

Rapporteur's Report on WS13

The second working session on the Rights of Migrants began with introductory remarks from Anastasia Crickley, Former Chairperson of the UN Committee on the Elimination of Racial Discrimination. Crickley noted that migration, by and large, benefits migrants, home countries, and host countries. Unfortunately, in Crickley's view, this fact contends with a toxic global discourse that has fanned the flames of racism, often with the endorsement of the highest levels in political parties. She noted that a humanitarian and rights based approach to the issue was key, and that much of this work had been done by the OSCE through its commitments. However, there is insufficient awareness regarding the issue of migration, which needs to be understood and articulated.

Crickley moved on to discuss the importance of integration, distinguishing it from assimilation and accommodation, noting that it was a two-way process, and that changes in our societies are inevitable. Crickley advocated for the implementation of OSCE commitments through ODIHR and the need to acknowledge and reinforce these commitments. She highlighted the importance of addressing migration commitments in an intersectional manner, noting that without such an approach human dimension commitments could conflict with commitments made in other dimensions. Crickley also noted that when discussing migrants they should not be treated as a homogenous group, but are often made up of marginalized or minority groups that face specific forms of discrimination.

On the subject of gender, Crickley noted that as 50% of migrants are women, gender mainstreaming is a necessity, and cannot be relegated to a side issue. While the discrimination and fear of strangers are natural, Crickley reminded participants that all societies have always been multicultural and that denying this fact doesn't work. In her view, the participation of migrants is key to make a lasting difference. In conclusion, Crickley noted that while the process is challenging some progress has been made, and that the OSCE's work must continue to build on training, support integration, and combat hate crimes against migrants. Crickley called for participants to shrink the "other", and to enlarge the "us", in order to reconnect with our shared humanity.

The second introducer of the session was Tomas Bocek, Special Representative of the Council of Europe's Secretary General on Migration and Refugees. Bocek noted that while mass migration flows into Europe have been decreasing the topic is still high on the political agenda. He referred

to the tools that the Council of Europe had in place to help member states in addressing migration, but stated that this required sufficient political will, and that the current situation was not encouraging. He cited an increase in walls and fences, immigration detention centres, fewer rights for migration, more restrictions on family reunification, and less welfare and the consequent serious human rights concerns. Bocek warned that by not upholding shared fundamental values as it pertains to the treatment of migrants, this will lead to an erosion of the post-World War II system.

While Bocek believed that migration could be effectively managed, he stated that asylum procedures must function properly, regardless of immigration status, and that the right to seek asylum must be protected. In cases where removal procedures were undertaken, human rights must be protected. Turning to integration, Bocek called for the responsible development of integration policies, including improved access to the labour market, the provision of language courses, access to mainstream education, and the establishment of legal pathways for economic migration to reduce the attraction of illegal migration. Bocek concluded by stating that human rights must be at the heart of European migration policy, but that the critical condition is the requirement of willingness from EU member states to cooperate.

The majority of the statements in the session came from civil society participants. A number of civil society representatives noted the challenges of migration in their societies. Some criticized particular participating States for not doing enough to protect the rights of migrants and to ensure proper access to the food, water, and shelter, as well as proper documentation, education, and access to labour markets. Many civil society organizations noted the importance of regional action to address migration challenges.

Some civil society speakers called for additional ODIHR monitoring of the status of migrants in participating States. A number of speakers highlighted the contributions of labour migrants to their home countries, and the importance of protecting their rights. The issue of labour exploitation due to irregular migration was also raised by a number of civil society speakers, with calls for standards to be established and the training of NGOs. Some speakers raised the difficulty of movement in some participating States due to the cost of visas. The distinction between labour migrants and migrants fleeing challenging situations was raised by a number of speakers. Several civil society speakers raised difficulties of movement of migrants in conflict affected areas and the protection of their human rights.

Several civil society organizations criticized the use of child detention in a number of participating States. One participant stated that these actions were immoral and illegal, citing European Court of Human Rights rulings on child detention. Another participant called for better coordination and harmonization of OSCE participating States' procedures relating to migration, in order to ensure the protection of children, including appropriate foster care, facilities, and legal guardianship. Some argued that European security policies conflicted with human rights commitments and obligations.

