

Joint Bali/ Budapest Processes meeting on implementation of anti-trafficking legislation and policies in the larger context of irregular migration

24-25 October 2005, Vienna

Meeting Conclusions

1. The joint meeting of the Bali and the Budapest Process on implementation of anti-trafficking legislation and policies in the larger context of irregular migration, took place in Vienna on 24-25 October 2005, under the chairmanship of Turkey and gathered representatives of Albania, Armenia, Australia, Austria, Belgium, Bulgaria, Canada, China, Croatia, Estonia, Finland, Germany, Georgia, Hungary, Latvia, Malta, Moldova, Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland, Thailand, Turkey, United Kingdom (EU Presidency), United States, Uzbekistan, as well as Interpol, International Organisation for Migration (IOM), Organisation for Security and Co-operation in Europe (OSCE), United Nations Office on Drugs and Crime (UNODC), United Nations High Commissioner for Refugees (UNHCR) and the International Centre for Migration Policy Development (ICMPD).
2. In his opening statement the Chair Turkey pointed to the instrumental role of informal processes like the Budapest Process and Bali Process in bolstering familiarisation among policy makers and practitioners and the need to improve existing measures and arrangements and continue looking for adequate remedies to the phenomenon of trafficking in human beings at regional and global level. Turkey also underlined the financial implications and the linkage to organised crime, as well as the need to pursue a cluster approach when dealing with trafficking in human beings and irregular migration, involving concerned countries of origin, transit and destination. While emphasising the necessity to set up appropriate data collection schemes and acknowledging the social and economic background of trafficking in human beings, the Chair stressed the key role of awareness raising campaigns directed at the general public, judicial and law enforcement agencies in stimulating a positive change of mindset. Taking into account the human rights dimension of the problem, the Chair highlighted the importance of the victim oriented approach and the general necessity to strengthen the operational capability and effectiveness of law enforcement agencies in order to struggle more efficiently with trafficking in human beings. The Chair also outlined the configuration of the meeting with the three panels, each focusing on 1) Comprehensive anti-trafficking legislation and its implementation 2) Trafficking in the context of irregular migration and 3) Co-operation on a regional and inter-regional level.
3. Australia, in its capacity as Co-chair of the Bali Process introduced the main elements and priorities in the Bali Process, as well as the upcoming activities and welcomed this second joint meeting between the Budapest and Bali Processes.
4. The United Kingdom, in its capacity as EU Presidency, highlighted that trafficking in human beings was a priority for its Presidency. It emphasised the importance given to this issue in the European Union recalling the Hague Programme and mentioning the development of an EU Plan on best practices, standards and mechanisms to prevent and combat trafficking in human beings. Reference was made to the recently adopted Communication *Fighting trafficking in human beings – an integrated approach and proposals for an action plan*, which notes the need to further strengthen co-operation at the regional and global level and to continue to promote regional initiatives, like the Nordic Baltic Task Force against Human Trafficking and the Budapest Process. Austria, in its subsequent statement stressed that organised crime, human trafficking and security are, among others the priorities for the upcoming EU Presidency.

5. The Secretariat outlined the main purpose of the meeting, which would serve as a platform for experience exchange among interested States on the implementation of legislation and policies in the field of trafficking in human beings. The overall aim of the meeting is to further the policy dialogue towards bridging the existing discrepancies between development and actual implementation of legislation and policies in the field of trafficking in human beings, as well as exploring the main elements of the existing links between trafficking in human beings and migration.
6. Participating States acknowledged the global legal framework in the field: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the Protocol Against Smuggling of Migrants by Land, Sea and Air, which supplement the United Nations Convention Against Transnational Organised Crime and the definition of trafficking in human beings contained in the Protocol, which refers to the movement of people for the purposes of exploiting human beings under forced labour or services, or slavery-like conditions.
7. Armenia, Austria, Bulgaria, Canada, Croatia, Hungary, Latvia, Moldova, Slovenia, Turkey and the United States presented their national legal framework and the existing implementation mechanisms. In terms of ensuring the successful implementation of the legislation, States agreed that there was the need for comprehensive anti-trafficking responses and concrete national action plans, containing the necessary institutionalised framework for co-ordination, as well as measures in the field of prevention, victim assistance and protection, investigation and prosecution. Such strategies and action plans should also contain in-built mechanisms for the regular monitoring and evaluation of its implementation as well as the review of the entire strategy/action plan to ensure its relevance in light of ever changing trends and modus operandi of the traffickers. The SEE Regional Guide on Comprehensive Anti-Trafficking Responses was cited as a good practical example from the Budapest Process region.
8. China and Australia presented the model anti-trafficking legislation developed among Bali Process participating States, as a concrete example of international co-operation in this field.
9. States also reaffirmed the need for a comprehensive approach in addressing the phenomenon, which includes an institutionalised operational mechanisms, involving all relevant ministries and actors such as Ministries of Interior, Ministry of Labour, Ministry of Social Affairs, Ministry of Justice, Ministry of Education, police, labour inspectors and others as well as representatives of civil society and International Organisations. In this regard, several States referred to already existing inter-ministerial and inter-agency co-ordination units and task forces, often connected to a national co-ordinator, in ensuring greater efficiency of anti-trafficking responses. The need for improved data collection, analysis and sharing of relevant information on national and inter-regional level was reiterated.
10. Budapest Process participating States confirmed the need to map out and continue the exchange of information and experiences regarding elements of a comprehensive legal and regulatory framework, as well as successful implementation structures / modalities. In this regard it was considered to broaden the scope of activities of the Belgium-led Working Group on Harmonisation of Penalty Scales.
11. Participating States recalled that trafficking in human beings is a distinct phenomenon, clearly defined in the Palermo Protocol as a case of human rights violation committed against an individual. States are under the obligation to identify, assist and protect, and to offer redress and compensation to victims, to prevent such human rights violations, and to prosecute and convict the offenders. In the case of irregular migration and smuggling it is the State's sovereignty that is violated.

