draw any final conclusions, I would not like to close this seminar of interesting discussions on a subject as complex as trafficking in human beings without making a number of observations:

- The first is that, as the various contributions have shown, trafficking in human beings is an extremely complex phenomenon. In order to be effective, policies to combat trafficking must therefore be comprehensive (the 3 Ps). They must also involve a large number of different actors: government authorities, judicial and police authorities and the essential contribution made by NGOs and civil society to combating trafficking and protecting its victims.
- My second observation is closely linked to the first: given the large number of actors concerned, it is necessary to establish national bodies to co-ordinate the various activities and actors involved in combating this new form of slavery. And in this connection, I would like to point out that Article 29 of the Council of Europe Convention underlines the need for such co-ordination, normally within national governments, and that the co-ordinating body should not be confused with the monitoring mechanisms such as national rapporteurs or ombudspersons.
- My third observation concerns the need to distinguish clearly between trafficking in human beings and smug-

gling of immigrants. In the former case we are talking about the victims of a human rights violation and a crime, whereas in the latter case we are talking about people who, of their own free will, decide to cross a border. In order to combat trafficking it is essential that we identify the victims of trafficking and distinguish between them and illegal immigrants and prostitutes.

- My fourth observation concerns the importance of the quasi-judicial monitoring mechanism set up by the Council of Europe Convention. GRETA, the Group of Experts on Action against Trafficking in Human Beings, whose members will be elected by the Committee of the Parties this coming Friday, will not only play a key role in monitoring the application by the States Parties of the measures set out in the Convention, but also will establish precedents through its reports and the recommendations it makes to member states on how to solve existing problems both in their legislation and in their national policies. The aim is not to draw up "black lists" of states which fail to comply with the Convention, but to pinpoint shortcomings and propose solutions.

Finally, on behalf of the Council of Europe, I would once again like to express my gratitude to our partners in organising this seminar: the Spanish Ministry for Equality, the Spanish Ministry of Foreign Affairs and Co-operation and the Spanish Diplomatic School. However, I do not wish to close this seminar without giving special thanks to Santiago Ripol, Professor of Public International Law and Clerk of the Constitutional Court of Spain, who has acted as co-ordinator between all the joint organisers and without whom this seminar would not have been possible. I would also like to thank all the speakers for their excellent contributions to this seminar and, last but not least, to say thank you very much to our excellent interpreters who have made it easier for us to communicate with each other.

Many thanks to all of you.

Appendix 1: Programme

Tuesday 2 December 2008

09:00 Registration of participants

09:30 Opening Session

Opening addresses:

Ms Bibiana Aído Almagro, Minister for Equality, Spain

Ms María Jesús Figa, Subsecretary of State, Ministry of Foreign Affairs and Co-operation, Spain

Mr Ignacio Sagaz, Ambassador, Director of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation, Spain

Ms Victoria Scola, Ambassador at Large for the Spanish Chairmanship of the Committee of Ministers of the Council of Europe, Ministry of Foreign Affairs and Co-operation, Spain

Ms Marta Requena, Head of the Gender Equality and Anti-trafficking Division, Executive Secretary to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe

Chair: Mr Manuel Díez de Velasco, Professor of Public International Law, Former Judge of the Court of Justice of the European Communities, Former Magistrate of the Constitutional Court, Spain

10:30 First session: The Council of Europe Convention on Action against Trafficking in Human Beings

Overview of the measures contained in the Council of Europe Convention on Action against Trafficking in Human Beings

Ms Marta Requena, Head of the Gender Equality and Anti-trafficking Division, Executive Secretary to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe

The ratification process of the Council of Europe Convention on Action against Trafficking in Human Beings in the framework of the Spanish legal system

Ms Concepción Escobar Hernández, Legal Adviser, Head of the International Legal Consultative Service, Ministry of Foreign Affairs and Co-operation, Professor of International Law and International Relations of the National University of Distance Learning (UNED), Spain

The Council of Europe Convention and the Spanish National Action Plan against Trafficking

Ms Isabel Valdecabres, Adviser, Ministry for Equality, Spain

Questions and discussion

11:45 Coffee Break

Chair: Mr Francisco Aldecoa, Professor of International Relations, Complutense University of Madrid, Chair of the Spanish Association of Professors of Public International Law and International Relations

