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## **Council of Europe: Recommendations to Strengthen the December 2004 Draft European Convention on Action against Trafficking in Human Beings**

### **1. Introduction**

Trafficking in human beings is a particularly serious human rights violation, whose incidence has increased dramatically within the Council of Europe region over the last 10 years.

While states, acting both individually and collectively, have taken measures aimed at ensuring the criminalization of trafficking – including through the adoption of legislation at the national level and binding multilateral treaties such as the Palermo Protocol<sup>1</sup>, there is growing recognition that more needs to be done by states to respect and protect the human rights of trafficked persons.

For these reasons, among others, Amnesty International and Anti-Slavery International welcome the Council of Europe's focus on trafficking in human beings.

In particular, the organizations welcome the fact that the Council of Europe's Committee of Ministers has mandated a body of representatives of the member states, the *Ad Hoc Committee on Action against Trafficking in Human Beings*, (known as CAHTEH) to draft a European Convention on Action against Trafficking in Human Beings (hereinafter draft European Convention against Trafficking) which enhances the protection of the rights of trafficked persons. If the Council of Europe succeeds in this endeavour, it will fill a significant gap as there are currently no binding international standards which comprehensively address states obligations to respect and protect the rights of trafficked persons.

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<sup>1</sup> The full title of this treaty is the Protocol to Prevent Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime.

The CAHTEH submitted a draft of this treaty to the Committee of Ministers in December 2004.<sup>2</sup> At the request of the Committee of Ministers, the Parliamentary Assembly of the Council of Europe will debate and adopt an Opinion on the December draft of the European Convention against Trafficking in Human Beings during its upcoming Plenary session on 24-28 January 2005. It will then submit this Opinion to the Committee of Ministers. It is likely the Committee of Ministers will adopt the treaty in March 2005.

With a view to assisting the Council of Europe in adopting a treaty which truly meets the aim of enhancing the protection and respect of the rights of trafficked persons, the following document sets out Amnesty International's and Anti-Slavery International's comments and recommendations to strengthen provisions of the December 2004 draft European Convention against Trafficking in Human Beings.

These comments draw not only on existing human rights standards, but also on our experience of working in conjunction with trafficked persons and with other organizations which provide direct services to trafficked persons in the Council of Europe region. Many of these recommendations reflect the views expressed by 179 NGOs from more than 30 countries contained in the Joint NGO Statement on the draft European Convention against Trafficking in Human Beings.<sup>3</sup> In this way Amnesty International and Anti-Slavery International seek to assist the Council of Europe in fulfilling its stated aim to adopt a European treaty on trafficking which not only reinforces the letter and spirit of existing international and regional standards, such as the Palermo Protocol and the UN Recommended Principles and Guidelines on Human Rights and Human Trafficking<sup>4</sup> and Recommendations of the Council of Europe's Committee of Ministers<sup>5</sup>, but also improves and strengthens measures for the protection of the rights of trafficked persons, and ensures a strong and coordinated criminal justice response to the crime of trafficking.

In summary, Amnesty International and Anti-Slavery International welcome the aims of the European Convention against Trafficking in Human Beings, set out Article 1, namely:

- to prevent and combat trafficking in human beings, also taking gender equality into consideration;
- to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, also taking gender equality aspects into consideration, as well as to ensure effective investigation and prosecution;
- to promote international cooperation on action against trafficking in human beings;

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<sup>2</sup> CAHTEH (2004) INFO 9, 10 December 2004. The full text of the December draft is attached in Annex 1 of this document.

<sup>3</sup> The NGO Statement is set out in Appendix 2 of this document.

<sup>4</sup> UN Document: E/2002/68/Add.1, 20 May 2002.

<sup>5</sup> See, among others, Committee of Ministers Recommendation 2002(5) on the protection of women against violence; Recommendation (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation; Recommendation Rec. (2001) 16 on the protection of children against sexual exploitation; Recommendation (rec.(97)13 on intimidation of witnesses and the rights of the defence; Recommendation No. R (85) 11 on the position of the victims within the framework of criminal law and procedures and Recommendation No. R (87) 21 on assistance to victims and the prevention of victimization.

- to establish a monitoring mechanism to ensure effective implementation of the treaty by its parties.

The organizations believe that the draft European Convention against Trafficking in Human Beings builds upon existing international standards of protection for trafficked persons, 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;
- establishing the basis of a framework of protection and assistance of victims of trafficking (although, as stated below, we consider that this requires strengthening);
- establishing an independent mechanism (GRETA) to monitor the implementation of this Convention by state parties.

However, Amnesty International and Anti-Slavery International consider that a number of provisions of the draft European Convention against Trafficking in Human Beings -including those relating to identification, assistance and protection and repatriation and resettlement of trafficked persons, those relating to non punishment of trafficked persons, as well as those relating to jurisdiction and the monitoring body- must be strengthened in order to meet the aims set out in Article 1.

Amnesty International and Anti-Slavery International urge the Council of Europe, including the PACE, to adopt the recommendations to strengthen the treaty in a manner consistent with the suggested amendments set out below. In particular, we urge the strengthening of articles relating to identification, assistance, protection and repatriation and resettlement of trafficked persons. We have particular concern that provisions relating to non punishment of trafficked persons should be strengthened. We also recommend strengthening the provisions related to jurisdiction and the mandate of the monitoring mechanism.

