



Organization for Security and Co-operation in Europe

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10 Jahre Europaratskonvention gegen Menschenhandel – Stillstand oder Fortschritt?

Wie effektiv sind die Maßnahmen für die Betroffenen in Deutschland

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On behalf of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Ambassador Madina Jarbussynova, thank you for the invitation to speak to you today on the occasion of the KOK Symposium, taking stock of 10 years of anti-trafficking work since the opening for signature of the Council of Europe Convention, as well as on the eve of the EU anti-trafficking day. The OSCE has had the pleasure to work with K.O.K, and members of its network such as Ban Ying, on several occasions. We value the important role that K.O.K is playing, which is a good example of a coordination mechanism that deals with all forms of human trafficking.

Dr. Baerbel Uhl, who led the “datACT-data protection in anti-trafficking action” project at KOK, has been involved in the OSCE’s and ODIHR’s work over many years, and was a speaker at the 2014 OSCE *Alliance against Trafficking in Persons*. Dr. Uhl is also notably one of the authors of the first handbook on National Referral Mechanisms, a concept developed by OSCE’s ODIHR Office, and now used all over the world.

K.O.K and the OSCE were partners in the project COMP.ACT (European Action for Compensation for Trafficked Persons). The OSCE’s ODIHR was member of the Advisory Board and my office provided a political support to the project and its activities. In 2012 in Vienna, we hosted a Special Event to the 12th Alliance against Trafficking in Persons Conference on “Access to Justice, making compensation a reality for trafficked persons” organized by Comp.Act. I

hope that this gathering will help move access to justice one more step towards being a reality.

I am honoured to be here in Berlin on the eve of the German Chair-personship in Office of the OSCE, and 25 years after the re-unification of your country. I hope that the outcomes of this conference might inform the priorities of the German OSCE Chairmanship in 2016, and my office and I look forward to our continued co-operation with the German anti-trafficking stakeholders.

For those of you who are not familiar with our Organization, let me provide a brief overview of our history and focus. With 57 participating States spread across an area that stretches from Vancouver in Canada to Vladivostok in the Russian Federation, we are **the world's largest regional security organization**. We trace our origins to the early 1970s during the Cold War, and the Helsinki Final Act of 1975 that created the Conference on Security and Co-operation in Europe, which later became the Organization for Security and Co-operation in Europe.

The OSCE has a comprehensive approach to security that encompasses politico-military, economic and environmental, and human aspects. It therefore addresses a wide range of security-related concerns, from arms control, confidence- and security-building measures to human rights, national minorities, democratization, and economic and environmental activities. All 57 participating States enjoy equal status, and decisions are taken by consensus on a politically,

but not legally binding basis. The OSCE has expanded its mandate and geographical reach over time, and we welcomed our most recent participating State, Mongolia, in 2012.

The position of Special Representative and Co-ordinator for Combating Trafficking in Human Beings was established in 2003 as a high-level mechanism to promote the implementation of the OSCE Action Plan and other commitments on combating trafficking in human beings in all of our 57 participating States. The current Special Representative, Ambassador Jarbussynova of Kazakhstan, took Office as the fourth Special Representative on September 1, 2014. The mandate of the Special Representative is to work with the representatives of Governments and Parliaments, as well as the judiciary of participating States; to catalyze the exchange of best practices; to provide technical assistance when requested, especially in the field of training and capacity building; to report on anti-trafficking developments in the OSCE region and to raise the public and political profile of the fight against trafficking in human beings. Our Office does this in a number of ways, including carrying out country visits where we travel to OSCE participating States to assess the implementation of anti-trafficking efforts by meeting with government officials, lawmakers, NGO representatives and others relevant actors. In this regard, the previous Special Representative, Maria Grazia Giammarinaro, who will speak tomorrow, paid an official visit to Berlin in 2010, which was followed by a hearing in the Committee on Human Rights and humanitarian Aid of the

German Bundestag in 2011. During this hearing, the issue of the connection between illegal migration and human trafficking was discussed as well as the progress that could be expected from EU Directive 2011/36 related to human trafficking. The crucial role of Parliamentarians was also discussed and the need for a broad discussion about trafficking for labour exploitation which was an issue in Germany at that time. That's why I am happy to see that a session at this conference tomorrow will feature the prominent participation of Members of the German Parliament, and I look forward to hearing their views. Our office also supports capacity building across the OSCE region by organizing trainings for judges, police officers, social workers, border officials and consular officials.