Several civil society organizations raised the importance of a human rights based approach to migration, and noted worrying examples in some participating States of the absence of such an approach. State-sponsored anti-migrant campaigns were cited by some arguing that states must comply with human dimension commitments and rulings of the ECHR. The role of civil society in safeguarding migrants' rights was raised by a number of participants, including the concern that criminalizing the work of CSOs, as well as the harassment of CSOs, makes the situation worse.

A number of civil society speakers noted the challenges of integration and how to address perceived incompatible cultural practices. These speakers argued that both citizens and migrants had responsibilities. One participant called for the OSCE to combat the instrumentalization of religion as a security threat, arguing that the migrant challenge will not be resolved without first resolving the counter-productive reactions of political parties in Europe.

One participating State noted the positive conditions for migrants in its country, while criticizing the treatment of migrants in a number of other participating States. This state called for strategic solutions to migration issues and the need for increased joint efforts. Another participating State called for comprehensive and coordinated regional solutions to migration that account for security needs and human rights, while noting that migration was primarily the responsibility of each state. One participating State noted the leading role of the UN on migration and that the OSCE must complement UN activities, stating that within the OSCE focus should be placed on areas of OSCE expertise. This state also raised the subject of internally displaced persons (IDP) advocating for a comprehensive OSCE response to IDPs in line with the New York Declaration for Refugees and Migrants. Another participating State also addressed the issue of IDPs, advocating for a holistic approach when dealing with migration, and recommending the use of the UN International Organization for Migration's definition of migration. The state called on ODIHR to analyze the status of respective OSCE commitments on migration and to continue human rights sustainability training in OSCE participating State that have large inflows of refugees.

Recommendations made by participants during the session include (non-exhaustive list):

OSCE participating States should:

- Fully comply with all human dimensions commitments, particularly paragraph 23 of the Istanbul Document 1999 and paragraph 38 of the 2003 Maastricht document
- Stop public funded xenophobic campaigns against migrants.
- Revoke legislation which allows mass expulsions of Third Country Nationals.
- Respect the right to seek asylum and to ensure the right to liberty of asylum seekers and migrants
- Ensure detention is only used as a measure of last resort and in accordance to international obligations.
- Implement the judgement and interim measures from the ECHR pursuant to migrants.
- Disclose plans to integrate beneficiaries of international protection.
- End the detention of child migrants and humanize borders in accordance with human rights commitments and obligations
- Resist hate speech and scaremongering towards migrants and refugees and consider the consequences of such actions.
- Implement the resolutions adopted by the OSCE PA and in particular those from the Ad Hoc Committee on migration on issues such as unaccompanied minors and detention of children.
- Provide free primary and secondary education to migrant children regardless of status.
- Implement dialogue between civil society and state actors
- Mobilize resources in order to improve the management of migration.

The OSCE/ODIHR should:

- Monitor the impact of legislation and other measures, including communication by state actors and government media, on civil society organizations that assist migrants.
- Ensure access of NGOs to accommodation facilities to ensure the rights of migrants are being respected.
- Provide training on the sustainability of human rights in communities hosting IDPs.
- Exchange best practices on IDPs.
- Combat the instrumentalization of religion in political rhetoric.
- Promote the reform of the Dublin Agreement.
- Protect and respect the rights of people on the move at borders.
- Promote the active participation of migrants in issues which affect their lives.
- Respect the right for nations to express their national identity.
- Monitor trials against migrants.
- Have higher representation of Central Asians in its institutions.
- Recognize that cultural practices of migrants can be incompatible with host societies.

The OSCE Parliamentary Assembly should:

- Conduct a comprehensive monitoring visit through the Ad Hoc Committee on Migration to one participating State with an extended mandate to observe the situation of third country nationals pushed back by this state to a neighbouring state, as well as assessing the situation of asylum seekers and beneficiaries of international protections in this state.