

THE PEER-TO-PEER II PROJECT

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Promoting independent national non-judicial mechanisms for the protection of human rights

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1st Thematic Workshop

**Combating trafficking in human beings:
the role of national Human Rights structures in protecting the rights of victims**

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OUTLINE PAPER

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A meeting co-organised with:

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Interdepartmental Centre on
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les Droits de la Personne et les Droits des Peuples

Already twice the issue of trafficking in human beings has been dealt by the P2P workshops, in the wider context of irregular migration and in the specific context of unaccompanied minors. However it was felt, upon the suggestion of a number of NHRSSs, that the issue deserves to be the focus of an entire event.

Trafficking in human beings is an issue which appears in the media of all Countries of the Council of Europe every day. However, the human rights link of this phenomenon is still too often a missing link in discussions about Trafficking.

As written by the former UN Commissioner for Human Rights, Louise Harbour, addressing to the Representatives of the National Human Rights Structures “You as leaders of the human rights movement have, therefore, the responsibility to establish such a link....States regrettably have no real concerted vision as to how to deal with migration phenomena”¹. The grim reality is that each year, an increasing number of people, the majority of them women and children, fall victim to trafficking for the purposes of sexual or other exploitation, both within and over borders. This phenomenon has hit unprecedented levels, to the extent that it can be considered as a new form of slavery.

Given 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”² this workshop should focus on best practices regarding the implementation of human rights norms for the protection of the victims of trafficking³. Implementation within a framework whereby NHRSSs, individually and collectively through this regional network, can agree on pragmatic approaches to enhance their impact in protecting victims’ rights and cooperating with other stakeholders.

An opening session will set the scene of the workshop and its specific focus on the role of NHRSSs in protecting of the rights of victims of Trafficking.

An introductory session will be opened by a keynote speech which will explain the importance of the human-rights approach in addressing trafficking in human beings. The Council of Europe Convention on Action against Trafficking in Human Beings will be presented in conjunction with its monitoring mechanisms: *GRETA*, a group of independent experts on action against trafficking in human beings, and the *Committee of the Parties*, composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. The introductory presentation will be complemented by a brief mention of two relevant judgments of the European Court of Human Rights concerning trafficking in human beings, *Rantsev v. Cyprus and Russia*, of 7 January 2010 and *Siliadin v. France*, of 26 July 2005.

The first working session will be dedicated to “the difference between trafficking in human beings and the smuggling of migrants: the importance of the process of the identification of victims”. As mentioned in the Recommendations issued by the Justice, Freedom and Security Services of the EU Commission in 2007⁴ “identification is crucial to ensure both the protection of the rights of trafficked persons, and successful prosecution of the traffickers”. It is therefore clear that a human

¹ Introductory statement by the High Commissioner for Human Rights, Ms Louise Harbour, at the 8th International Conference of Human Rights Institutes (2006).

² United Nations High Commissioner for Human Rights Principles and Guidelines on Human Rights and Trafficking, E/2002/68/Add.1 (2002).

³ For a definition of victims of trafficking see Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol), Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings and Article 1 of the EU Council Framework Decision on combating trafficking in human beings (2002/629/JHA).

⁴ ["Recommendations on the identification and referral to services of victims of trafficking in human beings"](#)

rights centred approach should start from the early identification of the victims. Failure in identifying victims at a very early stage can result in insufficient protection of victims and causing a series of violations of their rights: the sooner the better.

The second working session will focus on “the need for a co-ordinated multidisciplinary action for the protection of the human rights of trafficked persons”. For the protection of the rights of the trafficked persons, another important element is the so called multi-agency approach, which implies the concerted action of a number of actors in order to ensure that the victims are supported and at the same time the anti-trafficking law enforcement measures are enforced. While the safety of victims remains the ultimate responsibility of Police forces, this cannot be achieved without a well functioning cooperation mechanisms between law enforcement, social services and NGOs. In this session a special focus will be given to the option of the voluntary repatriation. This option should be taken into consideration only after a risk assessment before return, which take due account of all objective and subjective elements in order to avoid risks of stigmatisations and violation of the victim's privacy. Return should be accompanied by a reintegration plan⁵.

The third working session will present a number of best practices related to the work of National Rapporteurs and/or National Commissions against Trafficking. A particular focus will be given to the challenges posed by co-ordinating counter-trafficking measures at national level to ensure a well concerted response and reduce duplication of interventions.