Two years ago, we at the OSCE also celebrated the 10th anniversary of our *OSCE Action Plan to Combat Trafficking in Human Beings* adopted in 2003, which forms the foundation of OSCE's anti-trafficking action, as a strategic document that gained wide international recognition due to its advanced and detailed recommendations. It is referred to and applied at the national level by the 57 OSCE pS, promoted by other international organizations, and used by NGOs. At the Ministerial Council in Kyiv in December 2013, the OSCE participating States renewed their shared commitment to anti-trafficking by adopting the Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later, which in addition to the three P's of Prevention, Prosecution and Protection, added a fourth "P", a chapter on partnerships, highlighting the need for enhanced international co-operation

including law enforcement co-operation, co-operation between National Referral Mechanisms (NRMs) and co-operation between public institutions and the private sector. Thus the OSCE participating States committed to strengthening efforts to prevent and fight all forms of trafficking in human beings, and to further enhancing co-operation at the international and regional levels. During the negotiations on this document, we referred to the provisions of the CoE Convention to justify the most advanced articles of the Addendum, and to ensure its coherence. During the negotiations of this document, sometimes frankly we felt that it was difficult to move forward, that it was easier to negotiate a decade earlier, and wondered if the Action Plan would have been agreed upon now!

We are here to mark the 10th anniversary of the CoE Convention, a critical legally binding instrument that is open to all countries – so non-member States of the CoE can accede to it. At the OSCE, the Addendum and indeed all of its commitments are political and agreed by consensus among all 57 participating States, most of which are also member States of the CoE. There is thus a topical, political and geographical synergy, which underlines co-operation on the promotion of anti-trafficking commitments.

These synergies between the OSCE commitments and the CoE obligations are in part due to the fact that the OSCE was involved in the development of the CoE Convention. The OSCE Office for Democratic Institutions and Human Rights

(ODIHR) participated in the negotiations of the draft Convention within its capacity as observer and took part in all meetings during which the draft was discussed. The OSCE ODIHR submitted a written contribution to the Ad Hoc Committee On Action Against Trafficking In Human Beings, CAHTEH, on 4 June 2004, on the entire draft Convention formulated on the basis of OSCE Anti-trafficking Action Plan. The ODIHR consistently offered proposals both to the main text of the draft Convention, but also to the Explanatory Report to convey the policy as outlined in the OSCE Action Plan.

We were delighted that the CoE took into account ODIHR's proposals and that our shared approaches to the major issues were reflected in the final version of the draft. For example:

- the Convention has adopted a human rights approach to trafficking and enhanced victim protection measures;
- the delegations agreed to a new order of topics for Chapter III on 'Measures to promote the rights of victims, guaranteeing gender equality' based on ODIHR's suggestion, to best reflect the assistance cycle after identification as follows: assistance to victims, recovery and reflection period, residence permit, compensation and legal redress, repatriation and return of victims, gender equality;
- the most positive development was the adoption of a separate article on the co-operation between State authorities and NGOs - Article 35 (Co-operation with Civil Society) that is in line with the wording and concept behind the NRM. Besides this, the language proposed by the ODIHR to the explanatory report on

this article was accepted in full and may be found in paras. 352 and 353 of the Explanatory Report to the Convention;

- Art 26 of the Convention - Non-punishment clause - was inspired by the wording from Chapter III/Point 1.8 of the OSCE Action Plan.

- The ODIHR also made several interventions calling for the Convention to place particular emphasis on the specific rights of children.

This was a fruitful exercise and a good example of early co-operation between the OSCE and the Council of Europe in the field of setting up international standards on anti-trafficking, and I am glad that this cooperation continues and has only been strengthened.

The CoE is one of our closest partners in combating human trafficking. Since 47 OSCE participating States are, at the same time, Member States of the CoE, and all 57 pS are engaged in the work of the United Nations, the coherence of the legally binding UN and CoE anti-trafficking obligations, on the one hand, and the OSCE political anti-trafficking commitments, on the other, have created a strong synergy, significantly enhancing its' potential. Furthermore, 28 out of the 57 OSCE pS are also European Union Member States, additionally bound by the progressive EU legislation in the field of trafficking, such as the trafficking Directive (2011/36), the Directive on Compensation of Victims of Crime (2012/29), the Employer Sanctions Directive (2009/52) and others.

We welcome the German legislative initiative of April 2015 to transpose the trafficking directive into German law. Allow me to mention the positive development in the European context, relating to victims' rights: the trafficking Directive sets a new benchmark for the protection of victims' rights, which is in line with OSCE commitments. The Directive not only adopts an integrated and holistic approach to human trafficking but it also contains important new provisions related to victim assistance. It establishes that assistance and support shall be provided to victims before, during and for an appropriate period of time after criminal proceedings, in order to enable them to exercise their rights. This provision has a remarkable added value as it acknowledges the fact that victims' rights cannot be ensured only within criminal proceedings, but require social, medical and legal assistance measures.

