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Council of Europe: An important step forward towards the enhanced protection of trafficked persons

Amnesty International welcomes the affirmation today that the European Convention on Action Trafficking will come into force on 1 February 2008. As of today, 10 states in Europe have committed themselves to respecting and protecting the rights of trafficked persons by becoming parties to the Council of Europe Convention on Action against Trafficking in Human Beings.

The organization calls on the other 37 member states of the Council of Europe, as well as the European Union, and other countries to follow the lead taken by Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, Moldova, Romania and Slovakia, by becoming parties to and implementing this Convention without further delay.

In and through Europe, women, men and children are trafficked for exploitation in informal sectors such as domestic work, farming, manufacturing construction, hospitality and forced sexual exploitation. While accurate statistics of this global crime are not available, due in part to its clandestine nature and difficulties inherent in locating and accurately identifying its victims, estimates of its global incidence range in the millions.

In the course of this ordeal, the very human dignity of persons who are trafficked is violated. In the trafficking process, trafficked persons are typically subjected to compound violations of their human rights. Many are abducted, held against their will in poor conditions, beaten, sexually abused and subjected to other forms of torture. Frequently their rights to physical and mental integrity; liberty and security of the person; freedom from slavery, slavery-like practices, torture and other inhuman or degrading treatment; family life; freedom of movement; privacy; the highest attainable standard of health; and safe and secure housing are violated.

Rather than being treated as victims of heinous crimes, when they come to the attention of the authorities, typically trafficked persons are treated as criminals, unlawful aliens or, in cases in which the authorities seek to pursue their trafficker, useful tools of the criminal justice system. The psychological, medical and social consequences of the ordeal to which they have been subjected and the underlying root causes (including the "push" and "pull" factors) are rarely addressed. Assistance, when offered to trafficked people to recover from their ordeal, is frequently made conditional on their agreement to cooperate in prosecutions against their traffickers. Such cooperation frequently places trafficked persons and members of their families in further danger at the hands of the traffickers.

Access to justice including redress, compensation, restitution and rehabilitation, for the abuses that victims have suffered is rare. Non-nationals without rights to residence in the country in which they are found are frequently deported without consideration of the risks that they may face on return, be they re-trafficking or other violence at the hands of their traffickers or others.

States that become party to and implement the Council of Europe Convention against Trafficking, have committed themselves to taking a different approach. They will not only take individual and collective action to criminalize trafficking but also they will take a range of other minimum steps necessary to respect and protect the rights of trafficked persons.

Furthermore, in accordance with the Convention, by February 2009, an independent body of experts mandated to assist states in their implementation of this treaty will be established; its members will be elected from candidates nominated by those states which have become parties.

Amnesty International calls on states and the Council of Europe to ensure that the processes of nomination and election of the members of this body are open, transparent and aimed at ensuring that those appointed are independent, possess the relevant expertise and that this body is afforded adequate resources to carry out its functions.

Background:

The Convention is open for signature and ratification to all Council of Europe member states, other states that participated in drafting it and the European Community.

The majority of Council of Europe member states and the European Community are already parties to the most recent UN treaty on trafficking, known as the Palermo Protocol. While this treaty has established an internationally agreed definition of trafficking in human beings and requires states to criminalize trafficking, prosecute traffickers and take measures to prevent trafficking, including by addressing demand, most of the provisions aimed at protection of the rights of trafficked persons in the Palermo Protocol are recommendations rather than requirements.

In recognition that more was needed to ensure the respect and protection of the rights of trafficked persons, the member states of the Council of Europe adopted the Council of Europe Convention against Trafficking in Human Beings on 3 May 2005. The Council of Europe Convention against Trafficking sets out a range of minimum required assistance and protection measures which parties to it must take to protect and respect the rights of trafficked persons. Among them are requirements to unconditionally ensure to persons reasonably believed to have been subjected to trafficking an adequate standard of living, appropriate and secure accommodation; access to emergency medical treatment; translation and interpretation services; counselling and information on their legal rights; legal assistance; a recovery and reflection period in the country in which they are found of at least thirty days and access to education for children.

The 37 Council of Europe Member States that have yet to become parties to the Council of Europe Convention on Action against Trafficking in Human Beings are: Andorra, Armenia, Azerbaijan, Belgium, Bosnia & Herzegovina, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Norway, Poland, Portugal, Russian Federation, San Marino, Serbia and Montenegro, Slovenia, Spain, Sweden, Switzerland, FYR Macedonia, Turkey, Ukraine and United Kingdom.