12:15 Second Session: Preventing trafficking in human beings

Multidisciplinary approach to preventing trafficking in human beings

Ms Klara Skrivankova, Trafficking Officer, Anti-Slavery International

Civil society's action to prevent trafficking in human beings

Ms Mila Ramos Jurado, President of Women in Conflict Zone, Spanish Network against Trafficking in Persons, Spain

Preventing trafficking in human beings, in particular for the purpose of labour exploitation

Ms Konstantia Nikopoulou, Representative of the Association Spanish Catholic Commission of Migration (ACCEM), Spain

Trafficking in human beings: a violation of Human Rights

Mr Cástor Díaz Barrado, Professor of Public International Law, University Juan Carlos I, Madrid, Spain

Questions and discussion

13:30 Lunch-cocktail hosted by the Council of Europe for all participants (Cafeteria of the Spanish Diplomatic School)

Chair: Ms Jill Heine, Legal Adviser, Amnesty International

15:00 Third Session: Protecting the victims of trafficking in human beings: identification, recovery and reflection period, residence permit

Identification, recovery and reflection period, residence permit – the Spanish model

Mr Manuel Páez Méndez, Chief Inspector, Ministry of Interior, Spain

Ms Marta González, Co-ordinator, "Proyecto Esperanza", Spanish Network against Trafficking in Persons, Spain

Identification, recovery and reflection period, residence permit – the Italian model

Ms Isabella Rauti, Head of Department for Equal Opportunities, President of the Counter Trafficking Interministerial Commission, Italy

Ms Alessandra Barberi, Co-ordinator of the Secretariat of the Counter Trafficking Interministerial Commission, Department for Equal Opportunities, Italy

Indicators for identification of victims of trafficking in human beings

Ms Kristin Kvigne, Assistant Director, Trafficking in Human Beings Sub-Directorate, OIPC, INTERPOL

Transnational v. internal trafficking in human beings: specific measures to identify victims of internal trafficking

Ms Maja Varoslija, Manager of Programme for Social Assistance of Victims, LA STRADA

Wednesday 3 December 2008

Chair: Mr Fernando Perpiñá Robert, Ambassador, Secretary General of the "Club of Madrid: Democracy that delivers", Spain

9:30 Fifth Session: Criminalising trafficking in human beings, investigation and prosecution

Measures contained in the Council of Europe Convention on Action against Trafficking in Human Beings

Mr David Dolidze, Anti-Trafficking Administrator, Gender Equality and Anti-Trafficking Division, Council of Europe

Norwegian case-study

Mr Harald Bøhler, Detective Chief Inspector, Oslo Police District, Norway

Spanish case-study

Mr Carlos Botrán Prieto, Commissioner, Head of the Central Brigade against Immigration Networks, Ministry of Interior, Spain

Questions and discussion

11:00 Coffee break

Chair: Mr Eugeni Gay, Magistrate of the Constitutional Court, Spain

11:30 Sixth Session: Ensuring the effective implementation of measures against trafficking in human beings

The monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (the Group of

Questions and discussion

16:45 Coffee break

Chair: Mr José Juan Moreso, Rector, Professor of Legal Philosophy, Pompeu Fabra University, Barcelona, Spain

17:15 Fourth Session: The need for national co-ordinating bodies

National co-ordinating bodies for action against trafficking in human beings – Spanish model

Ms Ana González, Adviser, Ministry for Equality, Spain

National co-ordinating bodies for action against trafficking in human beings – Norwegian model

Ms Birgitte Ellefsen, Project manager, National Co-ordination Unit for Victims of Trafficking, Norway

National co-ordinating bodies for action against trafficking in human beings – Croatian model

Ms Maja Bukša, Adviser, Government Office for Human Rights, Secretary of the National Committee for Suppression of Trafficking in Human Beings, Croatia

Questions and discussion

18:15 End of the first day

Experts on Action against Trafficking in Human Beings (GRETA and the Committee of the Parties) and other international monitoring mechanisms to ensure effective implementation of treaties

Mr Santiago Ripol Carulla, Professor of Public International Law, Faculty of Law, Pompeu Fabra University, Barcelona, Clerk of the Constitutional Court, Spain

Implementation of other measures against trafficking in human beings

Ms Gulnara Shahinian, United Nations Special Rapporteur on Contemporary Forms of Slavery

Questions and discussion

12:30 Closing Session

Closing addresses:

Mr Fernando Fernández-Arias Minuesa, Director, Office for International Relations, Ministry for Equality, Spain