In addition, at our initiative, we have recently worked with the CoE and UNODC to avoid duplication, to improve data collection and sharing and to consider a pilot project for a centralized/shared database between UNODC, COE and OSCE. In 2015 the OSR/CTHB developed and disseminated a survey to assess the implementation of selected aspects of the *OSCE Action Plan to Combat Trafficking in Human Beings* (2003); and the *Addendum to the OSCE Action Plan on Combating Trafficking in Human Beings: One Decade Later* (2013). The survey was disseminated in two separate versions to collect data both from the governments of OSCE participating States and from civil society organisations. It was also peer reviewed by a few key organizations working on

data collection, including the Council of Europe and UNODC. The survey emphasizes areas of work that the OSR/CTHB is specifically supporting, as well as emerging areas of the response to trafficking in human beings (THB) on which information is currently limited.

The governmental survey will assist in researching different responses to human trafficking: such as measures to identify, prevent and respond to trafficking for the **purpose of labour exploitation, including through labour recruitment practices, government procurement and supply chain regulation; child trafficking; and trafficking for the purpose of organ removal; efforts to identify and support victims of trafficking and the use of financial instruments to combat human trafficking.**

The NGO survey will contribute to a more comprehensive understanding of the actions each country is taking to identify, prevent and respond to trafficking with a primary focus on efforts to identify and support victims of trafficking. The input of civil society organizations will provide an external perspective on how States are responding to human trafficking and implementing their OSCE anti-trafficking commitments.

As a result, the government and civil society survey responses will contribute to a better understanding of both government and non-governmental approaches in the area of human trafficking and will further the implementation of the OSCE's counter trafficking commitments. As far as Germany is concerned, **in addition**

to the German government, we have surveyed a number of key German NGOs, including the organizers of this conference of KOK and some of the participants here today.

We are looking forward to receiving comprehensive answers from both governments and NGOs at the end of this month, and to analyze and then publish the survey results in 2016.

We also welcome GRETA's *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany*, published on 3 June 2015 and look forward to working with German authorities on the implementation of their commitments and obligations. As you know, The GRETA reports present the results of a monitoring process, including country evaluations by the GRETA team. The OSCE Special Representative also conducts country visits and thus plays a critical role in maintaining the high-level political engagement of participating States. Country visits are an excellent tool to promote the OSCE commitments, to establish and strengthen a direct and constructive dialogue with national authorities, and make recommendations on both policy and operational levels. These visits also facilitate the exchange of good practices from the OSCE region with participating States and NGOs active in the field of trafficking. In the Framework for Joint Action, my Office is maintaining close contact with the Council of Europe to co-ordinate and avoid possible overlap in country visits

with GRETA. For example, we are looking forward to the SR's upcoming country visit to the Czech Republic, scheduled for 26-27 November, as the country has not been evaluated by the GRETA committee since it has not signed the Council of Europe Convention on Trafficking. In 2016, the Special Representative plans to visit the US, the Russian Federation and Turkey.

From the point of view of the Office of the Special Representative at the OSCE Germany currently faces two major challenges in the fight against trafficking in human beings: **one, the identification of actual and potential victims of trafficking among asylum seekers** coming into Germany, as well as their adequate protection, especially taking into consideration the increased mixed migration flows we are currently witnessing; and **two, preventing and combating trafficking in supply chains**, concerning both private sector and governmental procurement practices, to ensure that goods and services are not produced by trafficked persons.

My Office explores ways to more effectively address trafficking in human beings (THB) and **prioritize the identification and protection of vulnerable people on the move**. The current refugee situation in Europe is overwhelming for both individual states and international structures, not least because it is commonly agreed that mixed migration flows pose security challenges. The OSR/CTHB itself is actively involved in the discussion on how the OSCE could react to the refugee and migration crisis within our existing mandate. As you

know the mandate of our Office is to prevent and combat trafficking in human beings, including in migration flows and in all its forms throughout the OSCE area.

At a recent meeting of all three OSCE committees, focusing on the current migration crisis, a representative of the Office of the High Commissioner for Human Rights referred to a statement of the High Commissioner in which he points to Dr. Merkel's "great leadership" in view of the unfolding situation. Furthermore, I know that organizations such as KOK and other service-providing organizations with experience in assisting migrant women in particular, are already doing a great deal in supporting newcomers get over the trauma of their horrific journey into Europe and Germany. It is commendable that Germany is willing to take in so many asylum seekers, but the challenge remains that vulnerable people and victims of trafficking are not properly identified among them. This is even more valid when discussing asylum seeking children, especially those traveling as unaccompanied minors or those that have been separated from their families in transit or even at destination, as they are particularly vulnerable. In recent years, the number of unaccompanied children entering Europe has been rising. This category includes minors migrating on their own, as well as those separated from their families in transit or at destination. Unaccompanied children on the move are at grave risk of exploitation and abuse during the long journey to, and through, Europe, as well as when they reach their final destination. That's why we encourage national

governments to strive for pro-active identification of children in reception centres, in order to detect unaccompanied minors who might be victims of trafficking among asylum seekers, and advocate for respect of the best interests of the child, and for social inclusion programs.