1 Each session will be complemented by contributions of NHRSS. *Inter alia*, as reported in the “Santa Cruz Declaration”⁶ the role of NHRSS should consist in:

- protecting the rights of victims of trafficking and smuggling, especially women and children, including by providing legal assistance or taking legal action to defend the rights of smuggled and trafficked persons' rights;
- protecting trafficked persons, especially women and children, from harm, threats or intimidation by traffickers and associated persons;
- advocating that national legislation defines the crimes of trafficking and smuggling and their various punishable elements and provide protection of smuggled and trafficked persons, including protection from summary deportation or return if this would pose a security risk to the persons and/or their families.

In the end, it is hoped that the tour de table's of participants experience will be an opportunity to exchange and explore approaches and best practices, which can help NHRSS meet the challenges posed to them in contributing to the protection of the rights of victims of trafficking.

⁵ See on this the contribution of IOM field Offices in the “Report of Expert Meeting on Human Rights protection in the return of trafficked persons to countries of origin” Warsaw 24-25 June 2009, ODHIR Anti Trafficking Programme.

⁶ Eighth International Conference of National Institutions for the Promotion and Protection of Human Rights, Santa Cruz, Republic of Bolivia, 24-26 October 2006.

List of background documents

1. United Nations Conventions, bodies and special procedures

United Nations Convention against Transnational Organized Crime and its Protocols

<http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol)

http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

<http://www2.ohchr.org/english/law/organizedcrime.htm>

Website of the UN High Commissioner for Human Rights

<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

Recommended Principles and Guidelines on Human Rights and Trafficking, E/2002/68/Add.1 (2002)

[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument)

Human Rights Council Resolution 11/3. Trafficking in persons, especially women and children, 17 June 2009

http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_11_3.pdf

Website of the UN Special Rapporteur on trafficking in persons, especially in women and children

<http://www2.ohchr.org/english/issues/trafficking/index.htm>

UNODC – United Nations Office on Drugs and Crime

UNODC Reports on human trafficking and migrant smuggling

<http://www.unodc.org/unodc/en/human-trafficking/publications.html?ref=menu#Reports>

UN.Gift – Global Initiative to Fight Human Trafficking

Website of the UN Global Initiative to Fight Human Trafficking

<http://www.ungift.org/>

2. Council of Europe Conventions, standards and monitoring mechanisms

European Convention on Human Rights (ECHR)

<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/The+Convention+and+additional+protocols/The+European+Convention+on+Human+Rights/>

Council of Europe Convention on Action against Trafficking in Human Beings [CETS No. 197] (2005) and its explanatory report

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Convntn/CETS197_en.asp#TopOfPage

<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=197&CM=8&DF=10/06/2010&CL=ENG>

Council of Europe Action against Trafficking in Human Beings website

http://www.coe.int/t/dghl/monitoring/trafficking/default_en.asp

Website of the Group of Experts on Action against Trafficking in Human Beings (GRETA)

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/GRETA_en.asp#TopOfPage

Council of Europe publications concerning trafficking in human beings:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Publications/default_en.asp

Committee of Ministers of the Council of Europe

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

[https://wcd.coe.int/ViewDoc.jsp?](https://wcd.coe.int/ViewDoc.jsp?id=355371&BackColorInternet=9999CC&BackColorIntranet=&BackColorLogged=FDC864)

[id=355371&BackColorInternet=9999CC&BackColorIntranet=&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?id=355371&BackColorInternet=9999CC&BackColorIntranet=&BackColorLogged=FDC864)

Recommendation No. R(2001)16 of the Committee of Ministers to member States on the protection of children against sexual exploitation

[https://wcd.coe.int/ViewDoc.jsp?](https://wcd.coe.int/ViewDoc.jsp?id=234247&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)

[id=234247&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](https://wcd.coe.int/ViewDoc.jsp?id=234247&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)

Parliamentary Assembly

Recommendation 1545 (2002) on a campaign against trafficking in women

<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta02/erec1545.htm>

Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution

<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta03/EREC1610.htm>

Resolution 1702(2010), Action against trafficking in human beings: promoting the Council of Europe Convention, 26 January 2010

<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/eRES1702.htm>

Recommendation 1895(2010), Action against trafficking in human beings: promoting the Council of Europe Convention, 26 January 2010

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/EREC1895.htm>

Selected judgments of the European Court of Human Rights (press releases)

Rantsev v. Cyprus and Russia (7 January 2010)

