

Summary of verbal submission to the Conference of EU National Rapporteurs on Trafficking in Human Beings by the National Rapporteur on Trafficking in Human Beings, Detective Inspector Kajsa Wahlberg, Prague, the Czech Republic, March 30-31, 2009.

It is a great honour to be here today and to address this knowledgeable audience about a subject that is of my greatest concern, namely trafficking in human beings. My name is Kajsa Wahlberg and I am a Detective Inspector at the National Police Board in Sweden. I am also the Swedish National Rapporteur on Trafficking in Human Beings, appointed by the Swedish Government in 1998 following a joint declaration of the European Union.

The Hague Declaration 1977ⁱ

On 26 April 1977 the Ministers of Justice and the Ministers for Equality within the European Union adopted the so-called Hague Declaration with guidelines for preventing and combating trafficking in women for sexual purposes. The Declaration contains recommendations for work at a national, as well as at an international, level, including an emphasis on cooperation between EU Member States. It specifically recommends that the Member States appoint National Rapporteurs (NR) who are to report to governments on the scale, the prevention and combating of trafficking in women.

Nationally, the declaration deals with the necessity of being able to prevent, investigate and institute legal proceedings against different actions that occur in connection with trafficking in human beings. Attention is called to the fact that investigations and legal proceedings should be directed towards the perpetrators responsible for trafficking of human beings, and under no circumstances towards the victims because of their actions. In addition, it includes a recommendation that the Member States (MS) should provide those who are subjected to trafficking with support and help, and take the introduction of e.g. special witness-protection programs into consideration.

The Office of the National Rapporteur on Trafficking in Human Beings, Sweden

In December 1997, in order to implement the Hague Declaration, the Swedish Government appointed the National Police Board (NPB) of Sweden to be the National Rapporteur on Trafficking in Womenⁱⁱ. The National Police Board in turn delegated the task to the National Criminal Investigation Department at the National Criminal Police (NCP). Since October 2008, the office of the National Rapporteur (ONRT) is placed at the NPB.

Mandate of the National Rapporteur on Trafficking in Human Beings

Also in 1997, the NCP prepared a National Plan of Action against Trafficking in Human Beings for Sexual Purposes for the Swedish police forces, which sets out the mandate of the NR, as follows:

1. The NR is to identify and characterize the existence of trafficking in human beings for sexual and other purposes within, to and through Sweden; and
2. In its annual reports, the NR will analyze the connection between trafficking in human beings and other forms of serious organized crime, smuggling of human beings, and as well as with prostitution and sexual exploitation.

The mandate of the National Rapporteur includes the collection and analysis of data and information about the extent of trafficking in human beings in and to Sweden, as well as recommendations for how the problem/crime can be prevented and combated. The ONRT also handles intelligence information concerning suspected criminal activities related to trafficking in human beings. In 2009, the NCP/ONRT will launch a joint policy for police and prosecutors on investigative/operational measures to combat trafficking in human beings. This document will also include a manual for investigators.

In addition to its monitoring and operative mandate, the ONRT cooperates with police forces in countries of origin, transit and destination on joint cases, answers questions from the media and the public, and arranges and participates in seminars and trainings nationally and internationally.

The NR publishes annual reports on the character, state and scale of trafficking in human beings within, through and to Sweden. To ensure that the documentation is reliable, information is collected at source through the six existing regional Criminal Investigation Units. So far the NR has released nine annual reports.ⁱⁱⁱ The annual reports also include recommendations directed to the different levels of government, lawmakers, law enforcement, the prosecutions services, and to non-governmental organizations in order to strengthen the work to prevent and combat trafficking in human beings for sexual and other purposes, and to encourage the development of additional measures that support and protect the victims of these crimes. The reports always attract considerable media attention, not only in Sweden, but also in the EU and internationally.

Over the years, the ONRT has developed a large national and international network with representatives from Interpol, Europol, governments, public authorities, agencies and regional and non-governmental organisations working to eliminate trafficking in human beings.

In 2004, in response to Sweden ratifying the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and its implementation into national laws, the area of investigation of the NR was expanded to also include trafficking in human beings for other purposes than sexual exploitation.

The ONRT mandate and work is reviewed by the Government with some regularity. In 2008, the Government declared, through its national Action Plan against Prostitution and Trafficking in Human Beings for Sexual Purposes, its intention to expand and clarify the mandate of the NR based on a review undertaken in 2008.^{iv} A formal new mandate is yet to be introduced.^v

Why is it important to establish a National Rapporteur on Trafficking in Human Beings?

Today, the work to prevent and combat the crime of trafficking in human beings in Europe and the protection and assistance of its victims is carried out by many different stakeholders; national and local governments, public authorities, and by non-governmental organizations and other civil society actors, while often lacking national overview as well as coordination. In addition, the knowledge of, comprehensive research into, and reliable and comparable data about the situation of trafficking in human beings in Europe, as well as into measures to prevent and ameliorate the situation, is surprisingly limited.

