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Council of Europe: Don't Compromise on the rights of trafficked persons

JOINT STATEMENT Amnesty International and Anti-Slavery International

Amnesty International and Anti-Slavery International call on the Committee of Ministers of the Council of Europe to strengthen the provisions of the draft Council of Europe Convention on Action against Trafficking in Human Beings related to the assistance and protection of trafficked persons. The Committee of Ministers will review this draft Convention, with a view to its adoption, in March 2005.

The organizations note that the current draft European Convention on Action against Trafficking in Human Beings builds upon existing international standards of protection for trafficked persons in some respects -- in particular by expanding the definition of trafficking set out in the Palermo Protocol to expressly include internal (in-state) trafficking and trafficking not necessarily involving organized criminal groups; and, by establishing an independent mechanism (GRETA) to monitor the implementation of this Convention.

Amnesty International and Anti-Slavery International consider, however, that a number of provisions must be amended if the treaty is to meet the stated aim of establishing a comprehensive framework for the protection of the rights of trafficked persons.

In particular, Amnesty International and Anti-Slavery International urge the Committee of Ministers to ensure that, in its final form, the Council of Europe Convention on Action against Trafficking in Human Beings requires that:

- all trafficked persons are given access to *necessary* medical assistance, including psychological care and treatment, (not just emergency medical assistance) (Article 12(1) (b));
- the protection and assistance measures are extended to the families of trafficked persons, when necessary (Article 12);
- when there are reasonable grounds to believe a person has been trafficked, they are afforded a recovery and reflection period - **of at least three months and sufficient** for the person concerned to begin to recover, escape the influence of their traffickers and make informed decisions about their future (Article 13 (1));
- renewable residence permits, **of at least 6 months in length**, are issued to trafficked persons when, **following a risk assessment**, the competent authorities consider that their stay is necessary owing to their personal situation **or** for the purpose of their participation in proceedings (including criminal proceedings against their traffickers, or proceedings for compensation) (Article 14 (1));
- provisions are made for family reunification** when a trafficked person is issued residence permits (Article 14);

trafficked persons are not detained, charged or prosecuted for illegal entry or residence and unlawful activities, unless it is shown that the unlawful activities were not a consequence of their situation as a victim (Article 26);
persons have the right to have the decisions of the competent authorities taken under Articles 10-16 reviewed by an independent, impartial body established by law (Article 10);
one single, independent expert body (GRETA) monitors the implementation of the Convention by EU and non-EU member states alike (Articles 36-38).

In addition, the organizations consider that the treaty should empower the GRETA to receive information from any source, including the European Union and members of civil society, and should permit each Party to declare that they recognize the competence of the GRETA to consider collective complaints about a Party's failure to implement provisions of the Convention.

These recommendations (which are also included in our publication, *Council of Europe: Recommendations to Strengthen the December 2004 Draft of the European Convention on Action against Trafficking in Human Beings*, AI Index: IOR 61/001/2005, available electronically at: <http://web.amnesty.org/library/index/engior610012005>) are consistent with those proposed by the Parliamentary Assembly of the Council of Europe in January 2005 and the recommendations of non-governmental organizations who work directly with and on behalf of trafficked persons. However, these recommendations were rejected last week by the EU member states, which now comprise the majority of the 46 Council of Europe states, and by the European Commission on their behalf. Thus they are not included in the current draft of the Convention.

Instead, many of the key provisions concerning the protection and assistance of trafficked persons contained in the draft Convention submitted to the Committee of Ministers, fail to significantly enhance the assistance and protection currently available under some national or European Union legislation. They result from the lowest-common denominator positions agreeable to the European Union member states.

Amnesty International and Anti Slavery deeply regret that in the context of the negotiations within the Council of Europe's *Ad Hoc Committee on Action against Trafficking in Human Beings*, the protection of the rights of trafficked persons, who are some of the most vulnerable persons in Europe, appeared to be secondary to political and institutional positioning.

Amnesty International and Anti-Slavery International call on the Committee of Ministers of the Council of Europe and the institutions of the European Union to cooperate to ensure the realization of the stated aim of the Council of Europe in drafting this Convention -- to adopt a treaty which addresses the urgent need to *enhance* the protection of the human rights of trafficked persons.