[http://cmiskp.echr.coe.int/tkp197/view.asp?](http://cmiskp.echr.coe.int/tkp197/view.asp?item=2&portal=hbkm&action=html&highlight=Rantsev&sessionid=55194328&skin=hudoc-pr-en)

[item=2&portal=hbkm&action=html&highlight=Rantsev&sessionid=55194328&skin=hudoc-pr-en](http://cmiskp.echr.coe.int/tkp197/view.asp?item=2&portal=hbkm&action=html&highlight=Rantsev&sessionid=55194328&skin=hudoc-pr-en)

Siliadin v. France (26 July, 2005)

[http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=siliadin](http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=siliadin%20%7C%20v.%20%7C%20france&sessionid=55194328&skin=hudoc-pr-en)

[%20%7C%20v.%20%7C%20france&sessionid=55194328&skin=hudoc-pr-en](http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=siliadin%20%7C%20v.%20%7C%20france&sessionid=55194328&skin=hudoc-pr-en)

The Commissioner for Human Rights

Viewpoint "Prevent trafficking in human beings by addressing the root causes"

http://www.coe.int/t/commissioner/Viewpoints/070219_en.asp

3. European Union

Charter of Fundamental Rights of the European Union (Article 5)

http://www.europarl.europa.eu/charter/pdf/text_en.pdf

EU Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA)

http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!

[CELEXnumdoc&lg=EN&numdoc=32002F0629&model=guichett](http://eur-lex.europa.eu/CELEXnumdoc&lg=EN&numdoc=32002F0629&model=guichett)

European Commission, A proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA

COM(2010)95 final 2010/0065(COD)

<http://europa.eu/rapid/pressReleasesAction.do?>

[reference=MEMO/10/108&format=HTML&aged=0&language=EN&guiLanguage=en](http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/10/108&format=HTML&aged=0&language=EN&guiLanguage=en)

Council Directive 2004/81/EC of 29 April on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML>

European Commission, Report of the Experts Group on Trafficking in Human Beings (Brussels, 22 December 2004)

http://ec.europa.eu/justice_home/doc_centre/crime/trafficking/doc/report_expert_group_1204_en.pdf

Communication from the Commission to the European Parliament and the Council – Fighting trafficking in human beings: an integrated approach and proposals for an action plan

<http://www.oas.org/atip/Global%20Reports/European%20Union-%20Oct%202005.pdf>

Recommendations on the identification and referral to services of victims of trafficking in human beings (Justice, Freedom and Security Services of the European Commission, 2007)

http://ec.europa.eu/justice_home/fsj/crime/trafficking/doc/recommendation_22_11_07_en.pdf

European Parliament Resolution of 10 February 2010 on preventing trafficking in human beings Ref. P7_TA-PROV(2010)0018 / 7-0029/2010

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0018+0+DOC+XML+V0//EN>

4. OSCE

Maastricht Ministerial Council Decision No. 2, Combating Trafficking in Human Beings (2003)
http://www.osce.org/documents/mcs/2003/12/4161_en.pdf

OSCE Action Plan to combat trafficking
http://www.osce.org/press_rel/2003/pdf_documents/07-3447-pc1.pdf

Addendum to OSCE Action Plan to combat trafficking
http://www.osce.org/documents/pc/2005/07/15591_en.pdf

Report of Expert Meeting on Human Right Protection in the return of trafficked persons to countries of origin (Warsaw, 24-25 June 2009, ODHIR Anti-Trafficking Programme)
http://www.osce.org/documents/odihhr/2009/06/37945_en.pdf

OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings
<http://www.osce.org/cthb/>

Latest documents on combating trafficking in human beings
<http://www.osce.org/cthb/documents.html?lsi=true&limit=10&grp=381>

Efforts to combat trafficking in human beings in the OSCE area: co-ordination and reporting mechanisms
<http://www.osce.org/item/36298.html>
(only chapters 2,3 and 4)

5. Other articles and documents

Santa Cruz Declaration
8th International Conference of National Institutions for the Promotion and Protection of Human Rights
(Santa Cruz, Bolivia, 24-26 October 2006)
[http://www.internal-displacement.org/8025708F004CFA06/\(httpKeyDocumentsByCategory\)/3841A6FB8468CCB8C1257235003B0676/\\$file/Santa_Cruz_Declaration_E.pdf](http://www.internal-displacement.org/8025708F004CFA06/(httpKeyDocumentsByCategory)/3841A6FB8468CCB8C1257235003B0676/$file/Santa_Cruz_Declaration_E.pdf)