

The role of independent National Rapporteurs or equivalent mechanisms in enhancing States' anti-trafficking responses

Issue Brief

The OSCE Action Plan to Combat Trafficking in Human Beings (PC.DEC/557), its 2005 and 2013 Addendums (PC.DEC/685 and PC.DEC/1107/Corr.1 respectively) encourage OSCE participating States “to consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements”¹. Simultaneously, OSCE commitments also call for establishing “inter-ministerial bodies (Anti-Trafficking Commissions (task forces)² and national co-ordinators³”, thus outlining three main pillars of the anti-trafficking architecture which should elevate action at a national level. These three pillars – National Co-ordinator, National Rapporteur and multi-agency Task Force – are designed to bring complementarity and ensure that national anti-trafficking institutional frameworks are comprehensive, inclusive, transparent and efficient.



The practices in the OSCE participating States in implementing this architecture vary. While many States have both a national multi-agency commission or task force and also a National Co-ordinator, the appointment of an independent National Rapporteur is much less common. The role and functions of the National Rapporteurs also differ, making regional approaches inconsistent and co-operation challenging. To address these issues, in line with its mandate⁴, the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB), in co-operation with the UK Independent Anti-Slavery Commissioner, conducted an expert meeting on the role of independent National Rapporteurs or equivalent mechanisms in enhancing States' anti-trafficking responses⁵. The discussions from the meeting serve as a basis for this issue brief and recommendations to the OSCE participating States and Partners for Co-operation.

1. Furthermore, MC.DEC/14/06 Enhancing Efforts to Combat Trafficking in Human Beings, Including for Labour Exploitation, through a Comprehensive and Proactive Approach (5 December 2006) “urges the participating States, with the support of the OSCE structures and institutions if requested, to improve research and the system of data collection and analysis, with due regard to the confidentiality of data, and where possible to disaggregate statistics by sex, age, and other relevant factors as appropriate, in order to better assess the character and scope of the problem and develop effective and well-targeted policies on trafficking in human beings. To this end, participating States are recommended to consider appointing National Rapporteurs or similar independent monitoring mechanisms”. In addition, MC.DEC/6/17 Strengthening Efforts to Prevent Trafficking in Human Beings (8 December 2017) calls on participating States to “Develop targeted prevention policies based on, as appropriate, enhanced research and systematically gathered reliable information, including with the support of national mechanisms, such as national rapporteurs where they exist, in order to maximize the effect and impact of anti-trafficking efforts at the national and international level”.

2. MC.DEC/2/03 (2 December 2003), PC.DEC/557 (24 July 2003) and PC.DEC/557/Rev.1 (7 July 2005)

3. Declaration on Trafficking in Human Beings adopted in Porto, 2002 and MC.DEC/2/03 (2 December 2003), PC.DEC/557 (24 July 2003) and PC.DEC/557/Rev.1 (7 July 2005)

4. MC.DEC/2/03 (2 December 2003) and MC.DEC/3/06 (21 June 2006)

5. <https://www.osce.org/secretariat/493486>

A National Rapporteur or equivalent mechanism is instrumental in aiding States to produce, analyse, utilize and report on data needed to improve anti-trafficking efforts.

From the point of complementarity and efficiency, establishing a National Rapporteur or equivalent mechanism is an important step toward implementing:

- comprehensive qualitative and quantitative data collection, as well as research and analysis of the trafficking situation in a State by looking beyond what is identified and recorded into what remains latent and unaddressed, and
- systematic analysis of the effectiveness of policies and measures undertaken to combat trafficking in human beings as implemented via multi-agency co-operation and led by a National Co-ordinator.

A National Rapporteur or equivalent mechanism can improve understanding about the nature of the problem in its various forms within the States, evaluate the effectiveness and impact (both positive and unintended negative consequences) of government policies and actions against THB and in support of its victims, and present actionable recommendations for improving policies and practices addressing all forms of trafficking.