I suggest that more Member States (MS) should appoint a central independent monitoring mechanism that is responsible for gathering, analyzing and presenting comparative facts about the scale and state of trafficking in human beings within and to MS, and for the evaluation of local and national policy and legal measures and initiatives. By appointing a National Rapporteur on Trafficking in Human Beings, MS would show their commitment to the prevention, suppression and prosecution of trafficking in human beings nationally and internationally.

It should be noted that several international and regional instruments specifically encourage MS to appoint National Rapporteurs on trafficking in human beings – such as the recent Council of Europe Convention on Action against Trafficking in Human Beings, the Outcome Document of the UN Beijing + 5 conference in 2000, as well as the OSCE Action Plan from 2003.

What should be the tasks of a National Rapporteur on Trafficking in Human Beings?

Firstly, it is necessary that a National Rapporteur on trafficking in human beings operate as an independent and autonomous entity, with a general mandate to

investigate, monitor and analyze the character, state and scale of trafficking in human beings to and within MS, and give recommendations. It could be argued that the placement at the National Police Board might compromise the independence of the Swedish Rapporteur. In hindsight it may even have been better to create a separate public authority. However, the benefits of the placement of the ONRT at the National Police Board surpass the disadvantages: it allows the NR to closely monitor the status of trafficking in human beings in and to Sweden through regular information updates from the national and regional police and prosecution authorities, as well as from other actors working against trafficking in human beings.

A NR should study and evaluate the effectiveness of already implemented policy, legal and practical measures and initiatives, or as the case may be, lack of measures. It should not, however, coordinate the implementation of those measures to prevent and combat trafficking in human beings, decided upon and/or developed by the government and parliament. It is essential to keep these two functions apart – the NR is solely a monitoring mechanism, not an implementer.

To be effective, all actions of and research carried out by such a NR must have a firm gender equality perspective, and be based on internationally recognized principles of non-discrimination (including non-discrimination based on gender, race, ethnicity, disability and sexual orientation) Hence, it is important that the monitoring not just focus on legislative and prosecutorial measures, but also includes an analysis and evaluation of prevention programs, including prevention against the demand, as well as of protection and assistance programs for victims, and the effects of anti-trafficking policies internationally and regionally.

The NR should, as part of its mandate, present annual reports to the Government on the extent and development of the situation of trafficking in human beings within and to MS. The focus should be on trafficking in human beings for sexual purposes to be extended to other forms of trafficking in human beings, such as for forced marriages, forced labour and organ trafficking in accordance with international obligations under international agreements such as the Convention for the Elimination of All Forms of Discrimination of Women (CEDAW) article 6, the Convention on the Rights of the Child (CRC) articles 34 and 35, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, including article 9.5 of the Convention that focuses on measures to discourage the demand, as well as appropriate regional agreements.

In its reports, the NR should pay particular attention to the adequacy of legal and policy measures for the protection, assistance, rescue, rehabilitation, reintegration, redress and compensation of victims of trafficking in human beings, especially

women and children. Also, the NR should closely monitor and consider the effectiveness of the legislative and policy framework on trafficking in human beings, including policies and legislation criminalizing the demand for sexual services. The NR should also examine investigations, prosecutions and sentencing of buyers, procurers and traffickers and organized crime networks. In addition, the NR should actively monitor, evaluate, and publicize information and data about emerging issues, such as new forms and methods of trafficking in human beings of women and children to, through and within MS.

A National Rapporteur should be given the authority to issue recommendations on how to develop and ameliorate the work to prevent and combat trafficking in human beings, and victim protection and support in MS to governments, public authorities and civil society through the annual reports. For the recommendations to have a genuine impact, governments must commit themselves to pay them close attention and, when suitable, to implement measures and initiatives in accordance with such recommendations.

In order to carry out its work effectively, an ONRT should be adequately funded and authorized to hold consultations with affected groups and individuals, public authorities, members of parliament and legislatures, researchers, representatives of countries with diplomatic offices in MS, interest groups, non-governmental organizations such as women's equality seeking groups, and other stake holders. In order to be truly independent, I recommend that the NT is allocated direct funding for its activities, rather than through the general budget of a public authority, as is the case in Sweden.

The NR should be given full access to all relevant documentary material such as police investigatory material, witness and victim statements, research reports etc, including material covered by privacy legislation. All involved public authorities should be expected to fully cooperate with the NR in order to facilitate her/his investigations. The NR should also have the mandate to act in an urgent situation of trafficking in human beings, and in such a situation have the authority to request information and/or clarification from the responsible public entities.