Mr Ignacio Sagaz, Ambassador, Director of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation, Spain

Ms Marta Requena, Head of the Gender Equality and Anti-Trafficking Division, Executive Secretary to the Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe

13:00 End of the Expert Seminar

Appendix 2: List of participants

Council of Europe member states

Croatia

Ms Maja BUKŠA, Adviser in the Government Office for Human Rights, Secretary of the National Committee for suppression of Trafficking in Human Beings, Government Office for Human Rights, Zagreb

Mr Vanja PUDIĆ, Government Office for Human Rights, Zagreb

Ms Martina TENKO, Directorate for Multilateral Affairs, Department for Human Rights, Ministry of Foreign Affairs and European Integration, Zagreb

France

Mr Bruno CHICHE, Police Captain, Liaison Officer, SCTIP-Spain, General Bureau for Aliens and Borders, Madrid, Spain

Italy

Ms Isabella RAUTI, Head of Department for Equal Opportunities, President of the Counter Trafficking, Interministerial Commission, Rome

Ms Alessandra BARBERI, Co-ordinator of the Secretariat, Counter Trafficking Interministerial Commission, Department for Equal Opportunities, Rome

Moldova

Mr Fredolin LECARI, Captain of police, Head of Protocol Section, International Relational and European Integration Department, Ministry of Internal Affairs, Chisinau

Netherlands

Mr Roeland BÖCKER, Government Agent of the Netherlands to the European Court of Human Rights, Ministry of Foreign Affairs (DJZ/IR), The Hague

Representatives of the Host Country Spain

Ministry for Equality

Ms Bibiana AÍDO ALMAGRO, Minister for Equality

Mr Fernando FERNÁNDEZ-ARIAS MINUESA, Director, Office for International Relations, Ministry for Equality

Norway

Mr Harald BØHLER, Detective Chief Inspector, STOP – Project, Organised Crime Division, Oslo Police District, Oslo

Ms Birgitte ELLEFSEN, Senior Advisor, National Police Directorate, Organised Crime Section, Oslo

Portugal

Mr Manuel ALBANO, Co-ordinator of the National Action Plan Against Trafficking in Human Beings and National Rapporteur, Comissão para a Cidadania e Igualdade de Género, Porto

Switzerland

Apologised

Turkey

Ms Nilüfer ERDEM KAYGISIZ, Chief of Section, General Directorate of Consular Affairs, Ministry of Foreign Affairs of the Republic of Turkey, Balgat-Ankara

Ms Gökçen TÜRKER, Investigating Judge, General Directorate of International Law and Foreign Relations, Ministry of Justice of the Republic of Turkey, Bakanliklar-Ankara

Mr Muhittin YETİŞ, Chief Superintendent, General Directorate of Security, Ministry of Interior of the Republic of Turkey, Ankara

United Kingdom

Ms Helen ANDERSON, Assistant Director, Organised Immigration Crime Team, Central Policy Team, Policy and Strategy Group, UK Border Agency, Croydon

Ms Isabel VALLDECABRES, Adviser, Ministry for Equality
Ms Ana GONZÁLEZ, Adviser, Ministry for Equality

Ministry of Foreign Affairs and Co-operation

Mr Ángel LOSSADA, Secretary of State

Ms Victoria SCOLA, Ambassador at Large for the Spanish Chairmanship of the Committee of Ministers of the Council of Europe, Ministry of Foreign Affairs and Co-operation

Ms Concepción ESCOBAR HERNÁNDEZ, Legal Adviser, Head of the International Legal Consultative Service, Ministry of Foreign Affairs and Co-operation

Spanish Diplomatic School

Mr Ignacio SAGAZ, Ambassador, Director of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation

Mr Enrique RUIZ MOLERO, Deputy Vice-Director, of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation

Mr Jacobo GONZÁLEZ-ARNAO Y CAMPOS, Deputy Director of the Spanish Diplomatic School, Ministry of Foreign Affairs and Co-operation

Mr Francisco ODA ÁNGEL, Deputy Director, of the Master on Diplomacy and International Relationships, Spanish Diplomatic School

Mr Gustavo FERNANDEZ-MAZARAMBROZ ARES-PACHAGA, Deputy Assistant, Spanish Diplomatic School

Ministry of Interior

Mr Carlos BOTRÁN PRIETO, Commissioner, Head of the Central Brigade against Immigration Networks, Ministry of Interior

