

Ladies and Gentlemen,

Let me say to start with that it is a great honour for me to speak at this panel as a representative of the country currently holding the presidency of the Council of Europe.

As has been rightly stressed by previous speakers the Council of Europe is a unique international organisation when it comes to defining – and what is more – implementing human rights standards. There is no other legal system in the world which has a comparable track record of helping to make human rights standards prevail – not only on paper but in real life.

This is why a focus on the “Council of Europe and its response to Human Trafficking” is very timely as a side event to the meeting of the Commission on the Status of Women.

As we all know human trafficking is one of the newly re-emerged scourges of our time, an affront to the fundamental values of our civilizations, a gross violation of human rights – and one which hits women and girls considerably more than men. Indeed according to the UNODC Global Report the majority of identified victims of human trafficking are women and girls (59 % women and 17 % girls compared to 14 % men and 10 % boys). The EU Eurostat report contains similar figures (68% women, 12% girls, 17% men, 3% boys).

These figures can be explained fairly easily: Human trafficking comes in various forms, the most frequent of which is sexual exploitation – with about 80% female victims. It seems – that with the economic crises in many countries and the unfolding of globalization, labor exploitation, as another variation of human trafficking, is on the rise: there are a few classical business sectors where labour exploitation can be spotted: domestic work, cleaning, catering, care for the sick and elderly, a variety of murky agencies - like marriage agencies, model agencies and employment agencies of all kinds. In all these cases, women constitute again a majority of potential victims. Of course it has to be said that there are other business sectors mentioned in the context, like agriculture and construction where potential victims are more likely to be male.

All these business sectors have in common that they offer legal employment opportunities for unskilled workers, often migrants from poor economic backgrounds and with little formal schooling and next to no knowledge of the local language. Ideally these jobs could be advantageous for both sides, but in practice they often entail the risk of exploitation.

Human trafficking is a highly complex phenomenon – and we often find that the perpetrators are handling this complexity much more resourcefully than state actors who try to combat human trafficking. So one thing is obvious – human trafficking needs a multi-pronged response and that is exactly what the CoE Convention is trying to ensure – incidentally it is open to all countries – since non-member States of the CoE can accede to it. The CoE convention and as a result the CoE action is multi-faceted along the lines of the famous 4 Ps: trying to prevent the phenomenon of THB, empowering potential victims by putting their rights at the center of all measures, supporting victims, prosecuting perpetrators and capitalizing on international coop in order to make the response more effective. And all of this needs to be done in a coordinated way and with a gender perspective in mind, if efforts are to be effective.

The unique feature about the CoE response to THB is GRETA, the Group of Experts on Action against Trafficking in Human Beings which no doubt will be further elaborated on by co-panelists much more involved in GRETA's work than I am. However let me say this on behalf of one of the countries which have been monitored by GRETA fairly recently: GRETA is not an inspection or auditing team that any country has to be afraid of, but a most precious source of assistance and good advice: it helps to find solutions to a country's problems, but moreover it also draws attention to transborder phenomena and international trends as well as best practices – for example when it comes to devising measures for vulnerable groups, like minorities, children, mentally disabled people, refugees, etc.

International cooperation is paramount when it comes to combatting THB. Against this background it is an excellent initiative that the UN Commission on the Status of Women is being used by this side event as a starting point for building a bridge to other internat. organisations like the Council of Europe.

When Austria started preparing her presidency of the Council of Europe, we equally focussed on reaching out to other organisations busy tackling the same subjects. In this context we had the idea of organizing a major conference in Vienna together with OSCE, an internat. organisation very active in this area which – as you know - is based in Vienna.

It was the first conference of its kind - and the largest conference the Austrian presidency of the CoE will have organized during its tenure. But what is more: the conference was not conceived as a one-off event: its legacy is a framework for further Joint Action in the areas where increased cooperation was found by the conference to be necessary.

These areas include a number of further avenues for co-operation with a clear focus on women as the majority of victims and potential victims. To mention just a few of them: discouraging the demand that fosters trafficking in human beings while working to eliminate discrimination against women i.a. by education measures, information campaigns, but also by taking concrete measures at the work place, ensuring equal opportunities not only for economic participation, but also for access to social protection, protecting victims by taking care of their individual needs, prosecuting the perpetrators while making sure that victims who have been compelled to get involved in unlawful activities are not punished.

Finally the conference clearly stated that there is a need for increased cooperation by all relevant actors, including government, prosecution and law enforcement, NGOs and other relevant civil society groups, trade unions and the private sector.

All this sounds like a very tall order and at the same time – maybe - as somewhat theoretical. One literally feels dwarfed by the dimension of the problem and the corresponding enormity of things to do.

