

Ombudsman/NHRIs – Challenges to Human Rights in the Refugee/Migrant Crisis

**Belgrade
23-24 November 2015**



Opening Statement by

Michael Georg Link

Director of the Office for Democratic Institutions and Human Rights

I would like to thank the Serbian Protector of Citizens for the initiative to host this Conference of Ombudspersons/NHRIs and representatives of regional and international organizations. It is an important venue to exchange experiences, discuss priorities and agree on elements of a common “roadmap” for a rights-based response to address the ongoing refugee/migrant crisis.

As you all know, ODIHR has long and enduring partnerships with NHRIs all over the OSCE region.

The Human Dimension Seminar on The Role of National Human Rights Institutions in promoting and protecting human rights in the OSCE area, held in Warsaw in June 2015, provided an opportunity for representatives of the OSCE participating States, OSCE institutions and field operations, representatives of regional and international organizations and civil society actors to review the unique role of NHRIs in the protection and promotion of human rights.

ODIHR is providing active support to the establishment of strong and independent National Human Rights Institutions. For example, the annual NHRI Academy, launched in 2014 in Budapest, is our joint initiative with the European Network of National Human Rights Institutions and leading academic institutions. It delivers practical training courses to senior and mid-level staff of national human rights institutions. This year, the second NHRI Academy was organized in Warsaw. We will continue offer this annual capacity building event.

We will also continue to support NHRIs in other ways, by facilitating further discussions on the challenges that lay ahead and by engaging with NHRIs directly as partners in common projects and programmes at the national level.

NHRIs are our key counterparts and allies as we strive to strengthen and uphold international human rights standards at the national level across the OSCE area.

These standards are particularly endangered in times of crisis. As you all know, we are currently experiencing a severe humanitarian crisis as we see unprecedented flows of migrants and refugees affecting countries in the OSCE region.

International organizations and human rights NGOs have documented and reported on a wide range of human rights violations suffered by migrants, refugees and asylum seekers, and identified that border management regulations and practices often do not conform with and promote the realization of the applicable international human rights standards and guarantees at all stages of the migration process.

Irrespective of these protection gaps, every day thousands of people set out on a perilous journey to reach Europe which all too often end in tragedies.

In the wake of the recent tragic events in Paris, OSCE participating States must ensure that in political discourse and decisions, terrorism is not equated to the current refugee/migrant crisis, and that those

running away from war and terror are offered protection guaranteed to them under the international human rights and humanitarian law framework.

It is critical that we recognize that the obligation to respect human rights does not apply only to citizens of OSCE participating States, but to everyone, including migrants, asylum seekers and refugees. Strengthening barriers at our borders will not make this crisis go away. We must instead focus on providing dignified treatment and protecting the human rights of all people in need.

ODIHR has been following the developments closely and proposed a comprehensive response to the current refugee/migrant crisis, within its mandate which is to assist the OSCE participating States in the implementation of their human dimension commitments.

On 12-13 November 2016 ODIHR held an expert panel meeting on safeguarding the rights of asylum seekers, refugees and other persons in need in the current migration crisis. We gathered 55 representatives

from the border and asylum authorities of 13 participating States¹. Experts from the UN High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM), Frontex, the OSCE Mission to Serbia, the OSCE Mission to Skopje, the OSCE Secretariat and representatives from civil society organizations and academia also participated at the meeting.

Participants discussed relevant international obligations, OSCE commitments and other international standards, and offered good practice examples from the OSCE region related to the exercise of freedom of movement, the dignified treatment of persons crossing borders and the protection of related human rights. Specific focus was given to the access to asylum procedures and basic services, such as health care and accommodation at state borders. Participants explored possible ways to improve the situation of asylum seekers, refugees and other persons in need of protection and to ensure protection of their rights, in line with international obligations, OSCE commitments and other international standards.

¹ Austria, Croatia, Germany, Greece, Italy, Hungary, the former Yugoslav Republic of Macedonia, Poland, Slovenia, Serbia, Spain, Switzerland and Turkey

While we will publish consolidated conclusions and recommendations towards the end of this month, I can already share some of them with you today:

Participants observed that the current route of refugees and migrants can be described as ad hoc “humanitarian corridor” where standard border control procedures are not applied. The “crisis” measures undertaken to manage the flow of people are both unsustainable and can increase additional risks for refugees and migrants, such as smuggling and human trafficking.