Ms María MARCOS SALVADOR, Director of the Centre of Intelligence against Organised Crime (CICO), Ministry of Interior

Mr Manuel PÁEZ MÉNDEZ, Chief Inspector, Ministry of Interior

Mr Fernando MORENO, Head of section, Prospective Intelligence (CICO), Ministry of Interior

Other Spanish participants

Mr Castor DIAZ BARRADO, Professor of Public International Law, Juan-Carlos I University

Mr Manuel DíEZ DE VELASCO, Professor of Public and Private International Law

Mr Eugeni GAY, Magistrate, Constitutional Court

Mr José JUAN MORESO, Rector, Professor of Legal Philosophy, Pompeu Fabra University

Mr Antonio PASTOR, Professor, Complutense University

Mr Fernando PERPIÑÁ ROBERT, Ambassador, Secretary General of "Club of Madrid: Democracy that delivers"

Mr Santiago RIPOL CARULLA, Professor of Public International Law, Faculty of Law, Pompeu Fabra University, Barcelona Clerk of the Constitutional Court

Ms Gentiana SUSAJ, Consultant on Human trafficking

Ms Verónica María TERESI, Researcher, University Institute of Development and Co-operation, Complutense University of Madrid

International Organisations

United Nations

Ms Gulnara SHAHINIAN, United Nations Special Rapporteur on Contemporary Forms of Slavery, Yerevan, Armenia

INTERPOL

Ms Kristin KVIGNE, Assistant Director, Trafficking in Human Beings Sub-Directorate, O.I.P.C. – INTERPOL, Lyon, France

Non-Governmental Organisations

Amnesty International

Ms Jill HEINE, Legal Adviser, International Legal and Organisations Program, Amnesty International, London, United Kingdom

Ms Virginia ALVAREZ SALINAS, Responsible for Institutional Relations and Home Affairs, Spanish Section, Amnesty International, Madrid, Spain

Anti-Slavery International

Ms Klara SKRIVANKOVA, Trafficking Programme Officer, Anti-Slavery International, London, United Kingdom

KOK

Ms Ulrike GATZKE, German Nationwide Activist Co-ordination Group, Combating Trafficking in Women and Violence, against Women in the Process of Migration, Berlin, Germany

La Strada International

Ms Maja VAROSLIJA, Social Assistance Manager, Open Gate – La Strada International, Skopje, "the former Yugoslav Republic of Macedonia"

Association Spanish Catholic Commission of Migration (ACCEM)

Ms Konstantia NIKOPOULOU, ACCEM Barcelona, Barcelona, Spain

Ms Ane AZKUNAGA ASENCOR, Technical Advisor for International Division, ACCEM, Madrid, Spain

Médicos del Mundo

Ms Susana FERNANDEZ, Director of the Social Mobilisation Department, Medicos del Mundo, Madrid, Spain

Mujeres en Zona de Conflicto

Ms Inmaculada CABELLO, Vice-president, Women in Conflict Zone, Spanish Network against Trafficking in Persons, Córdoba, Spain

Ms Carla CINGOLANI, Responsible of Anti-trafficking programs in Women in Conflict Zone, Spanish Network against Trafficking in Persons, Córdoba, Spain

Ms Mila RAMOS JURADO, President, Women in Conflict Zone, Spanish Network against Trafficking in Persons, Córdoba, Spain

Proyecto Esperanza

Ms Marta GONZÁLEZ, Co-ordinator, Spanish Network
against Trafficking in Persons, Madrid, Spain

Students of the Spanish Diplomatic School

Abdelouahab Reddam, Ahmed
Aboubacar Djanaba, Drame
Ahis Gandia, M^a Teresa
Alarcon Lopez, Alberto
Alcocer, Liliana
Altagracia Ortiz, Ramon Antonio
Amatrian Busto, Carlos
Angula Sanchez, Phillipine
Ayomo Nzang, Isabel Oyana
Bai, Rujian
Baykina, Natalia
Beas Estevez, Alba Rosa
Bellon Gomez, Rafael
Berenguer Labaig, Maria
Bergmuller, Florian
Boceta Sanchez, Isabel
Bocianova, Katerina
Bondaruk, Katarzyna
Borrell Mayeur, Juan
Boughlala, Khoulood
Boyden Thomas
Bracero Carretero, Jose Miguel
Bravo Espinoza, Gustavo Edwin
Cabreira Abella, M^a Carmela Teresa
Cajar Grimas, Erick
Carvalho, Raimundo
Castillejos Alsina, Javier
Castillo Blancas, Marco Antonio
Chen, Lin
Chin, Siew Fei
Contreras García, Patricia
Corral Hernandez, David
Cristina Alexandru, Burian
Da Silva Lyrio, Bruna
Debougna Ingouma, Hervé Sosthene
De La Torre Marin, Fco. De Borja
Del Rio Sanchez, Maria Del Rocio
Demir, Çigdem
Egea Barrado, Roberto Jesús
Engonga Obono, Mari Cruz
Eribe Borico, Celina
Escobar Guillen, Dimas Alexi
Espinoza Morillo, Luis Alberto
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Garcia Romero, Liz Nadine