The organizations also call on the Committee of Ministers to convene another session of the CAHTEH and mandate it to amend the December 2004 draft of the European Convention against Trafficking in Human Beings in a manner that is consistent with the Opinion of the Parliamentary Assembly of the Council of Europe and the views of non-governmental organizations, including Amnesty International and Anti-Slavery International. In view of the particularly important role played by non-governmental organizations in the protection and assistance of trafficked persons in most Council of Europe member states, and the fact that there has been little, if any, consultation about the draft provisions of this treaty in the member states, we also urge the Committee of Ministers to ensure that relevant NGOs are invited to attend and participate throughout such a meeting of CAHTEH.

## **2. Recommendations on selected Articles of the December draft European Convention against Trafficking in Human Beings**

### **Article 4(e): Amend Definition of Victim**

Amnesty International and Anti-Slavery International consider that it is key to the protection of the rights of trafficked persons that, at the moment when there are reasonable grounds to believe that a person is or has been a victim of trafficking, they should benefit from the provisions relating to protection and promotion of the right of victims contained in the draft European Convention against Trafficking in Human Beings.

We therefore urge that Article 4(e) of the draft Convention be amended as follows:

4(e) "Victim" shall mean any person who has been subject to any act set forth in this Article. **In applying Articles 10-15 (1) and (2), 16, 26 and 28 of this Convention, a person shall be considered a victim from the moment when there are reasonable grounds to believe that they are or have been a victim.**

## **Article 7: Border Controls**

### **Without prejudice to the right to seek and enjoy asylum**

Amnesty International and Anti-Slavery International believe that measures taken to prevent trafficking, including measures taken to prevent inter-state trafficking at borders, should not affect the human rights and dignity of individuals, and in particular the protection afforded to refugees and asylum-seekers under international refugee and human rights law including the enjoyment of the right to asylum.

To this end, Amnesty International and Anti-Slavery International urge that Article 7 is amended as follows:

#### **Article 7 – Border measures**

1. Without prejudice to international commitments, **including** in relation to the free movement of persons **and the right to seek and enjoy asylum**, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.
2. Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention, **in a manner that is consistent with international refugee and human rights law, including the rights of individuals to seek and enjoy asylum.**

## **Article 10: Identification**

### **Ensure that the authorities responsible for identification are experienced in assisting trafficked persons and strengthen provisions relating to children**

Accurate identification of trafficked persons is key to ensuring respect for their human rights and to the prosecution of those responsible for trafficking.

Amnesty International and Anti-Slavery International note that Article 10(1) requires state parties to provide its competent authorities with persons who are trained and qualified in

preventing and combating trafficking in human beings. Regrettably however, it does not require that those persons should be experienced in assisting trafficked persons nor does it expressly require state parties to ensure that those carrying out such identification are persons trained and qualified to identify trafficked persons.

In addition, while Article 10(3) and (4) set out some protections in relation to trafficked persons who are children, the specific protections set out in paragraph 4 relate only to children who are *unaccompanied*- they therefore do not extend to those who are not “unaccompanied”, including internally trafficked children. Consistent with the *UNICEF Guidelines For Protection of the Rights of Children Victims of Trafficking in South Eastern Europe, May 2003*, Amnesty International and Anti-Slavery International consider that the provision should be strengthened so as to require that a qualified guardian and a suitably-experienced lawyer are appointed to represent every child reasonably believed to have been trafficked. The Article should also require that all actions taken with respect to such children are in their best interest and that the child’s views are elicited and considered.

Also, as set out under the heading of Article 16 bis, in view of the importance of ensuring accurate identification of trafficked persons, not only for protection of their rights and successful law enforcement, Amnesty International and Anti-Slavery International consider that a provision should be added which requires state parties to ensure that persons have the right to have the decisions of the authorities made under articles 10-16 reviewed by an independent and impartial body.

The provisions currently contained in Article 10 should therefore be strengthened to:

- require state parties to ensure that the competent authorities tasked with identification of trafficking victims *are* persons who are *sensitized*, trained and qualified to *accurately identify trafficked persons in a gender and culturally sensitive manner*;
- expressly provide for the protection of the rights of all children reasonably believed to have been trafficked, including those who are not “unaccompanied” and internally trafficked children;
- refer back to the definition of a victim set out in Article 4, rather than Article 18, which requires the criminalization of trafficking.

In addition, as set out below under Article 16bis, Amnesty International and Anti-Slavery International consider that the European Convention against Trafficking in Human Beings should expressly provide for the right to review a determination that a person is not a victim of trafficking (as well as other determinations relating to articles 11 to 16) to an independent and impartial body.

