



Speech by Nils Muižnieks
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**Council of Europe - OSCE Conference
“Not for Sale – Joining Forces against Trafficking in Human Beings”**

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Excellencies, Ladies and Gentlemen

It is a great pleasure for me to be with you today and to learn from all the wonderful experts present at this conference on action against trafficking in human beings.

As the Council of Europe Commissioner for Human Rights, my role is to assist governments in meeting their human rights obligations. When it comes to trafficking in human beings, for me this means both (i) protecting the rights of trafficked people whose dignity has been violated and (ii) preventing trafficking by focusing on the human rights of certain groups vulnerable to this phenomenon, such as women, children, minority groups and migrants.

In terms of action against trafficking within the Council of Europe, there is a clear lead by the Group of experts on action against trafficking in human beings ([GRETA](#)) which just celebrated its fifth anniversary. The creation of new and strong monitoring mechanisms such as GRETA is a major achievement in times of budgetary cutbacks. The first five years of GRETA's existence have already proven to be very fruitful. This is promising for the future, in particular for its second round of evaluation of the implementation of the Council of Europe [Convention](#) on Action against Trafficking in Human Beings starting this year.

Trafficking in human beings is part of a **broader human rights** picture, with which I am confronted during country visits. I would like to mention a few specific aspects, which I think should be kept in mind when taking action against trafficking.

Firstly, as concerns migrants and in particular migrant workers,

Trafficking in human beings is very often closely linked with **migration**. Opening channels for legal migration and protecting the rights of migrants is essential when it comes to preventing trafficking. The better the rights of migrants, and in particular migrant workers, are safeguarded, the stronger their protection against trafficking and exploitation. Therefore it is important that member states of the Council of Europe accede to the 1990 International [Convention](#) on the Protection of the Rights of all Migrant Workers and Members of their Families. This instrument is the most comprehensive international treaty on migrant workers reaffirming basic human rights standards for regular and irregular migrants. To date it has been ratified only by a few European states, even though many European countries actively participated in its drafting.

I also welcome the recent positive steps in the field of the protection of migrant workers resulting from the entry into force in September 2013 of the ILO [Convention](#) 189 concerning decent work for domestic workers, ratified only by two European States (Italy and Germany)

so far. By reinforcing the rights of domestic workers, including migrant domestic workers, the Convention helps to prevent their exploitation.

In formulating policies, States should acknowledge that irregular migrants come and work in Europe because there is a demand for cheap labour for jobs that Europeans do not want to do. The belief that migration flows can be halted or fully controlled is an illusion. Unfortunately, this illusion is to the benefit of smugglers and traffickers and, in the end, of employers who exploit migrant workers.

Speaking more particularly about the detention of migrants,

A human-rights based approach to combating trafficking implies that states should not prosecute and detain victims of trafficking for violation of immigration laws, as clearly stated in the United Nations Recommended [Principles](#) and Guidelines on Human Rights and Human Trafficking.¹

Detention is particularly harmful for victims of trafficking, already significantly traumatised, sometimes because they were deprived of their freedom of movement by the traffickers and those exploiting them. Detention also equates victims of trafficking with the smugglers, the traffickers and the employers who exploit them thereby contributing to the ‘criminalisation of migrants’ which provides the frame for many human rights violations in Europe.

Even administrative detention of migrant victims of trafficking is highly problematic and should be avoided. Member states should follow the [Resolution](#) 1637 (2008) of the Parliamentary Assembly of the Council of Europe, calling on states not to detain migrant victims of trafficking in regard of their particular vulnerable situation.²

With regard to other vulnerable groups of persons,

Protecting the rights of **stateless persons** is one of the priorities I have set for my mandate as Commissioner for Human Rights, not least because stateless persons, and in particular children, are extremely vulnerable to exploitation and human trafficking.³ Like GRETA, I believe that birth registration and access to documents for all persons are essential components of any valuable prevention strategy against trafficking.

The **economic crisis** has had dire consequences on vulnerable groups, in particular on children and young persons. During my country visits, in particular to Spain and Portugal, I noted with concern that an increasing number of children are dropping out of school to find employment and support their families. This raises serious human rights issues and in particular the sad re-emergence of child labour and exploitation.⁴ Therefore, states and other relevant stakeholders should be particularly attentive whenever measures to cope with an economic crisis are taken, and in particular austerity measures, and make sure that they do not impact negatively on the human rights of vulnerable people.