One solution is to say: one has to start somewhere. In this spirit I would like to present a way of acting which my ministry – the Austrian foreign Ministry - has devised in order to tackle the very manifestation of THB which it is most likely to come across in its daily work – and that is slavery or slavery-like conditions in diplomatic or other international households benefitting from immunity.

The problem is not very frequent – certainly much less voluminous than the problems to be found for example in building sites for large international sports

events or for mass tourism in all its forms let alone international forced prostitution.

Still - domestic servitude in households of persons enjoying international privileges and immunities - when it occurs - is a grave violation of human rights in social circles which are not only privileged in a very specific way, but also particularly visible because we are talking about personalities due to represent their countries – or as it were internat. organisations. We are talking about a group of people who in a way are in a sort of limelight while working for the public good. It just so happens that these people also benefit from diplomatic immunity which some of them misinterpret, thinking that they can act as they please, while the Vienna Diplomatic Convention clearly states that they are subject to the law of the land where they serve.

Over many years authorities and courts have turned a blind eye to the problem, thinking that there was nothing they could do about this very specific protection gap.

It is a very positive development that the tide seems to be turning. Today an increasing number of foreign ministries – including my own – are determined to practice a zero-tolerance-policy in this area. Let me describe to you how my ministry goes about the problem – which however is not important in terms of quantity: about 8.000 persons (i.e. 3.000 diplomats or high officials of international organizations and their spouses) are theoretically entitled to apply for special residence permits for their private domestic staff, yet the actual number of such legitimation cards only amounts to about 300 and only a handful of cases per year are brought to the attention of the Foreign Ministry as being problematic.

The rights violations in question can include a wide variety of cases, ranging from failure to pay the full wages or restrictions of personal freedom, e.g. by withholding passports, to extremes like denying food and basic hygiene, committing outright physical or sexual violence or imposing slave-like conditions.

Given the fact that Austria is a host country to a number of important international organisations, the Foreign Ministry is among those who have adopted a policy of zero tolerance towards such cases. Given the informal nature of domestic work and the privileged status of the employers in question, enforcing the law can, however, prove difficult.

A strong focus has therefore been put on preventive measures:

The Foreign Ministry has issued a number of circular notes recalling to potential employers that Austrian social and labour laws are fully applicable to the employment of domestic workers. Potential employers therefore have to present a number of documents: These include the working contract signed by both the employer and the employee, a plan of the employer's residence showing a room assigned to the employee with a window, a lock and a lockable cupboard, proof of insurance coverage of at least 30,000 € for all health and accident risks, valid in Austria and all Schengen countries for the entire duration of the stay and an affidavit by the employer guaranteeing the cost of a possible repatriation.

The most recent addition to this list of required documents includes proof of the employee's own bank account (no other proof of payment is accepted any longer), to which the minimum salary (of a little more than 1100 €, 15 times per year, has to be credited) as well as proof of the employee's own banking card.

Non-compliance with one of these prerequisites results in the denial of a legitimation card.

In case the legitimation card is granted (for a maximum period of one year at a time), the employee has to appear personally at the Foreign Ministry without any accompanying person, in order to pick up this document. The ministry uses this opportunity to inform the employees in a private interview about their rights and - where appropriate - about the existence of NGOs capable of providing help and support in case of need. During these interviews the ministry also tries to spot possible infringements.

As an additional security measure non-Austrian domestic workers have to register personally with their consulates in Austria.

In case these measures prove insufficient and a case of violation is suspected, the Foreign Ministry will invariably start an investigation - usually by inviting the employee to come for an interview in the presence of an NGO representative specialised in taking care of victims of trafficking in human beings and ready to help if necessary.

Any substantiated suspicion is reported to the Ministries of the Interior and/or Justice. In such cases, the Foreign Ministry systematically asks embassies and international organizations to lift the employer's immunity. Likewise public prosecutors were asked never to discontinue the investigation of a case merely on the grounds of the employer's immunity. Instead the Foreign Ministry suggests to examine the level of immunity involved (suspects often wrongly claim that they enjoy full immunity) and to establish the facts with a view to preparing a possible court procedure at a later time.

In case the immunity is not lifted and the court case cannot be further pursued for the time being, the Foreign Ministry tries to mediate between the employer and the employee (or his/her consulate) in order to ensure some kind of compromise or compensation. Thus far, none of the employers in question had to be declared persona non grata or made subject to the consultation procedure provided for by the headquarters agreements in the case of an abuse of a privilege or an immunity, even though one diplomat got close to such a scenario (in the end, the sending state decided to recall the person, presumably in order to pre-empt any such procedure) – which was no doubt a kind of punishment.

International practice shows a need for exploring further means of enforcing legal provisions in such cases. The most interesting models existing at this stage include the ombudspersons existing in some international organisations.