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The Draft European Convention against Trafficking in Human Beings must be strengthened

Amnesty International and Anti-Slavery International are among 70 NGOs from Europe and beyond who are calling on the 45 Council of Europe Member states to enhance the protection of the human rights of trafficked persons. The call comes as the Ad Hoc Committee on Action against Trafficking in Human Beings, (a group of government-representatives from the 45 Council of Europe member states, known as "CAHTEH") begins its penultimate meeting in Strasbourg, France on 28 September, to draft a European Convention against Trafficking in Human Beings.

The number of people in the Council of Europe region who are affected by this contemporary form of slavery has increased dramatically over the last decade.

"Trafficking of human beings is, in itself, a serious human rights violation. It is an offence to the dignity and integrity of the human being and by its very nature - involving coercion and/or deception and exploitation - victims of trafficking are subjected to a range of human rights abuses. However, all too often, trafficked persons are misidentified by the authorities as undocumented and illegal migrants; they are often treated as criminals rather than victims of serious human rights abuses and are sent quickly back to their countries of origin, where many risk reprisals and/or re-trafficking. Such action also thwarts efforts to bring those responsible for trafficking to justice," said Mary Cunneen, Director of Anti-Slavery International.

"States have a responsibility, individually and in cooperation with each other, not only to take measures to prevent trafficking and prosecute traffickers, but also to protect and respect the human rights of trafficked persons," said Jill Heine, Legal Adviser Amnesty International, who will address CATHEH's meeting in Strasbourg.

Amnesty International and Anti-Slavery International have welcomed the Council of Europe's focus on trafficking in human beings, and in particular the mandate of the Foreign Ministers of these 45 states to the CAHTEH to draft a European treaty which enhances the protection of the human rights of trafficked persons.

Having reviewed the most recent draft of the treaty, however, Amnesty International and Anti-Slavery International consider that, during its two final meetings, the CAHTEH must strengthen some of the provisions if it is to fulfil its mandate to draft a treaty which designs a "comprehensive framework for the protection and assistance of trafficked persons and witnesses". Doing so will require states to go

beyond existing norms enshrined in international and regional standards and national law.

In the joint Statement signed by over 70 NGOs working on trafficking and related issues in Europe and beyond, organisations call on the CAHTEH to ensure that the text of the European Convention against Trafficking identifies trafficking as a human rights violation and requires states to ensure:

The prompt and accurate identification of trafficked persons by trained and qualified persons

That trafficked persons are not detained, charged or prosecuted for the illegality of their entry into or residence in a country, or for their involvement in unlawful activities that are a consequence of their situation as trafficked persons

The availability and access of trafficked persons to a full range of measures of assistance and protection measures and services, including medical and psychological care, and legal assistance safe and secure housing, on the basis of need

That any person reasonably believed to have been trafficked is granted a period of at least 3 months to stay in the country (known as the Reflection and Recovery Period) while they begin to recover, to escape the influence of their trafficker and/or to enable them to make informed decisions about their future, including cooperation with law enforcement efforts, in security

That following the Reflection and Recovery Period, trafficked persons are granted 6-month renewable and permanent residence permits on the basis of periodic needs and risk assessment, rather than solely conditional on the cooperation of the trafficked person with law enforcement efforts

That no trafficked person will be returned to any country if there is a risk to their life or safety, including the risk of re-trafficking.

If these recommendations are adopted, the Council of Europe's treaty could fill a significant gap, as today there are no treaties that comprehensively address states obligations to respect and protect the human rights of trafficked persons.

Amnesty International and Anti-Slavery International also call on each government in the 45 Council of Europe member states to hold consultations about this draft treaty with civil society, in particular with organizations and individuals which work with or on behalf of trafficked persons.

Background

The Council of Europe's Committee of Ministers mandated the Ad Hoc Committee on Action against Trafficking in Human Beings (known as CAHTEH) to draft a European Convention against Trafficking in Human Beings by December 2004. During the upcoming meeting, 28 September - 1 October, the CAHTEH will complete its second reading of a draft of this treaty.

The Committee of Ministers specifically requested the CAHTEH to design a comprehensive gender-sensitive framework for the protection of the human rights of victims of trafficking, as well as focusing on prevention, investigation, prosecution and international cooperation.

The Council of Europe, based in Strasbourg, France was founded in 1949 to defend human rights, parliamentary democracy and the rule of law. To these ends, this inter-governmental organization has adopted 196 treaties, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and established monitoring bodies including the European Court of Human Rights. The current Member States of the Council of Europe are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, FYR Macedonia, Turkey, Ukraine, United Kingdom. Monaco is due to become the 46th Member State in October 2004.

For more information, please see the following documents:

Amnesty International's and Anti-Slavery International's General Recommendations on the draft European Convention against Trafficking in Human Beings

<http://web.amnesty.org/library/index/engior610182004>
Enhancing the Protection of the Rights of Trafficked Persons: Amnesty International and Anti-Slavery
International's Recommendations to
strengthen provision of the July 2004 draft European Convention against Trafficking in Human Beings
<http://web.amnesty.org/library/index/engior610162004>

Public Document

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