It is also important to realize the adverse consequences of the absence of a systematically organized approach to collecting and analysing information. In such instances, decisions made by policymakers and practitioners will continue to be based largely upon fragmented, partial and sometime controversial data about trafficking in human beings. In addition, policies will be enacted, operational models adopted, and projects and programmes implemented more on the basis of long-standing assumptions and anecdotal information than on strong analysis and empirical findings. Moreover, the continuing failure to systematically gather reliable data and to process it through rigorous and insightful analysis will undermine the potential effectiveness of initiatives against THB and compromise the investment of funds and human effort.

Based on existing experiences and with a view to improving the national and regional responses to trafficking in human beings, States are encouraged to consider the following recommendations and proposals for action:

→ It is highly recommended that States establish a National Rapporteur or equivalent mechanism as a part of their anti-trafficking framework and ensure clear delineation and complementarity of the roles and responsibilities of the National Rapporteur and National Anti-Trafficking Co-ordinator or equivalent mechanism through their respective mandates and tasking.

→ Wherever possible, preference should be given to the establishment of an independent National Rapporteur or equivalent mechanism as it allows for enhancing national anti-trafficking efforts by monitoring and evaluating policy and actions at all levels, presenting independent opinions on challenging issues for consideration of both legislative and executive branches, interacting with other stakeholders on an equal basis, and developing international co-operation to build on respective commitments and best practices. The independent nature of the role is central to the efficacy of the office.

→ Wherever countries entrust monitoring responsibilities to a non-independent National Rapporteur or equivalent mechanism, these models should be examined closely, in co-operation with civil society stakeholders, to determine the strengths and weaknesses of this approach for contributing to national anti-trafficking objectives. Based on the practices existing in a number of the OSCE participating States, appointing a National Rapporteur or equivalent mechanism within the parliamentary human rights ombudsman's office or accredited national human rights institution could be a cost-efficient and well-balanced solution, particularly when a National Anti-Trafficking Co-ordinator or equivalent mechanism is established as a part of the executive branch.

- The mandate of a National Rapporteur or equivalent mechanism should provide sufficient authority to request and access comprehensive information and data, including on individual cases (consistent with privacy, confidentiality and other personal data protection measures) from all necessary sources at the national and local level through the engagement with state/public agencies, judiciary, civil society and academia (including research institutes). The input of NGOs and other members of civil society in the work of the National Rapporteurs or equivalent mechanisms should be encouraged and facilitated.
- The reports produced by National Rapporteurs or equivalent mechanisms should include evaluations of anti-trafficking work from the perspectives of promoting human rights, child rights, gender-sensitive and victim-centred approaches both de jure and de facto. Growing complexity of the crime and its intersection with multiple spheres of public and private life requires more in-depth qualitative analysis, going beyond the statistics and looking into the social context of victims and perpetrators, *modi operandi* of the criminals as well as its impact on governance, economy and society as a whole.
- The mandated activities of a National Rapporteur or equivalent mechanism should be appropriately resourced, both in terms of budgets and human resources.
- The work of a National Rapporteur or equivalent mechanism should also promote comparability of data. This will require significant progress in data compatibility to be addressed in co-operation with a National Ant-Trafficking Co-ordinator, multi-agency Task Force and respective national agencies (e.g. Bureau of Statistics).
- The reports of a National Rapporteur or equivalent mechanism should be used to analyse the impact, revise, adapt and target initiatives contained in the current national anti-trafficking policies (including National Action Plans) and practices as well as to enhance efficiency of future legislation, policies and activities. They are also instrumental to bridge national and local levels' approaches and to raise awareness of the problem amongst decision- and law-makers, and the general public. The work of the multi-agency Task Force and the National Co-ordinator will, in turn, be more effective if it is based upon the sound analysis of trafficking in human beings provided by the National Rapporteur or equivalent mechanism. Regular direct reporting of a National Rapporteur or equivalent mechanism to Parliament is one of the positive practices existing in a number of OSCE participating States.
- To leverage national experiences and facilitate data collection and analysis at the regional and international levels and to foster cross-border responses to mutual challenges and patterns of trafficking in human beings, National Rapporteurs or equivalent mechanisms are encouraged to exchange best practices as well as share and examine recent trends, patterns, and findings in collaboration with relevant international partners and organisations, such as, with the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the EU Anti-Trafficking Coordinator and the UN Special Rapporteurs working in the field of trafficking in human beings.