¹ See Guideline 2(5) according to which states should consider ensuring that “trafficked persons are not prosecuted for violations of immigration laws (...) and Guideline 2(6), according to which states should consider ensuring that “trafficked persons are not, in any circumstances, held in immigration detention or other forms of custody”.

² Resolution 1637 (2008) of the Parliamentary Assembly of the Council of Europe on Europe’s boat people: mixed migration flows by sea into southern Europe, which stresses the alarming level of exploitation by traffickers and smugglers of persons seeking to enter Europe by irregular means and calls on member states to “respect the principle that vulnerable persons should not be detained”, knowing that this includes victims of trafficking.

³ See Commissioner for Human Rights, Human Rights [Comment](#): Governments should act in the best interest of stateless children, 15 January 2013.

⁴ See Commissioner for Human Rights, Human Rights [Comment](#): Child labour in Europe: a persisting challenge, 20 August 2013.

I have at least two additional concerns regarding **children's rights** that I would like to raise with you.

Firstly, as documented in GRETA's reports, children are often considered as **perpetrators** of petty crime by law enforcement officials, while they are in fact **victims** of exploitation by the real criminals. This is particularly disturbing. Child victims of trafficking should always be identified as such by law enforcement officials, prosecutors and judges. This means that one should look beyond appearances in the field of juvenile justice in order to be able to apply the non-punishment provision of the Council of Europe Anti-Trafficking Convention (Article 26) to victims of trafficking who have been compelled to act illegally by their traffickers.

However, this is not sufficient; child victims of trafficking should receive adequate **assistance** tailored to their specific needs. Media sometimes report on joint efforts of police forces from several states in dismantling criminal networks that exploit children for forced begging or stealing. Such operations are to be welcomed but states need to pay more attention to the fate and rights of the children who have been exploited by such criminal rings. I am also concerned about reports of disappearances of children from institutions such as accommodation centres for unaccompanied minors in several countries.⁵ This is not acceptable. Measures should be taken in consultation with children's rights experts to prevent such disappearances. These children must be protected against traffickers and receive all the support they require.

Excellencies, Ladies and Gentlemen

We should also not overlook the link between action against trafficking and combating racism and xenophobia. The more we let racism and intolerance prevail, the more we provide some sort of justification in people's minds for trafficking and exploiting persons belonging to certain groups such as Roma and non-European migrants. When political parties, media and others present them as a threat to security and well-being, they increase their vulnerability to exploitation. When you dehumanise people, as racist speech and racial discrimination still do in Europe today, you render them much more vulnerable to trafficking.

At the same time, it is essential that in the fight against trafficking, racist prejudice against some groups of persons are not perpetuated. The European Union Fundamental Rights Agency noted in a [report](#) that some references to 'Roma criminality' in the media in the context of trafficking were not supported by data but were likely to have an impact on Roma stereotypes and prejudice.

Negative prejudice and stereotypes can also nullify efforts to protect victims of trafficking belonging to some groups and this includes not only ethnic minorities but also women. GRETA stresses in its reports that victims are sometimes confronted with prejudice and inadequate behaviour on the part of police officers, prosecutors or judges. This is of course very problematic and all measures of awareness raising and, in the most serious cases, of sanctions should be implemented in that regard.

Let me conclude by linking the fight against trafficking to that against corruption

Trafficking can flourish when there is corruption within law enforcement bodies, justice and state institutions in general. There are disturbing reports according to which police officers are sometimes the main actors or at least complicit in trafficking offences. Often, one of the main means for traffickers to control their victims is by threatening them with handing them to the police if they show any sign of rebellion. Any public officials suspected of being implicated in trafficking-related offences must be duly sanctioned to allow victims of trafficking to rebuild their trust in police and the public authorities in general.

⁵ See Commissioner for Human Rights, Human Rights [Comment](#): Decision concerning Migrant children must always be based on their best interests, 19 September 2013.

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I am gratified that action against trafficking is high on the agenda of the Austrian Chairmanship of the Council of Europe and the Swiss Chairmanship of the OSCE with this event. In your future action, it is essential that you continue to involve, consult, and listen to national human rights institutions and human rights NGOs in order not to lose sight of the fact that the fight against trafficking should always be based on the governing principle of the dignity of all human beings.

Thank you.