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Gonzalez Palacios, Daniel
Gonzalez Suarez, Angel
Gonzalez Veiguela, Lino
Granja Moncayo, Marielena
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Grigorjeva, Jekaterina
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Han, Nathalie
Hatem Inaam, Mohamed
Henry Mantilla, Paula
Hernandez Sanchez, Andrea
Hernandez Vallejo, Jose Maria
Hervas Perez, Maria
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Knetig, Alex
Kondo, Yasushi
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Lozano Guillen, M^a Pilar S.
Lozano Lopez, Santiago
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Lukacsi, Judit
Lukashevich Perez, Olga Victoria
Lustyk, Ireneusz
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Magarzo Sobrino, Andres
Manjavacas Mendez, Vicente
Marcelino Checa, Patricia
Martin Castrillon, Juan Maria
Martin Senderos, Guillermo
Martinez Calle, Ines
Martinez Carreño, Francisco
Marynenko, Pablo
Mateo Jeronimo, Ferran
Mateos Muñoz, Miguel
Mendiola Lopez, Susana Maria
Minga Ndjondo, Romain
Mohammed Ali Ebrahim, Wahib
Naranjo Escobar, Cesar
Nguema Eneso, Agustin Gaspar
Nguyen Huu, Hoang
Noori Noorestani, Abdullah
Nuñez Peñas, Vanessa
Olmedo Santos, Dora Elisabeth
Orosz, Sa'ra
Osete Vidal, Francisco
Pacheco Diaz, Jose Carlos

Pastor Andrade, Yina Pastor
Porras Gomez, Antonio-Martin
Portoles Fontanals, Lucia
Quezada Borel, Macarena
Rachel, Franziska
Ramirez Mejia, Flor Maria
Robles Mancera, Oscar
Rodriguez Lopez, Nieves
Rodriguez Vizcaino, Adriana
Rojas Romero, Nancy Lilliana
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Wijayani, Erly
Yingling, Rachel
Yusupova, Gulasal

Secretariat of the Council of Europe

Directorate General of Human Rights and Legal Affairs

Ms Marta REQUENA, Head of the Gender Equality and Anti-Trafficking Division, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings

Mr David DOLIDZE, Administrator, Gender Equality and Anti-Trafficking Division

Ms Yvette SCHILLER, Administrative Assistant, Gender Equality and Anti-Trafficking Division

Interpreters

Ms Myriam NAHÓN GUILLÉN

Mr Stephen CARLIN

Trafficking in human beings is the modern form of the old worldwide slave trade. It treats human beings as a commodity to be bought and sold. The victims are submitted to sexual exploitation, as well as to forced labour, for example, in the agricultural sector or in sweatshops, for a pittance or nothing at all. Trafficking in human beings directly undermines the values on which the Council of Europe is based: human rights, democracy and the rule of law.

The Council of Europe considered that it was necessary to draft a legally binding instrument which goes beyond recommendations or specific actions. On 3 May 2005, the Committee of Ministers adopted the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197). The Convention was opened for signature in Warsaw on 16 May 2005, on the occasion of the 3rd Summit of Heads of State and Government of the Council of Europe and entered into force on 1 February 2008.

This new Convention, the first European treaty in this field, is a comprehensive treaty focussing mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers.

The entry into force of the Convention enabled the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention, consisting of the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

This expert seminar, organised by the Council of Europe in co-operation with the Spanish Ministry for Equality, the Spanish Ministry of Foreign Affairs and Cooperation and the Spanish Diplomatic School under the Spanish Chairmanship of the Committee of Ministers of the Council of Europe, aimed at providing technical assistance to states in the implementation of the measures contained in the Convention as well as promoting further ratifications of the Convention by states that have not already done so.

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