12. Notwithstanding the fact that trafficking in human beings constitutes a distinct phenomenon, it still occurs to a large extent in the context of international and irregular migration. Thereafter, States, when dealing with international migration, are faced with mixed flows requiring different responses and in practice they are faced with the challenge to distinguish between the two. With this aim, it is essential that clear guidelines are elaborated and indicators for human trafficking developed. Further on, it is essential to sensitise and train frontline staff and in particular aliens police and to foster their co-operation with police investigators, labour inspectors and NGOs.
13. Therefore, it was acknowledged by participating States that a certain range of migration policy measures can contribute to the countering of human trafficking. The following policy measures, but not exclusive, were mentioned: visa policies and practices, admission, residence permits, return, readmission, border management, family reunion and family formation. In this context it was also recognised that there is a need to scrutinise existing migration policies/practices for unintended negative impact in terms of fostering human trafficking. Participating States also agreed on the need to further examine the mentioned link and possible migration policy measures and for this purpose proposed the establishment of a new Working Group of the Budapest Process on the link between trafficking in human beings and irregular migration.
14. It was acknowledged that various existing regional initiatives as the Nordic-Baltic Task Force, the Black Sea Initiative, the Bali Process, the Budapest Process Working Group on Harmonisation of Penalty Scales, as well as the activities of a number of international actors like the European Commission, Europol, Eurojust, Council of Europe, ICMPD, Interpol, IOM, OSCE, the SECI Centre, and others, such as ASEAN, the Human Security Network, etc. can further contribute towards adopting regionally harmonised approaches through developing regional standards and thereby enhancing co-operation.
15. In this context participating States welcomed further efforts to promote inter-regional co-operation along known trafficking routes, among countries of destination, transit and origin and also between the Bali and the Budapest Processes. Such activities should explore the potential and modalities of improved co-operation among law-enforcement agencies to combat trafficking in human beings.
16. Participating States also recognised the need to tackle concrete operational issues involving several states and actors, such as the cross-border management of trafficking cases (including risk assessment prior to return, and return and reintegration assistance), joint anti-trafficking investigations and mutual legal assistance, regional endeavours aimed at identifying victims of trafficking, etc.
17. UNODC recalled the States' obligation for full implementation of the Protocols, going beyond the first phase, that is ratification of the Protocol and incorporation of the dispositions in national law, and reaching the second phase, which is implementation in practice, use of the legislative measures to prosecute cases, identify victims, support and protect them etc.
18. UNHCR clarified its position on the link between trafficking and asylum in the sense that the trafficking experience itself may constitute persecution leading to refugee recognition and noted that measures by States to tighten their immigration controls through visa restrictions, airport screening, interception, etc., compromise their ability to properly distinguish bona fide asylum seekers from other migrants and consequently hamper safe access to asylum for persons at risk. Moreover, faced with restricted access, bona fide asylum seekers may turn to smuggling/trafficking channels as the only feasible means to reach safety.
19. The participants thanked Turkey for chairing the meeting and the Budapest Process Secretariat at ICMPD for the extensive substance preparations and arrangements.