A NR should have the authority to establish cooperation with other National Rapporteurs on Trafficking in Human Beings. Such cooperation could include discussion and development of joint research measures to prevent and suppress trafficking in human beings, data sharing about prevention measures, victim protection and repatriation, prosecutions, joint information campaigns, and about law enforcement initiatives. The NR should also be expected to liaison with regional and international initiatives against THB, including with the United Nations Special Rapporteur on Trafficking in Persons, especially in Women and Children, the Special Rapporteur on Violence against Women, and other

appropriate United Nations bodies, in order to exchange information and, in appropriate cases, collaborate on joint activities.

What impact has the work of the National Rapporteur had on policy development, legislation and measures to prevent and combat trafficking in human beings in Sweden?

Through its broad mandate, the Swedish NR has been given a unique opportunity to influence policy and legislative development and implementation of measures to prevent and combat trafficking in human beings in Sweden. Since the appointment of the NR in 1998, the sitting governments have been receptive to the recommendations put forward by the NR in her annual reports. In September of 2006, national elections were held and a new government came into power.

For the police and prosecuting authorities, investigations of cases of trafficking in human beings are resource-intensive and costly. In the past, some police districts have not been able to initiate proper investigations because of lack of resources. In 2003, after discussions with the NR, the then Minister of Justice allocated SEK 30 million (approx. € 3.3 million) over three years to the National Board of Police, specifically earmarked for operative assistance to police districts to combat trafficking in human beings, and for training of law enforcement personnel. In 2008, the new Government decided to grant another SEK 40 million (€3.6 million) to the police and prosecution services for the strengthening of operative initiatives and further development of methods and expertise on prostitution and trafficking in human beings for sexual purposes.^{vi}

An NPB initiated inter-agency working group has been established that determines how these funds are distributed based on applications from the different police districts. Over the years, the funds have been used for preliminary investigations, as well as for training of law enforcement personnel, and projects focusing on the sale and purchase of women and children for prostitution purposes on the Internet.

The NR concluded in her reports from 2003 and 2004, after having studied case law on the trafficking legislation and interviewed police, prosecutors and other key informants, that the existing anti-trafficking legislation was too complex and not in line with Swedish policies, often leading to misinterpretations by the courts. In 2006, the Government, in response, appointed an Expert Commission with the task to analyze procuring and trafficking cases, and based on this analysis, develop and strengthen the legislation. The Commission presented its report in April 2008.

The responsibility for providing protection and assistance to victims of trafficking in human beings is, according to Swedish law, the responsibility of local municipalities. After a recommendation by the NR in one of her reports, the Government decided, in connection with an amendment of the Alien Act allowing

for time-limited residence permits for victims of trafficking in human beings, to reimburse the local authorities for all incurred costs.

Thanks to extensive media attention, the information in the annual reports of the NR has been widely disseminated – both in Sweden, but also around the world. Every week, the ONRT receives request for information from journalists, parliamentarians, police officers and prosecutors, and of course the general public, about the situation concerning prostitution and trafficking in human beings for all purposes to and within Sweden.

In particular, the NR reports that focus on new successful methods to prevent and combat trafficking in human beings have attracted a lot of attention. One example is the positive results of the active implementation by law enforcement and the prosecution services of the provision in the Swedish Criminal Code that prohibits the purchase of a sexual service^{vii}. It is evident that the existence of a National Rapporteur on Trafficking in Human Beings in Sweden, and the publication of nine annual monitoring reports have been central to the development and implementation of government policy and legislation, and important contributing factors for the increase in understanding and knowledge about prostitution and trafficking in human beings in Sweden.

In conclusion, I urge the EU Member States to appoint National Rapporteurs on Trafficking in Human Beings as soon as possible, in order to strengthen the joint work to prevent, suppress and punish trafficking in human beings within the borders of Member States, as well as cross-border trafficking.

Thank you!

ⁱ The Ministerial Declaration on European Guidelines for Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation (Hague, 24-26 April 1997).

ⁱⁱ Nationell rapportör för människohandel.

ⁱⁱⁱ See website of the National Swedish Police: <http://www.polisen.se> [Click on link for English language and then on “Publications”].

^{iv} *Handlingsplan mot prostitution och handel med människor för sexuella ändamål* (Skr 2007/08:167), 2 July 2008 (Stockholm, Sweden: Ministry for Integration and Gender Equality).

^v For details, see National Action Plan, measure 19 (p.23).

^{vi} *Regeringsbeslut: Uppdrag till Rikspolisstyrelsen och Åklagarmyndigheten att förstärka insatserna mot prostitution och människohandel för sexuella ändamål* (Ju2008/7403/PO), 18 September 2008.

^{vii} Criminal Code, chapter 6: On Sexual Crimes, section 11: A person who obtains casual sexual relations in exchange for payment shall be sentenced—unless the act is punishable under the Swedish Penal Code—for the purchase of a sexual service to a fine or imprisonment for at most six months Attempt to purchase a sexual service is punishable under Chapter 23 of the Swedish Penal Code.