Participants noted that:

a) efforts to provide persons arriving at the borders with comprehensive information on entry and asylum procedures, including with the use of new information technologies, must be strengthened;

- b) accurate and reliable information on the responses to the crisis and on the situation of the refugees should be also provided to citizens in affected countries to facilitate reception and counter xenophobic and racist narratives;
- c) vulnerable groups among refugees and migrants, such as single women, children – especially unaccompanied minors – and people with disabilities, must be afforded adequate special protection;
- d) gender- and culture-sensitivity must be applied to all actions for refugees and migrants;
- e) efforts to identify, report on and react to incidents of discrimination, intolerance and hate crimes should be strengthened, including through capacity building measures for security sector representatives;
- f) to be more effective in their responses, affected participating States must strengthen co-ordination and co-operation among themselves and with civil society organizations who provide assistance to refugees and migrants. This applies both to the current flow of people and to their future integration in countries of destination, especially if the EU re-allocation scheme is to be effective.

ODIHR is well placed to assist OSCE participating States in addressing several of those recommendations. In our comprehensive response to the current crisis, we have also envisioned an assessment of the human rights situation of refugees, asylum seekers and migrants in the OSCE participating States along the current migration routes. The assessment will give us an important insight into where our assistance would be best placed. It will also offer, through a public report, key findings, identified good practice examples and fact-based, targeted recommendations to participating States, international bodies and organizations on how to address existing challenges. Cooperation and dialogue will be the key for ODIHR to finding and implementing workable solutions.

There is a number of good practice examples that we can learn from. Many NHRIs in the region are active in the area of monitoring, protecting and promoting the human rights of migrants, refugees and asylum seekers as well as influencing the relevant policy decisions. Some examples include: monitoring visits of NHRIs to places of

reception and detention of migrants as well as monitoring border crossings, resulting in public reports and recommendations (Protector of Citizens in Serbia, Human Rights Ombudsman in Slovenia, Ombudsman in Greece), including on the situation of vulnerable groups (Office of the Ombudsman in Croatia); establishing referral mechanisms to resolve individual cases, organizing joint monitoring visits, exchanging expert opinions and organizing trainings to strengthen capacity and improve practice of relevant state authorities (Ombudsman of FYROM); responding publicly to instances of hate speech targeting refugees (Human Rights Ombudsman in Slovenia) or launching an official inquiry into anti-refugee ads of the government (Parliamentary Ombudsman in Denmark). These commendable efforts should be shared and built on across the OSCE area, utilizing also avenues of cross-border cooperation and existing networks, such as the “European Network of NHRIs” (ENNHRI).

NHRIs have an important mandate and can play a key role in the protection and promotion of human rights of refugees and migrants, many of whom are extremely vulnerable to human rights violations.

But across the OSCE region, NHRIs still often face challenges in securing sufficient human and financial resources to allow them to exercise their mandates effectively and efficiently. In line with the Paris Principles, these deficiencies should be urgently addressed if we want to see NHRIs taking an active role in and contributing to addressing these crisis situations. Moreover, NHRIs must be able to act independently without undue political pressure.

OSCE participating States committed themselves to combat discrimination against asylum seekers and refugees (Maastricht 2003) and recognized that manifestations of intolerance and discrimination can undermine the efforts to protect their rights (Madrid 2007). The Paris Principles also emphasize the important role NHRIs play in promoting human rights and combating discrimination, especially through information and education. The various manifestations of intolerance against refugees and migrants, including the intolerant public and political discourse in response to the current crisis, underscore the dire need for stepping up efforts in this regard.

You as independent Ombuds Institutions and National Human Rights Institutions have a significant role to play, both in protecting refugees and migrants and in infusing a human rights perspective into political debates, which is often otherwise predominated by security considerations. You are our strategic partners in efforts towards a full implementation of OSCE human dimension commitments, and we stand ready to support your important work.

Thank you for your attention!