Preventing trafficking and exploitation among asylum seekers and migrants

would also require preventative measures on the labour market, full compliance with the EU Employer Sanctions directive of 2009, as well as effective monitoring of work sites, in particular of high-risk sectors.

Directly in relation to that point, I would like to address the second challenge currently facing anti-trafficking practitioners: namely, trafficking for labour exploitation in supply chains, both from the business and government sides.

Germany has done some work that places it at **the forefront of preventing THB in supply chains in the textile industry**. We commend the establishment of the Partnership for Sustainable Textiles in October 2014, which has set out ambitious goals for itself, *“pool the strength and expertise of its members in order to bring about social, ecological and economic improvements all along the textile supply chain.”* We will follow closely the further actions of this innovative initiative.

My office also **welcomes the initiative of the German Government to adopt in 2016 an Action Plan on Business and Human Rights**, as it announced

earlier this year. We encourage the timely inclusion in this action plan of provisions on trafficking in human beings and other forms of exploitation.

Furthermore, the **Leaders' Declaration adopted at the G7** summit in Elmau in June 2015 bears a clear provision on responsible supply chains and aims to lead by example. In particular, *“Given [the] prominent share [of G7 countries] in the globalization process, [they] have an important role to play in promoting labour rights, decent working conditions and environmental protection in global supply chains. [G7 countries] will strive for better application of internationally recognized labour, social and environmental standards, principles and commitments (in particular UN, OECD, ILO and applicable environmental agreements) in global supply chains”*. I am especially glad to see the direct practical outcome of this commitment, namely the “Vision Zero Fund,” supported by Germany, which “will support joint activities of governments, businesses, social partners and NGOs in the low income countries where goods are made, to reduce and prevent workplace related deaths, improve labour inspections, ensure fair production and help workers to exercise their rights.” Thus the Vision Zero Fund can contribute concretely to efforts to prevent the trafficking and exploitation of workers across global supply chains.

Furthermore, governments, as large purchasers, can play a decisive role in influencing the upholding of human rights, and have a huge impact specifically by preventing trafficking in human beings in supply chains through their

procurement practices. This is particularly valid for large migrant receiving OSCE participating States such as Germany, France, Italy, the UK, the USA, Canada, the Russian Federation, Turkey, and others.

Since combating and preventing trafficking in supply chains is one of the priorities of the Special Representative, my office will be actively working on this issue in the coming months. We already held an expert meeting on the topic, in which Dr. Jürgen Thomas, Deputy Head of Division at the Federal Ministry of Labour and Social Affairs, participated. The findings of the expert meeting are to inform a project on preventing trafficking in human beings in supply chains, in particular in governmental practices. We look forward to being in touch with our German colleagues on this matter, including both anti-trafficking professionals and procurement specialists.

We are convinced that effective partnerships among organizations and across countries are vital for any concerted effort in the field of anti-trafficking. Every year we host the high-level *Alliance against Trafficking in Persons* conference at the Hofburg in Vienna to share the best possible knowledge and expertise on anti-trafficking work to participating States and, at the same time, provide a global perspective on activities to combat modern day slavery carried out by the international community. High level officials and thought leaders from governments, international organizations, NGOs, trade unions, academia and other backgrounds speak at the event, which serves as one of the major venues

for knowledge sharing within the anti-slavery movement. This year's 15th *Alliance against Trafficking in Persons* conference, at which Dr. Armin Knospe participated, focused on "People at Risk: Combating Human Trafficking Along Migration Routes", including a panel on THB related to crisis migration, vulnerability of unaccompanied minors, and a side event on understanding the impact of migration on security in the OSCE area.

We count on **Germany's continued leadership in the field of preventing and combating trafficking in human beings**, not least as the incoming chairman of the OSCE. The OSCE and our office are very much looking forward to working with the German authorities during the Chairmanship and beyond. The OSR/CTHB stands ready to support German governmental institutions, as well as relevant civil society organization in their continuous endeavor to further improve their policies and actions in the fight against trafficking. I look forward to hearing more about the German experience during this important conference, to interesting discussions, and to learning from you.

Thank you for your attention, and I welcome any questions and look forward to a lively discussion.