In light of the above, Amnesty International and Anti-Slavery International suggest that Article 10 is amended as follows:

#### **Article 10 - Identification of the victims**

1. Each Party shall provide its competent authorities with persons who are trained and qualified in **the identification and assistance of trafficked persons**, preventing and combating trafficking in human beings and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, with a view to ~~enabling an~~ **ensuring the identification of victims and their assistance and protection;** ~~and~~

**including** in appropriate cases, issuing residence permits under the conditions provided for in article 14 of the present Convention. **The identification of victims shall be entrusted to these trained and qualified persons.**

2. Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, such a person shall not be removed from its territory until the identification process as victim ~~of an offence provided for~~ **as defined** in article 4 of this Convention has been completed by the competent authorities **and the person has received** the assistance provided for in Article 12, paragraphs 1, ~~and 2~~ **and 3.**

3. When the age of the victim is uncertain and there are reasons to believe that the victim is a child, the presumption shall be that the victim is a child, and she/he will be accorded special protection measures pending verification of his/her age.

4. As soon as a child is identified as a victim ~~and is unaccompanied~~, each Party shall:

- (a) provide for representation of the child by a legal guardian, organisation or authority, **with relevant appropriate training, experience and skills**, which is responsible to act in the best interests of that child;
- (b) take the necessary steps to establish his/her identity and nationality;
- (c) make every effort to locate his/her family when **the child is unaccompanied and** this is in the best interests of the child;
- (d) appoint a relevantly-experienced lawyer to represent the child;**
- (e) ensure that, in all actions concerning child victims, whether undertaken by public or private social welfare institutions, police, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be the primary consideration;**
- (f) ensure that child victims are, as soon as possible after their identification, informed of their rights and the assistance and services available to them in a language that they understand and are placed in safe and suitable accommodation (i.e. temporary shelter or location of alternative care arrangement).**

## **Article 12: Assistance for Victims of Trafficking**

**Ensure adequate assistance and protection is provided on a consensual basis to trafficked victims, and that it includes necessary medical care, education, access to vocational training and work**

Article 12 of the draft European Convention against Trafficking requires state parties to take due account of the safety and protection needs of victims and to adopt legislative and other measures to assist victims of trafficking in their physical, psychological and social recovery.

Notably and regrettably, however, the provisions in draft Article 12 on medical assistance, access to education (including for children), vocational training and work are very restrictive. Only *emergency* medical assistance is available to all trafficked persons. Other necessary

medical care, education, access to vocation training and work are only available to *those persons lawfully resident in the country*. Therefore, such assistance is unlikely to be made available to externally trafficked persons, who do not (yet) possess a resident permit.

In addition, Amnesty International and Anti-Slavery International consider that the wording of draft Article 12 (6) relating to assistance of trafficked children - which states that assistance to trafficked children shall not be conditioned on their willingness to act as a witness - may lead to misunderstanding about whether state parties may condition assistance to trafficked adults on the basis of such cooperation. This indeed would be a regrettable (and hopefully unintended) result. Amnesty International and Anti-Slavery International consider, therefore, that Article 12 must be amended to clarify that the assistance measures set out therein are not conditioned on the willingness of any victim (adult or child) to act as a witness in proceedings against those responsible for their trafficking.

In summary, in the view of Amnesty International and Anti-Slavery International, the current draft of Article 12 should be strengthened to:

- Ensure access of trafficked persons to a full range of protection, services and assistance, including notably: safe and secure housing; material assistance; medical and psychological care and treatment; access to education (particularly for children); vocational guidance and training and access to the labour employment, and require that such measures are provided on a fully informed and consensual basis and in a manner that respects the dignity and privacy of the person;
- Require that such protection, services and assistance, are made available to *all* trafficked persons on the basis of need (determined by periodic risk/needs assessments), regardless of their residence status in the country or their agreement to cooperate with law enforcement efforts to bring their traffickers to justice;
- Contain provisions related to trafficked children which are consistent with the internationally guaranteed rights of the child;
- Require states to provide information about the availability of redress and protection, assistance and other services available to persons reasonably believed to be trafficked and about how to access such redress, and services in a language the person understands;
- Require states to ensure that protection measures are extended, where appropriate, to family members of a trafficked person and others including those who cooperate with law enforcement or judicial authorities and those who provide services to trafficked persons.

Amnesty International and Anti-Slavery International therefore suggest that article 12 be strengthened along the following lines:

***Article 12 – Assistance to victims***

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. **Such assistance shall be provided on a fully informed and consensual basis and shall not be conditioned on a victim’s agreement to participate in criminal investigations or proceedings against those**

**responsible for their trafficking.** Such assistance shall include at least:

- (a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure housing, psychological and material assistance;
- (b) access to emergency **and other necessary** medical and **psychological care and** treatment;
- (c) translation and interpretation services, **when necessary** appropriate;
- (d) counselling and information, in particular as regards their legal rights **and assistance, protection and services available**, in a language that the victims can understand;
- (e) assistance to enable their rights and interests to be presented and considered at appropriate stages of ~~criminal~~ **legal and administrative** proceedings, including against offenders **and for compensation**;
- (f) **access to education, in particular for children.**

2. Each Party shall take ~~due account of~~ **such other measures as may be necessary to ensure** the safety and **other** protection needs of victims **and, where appropriate, their families.**

~~3. In addition, each Party shall provide necessary medical or other assistance to the victims lawfully resident within the territory of the Party concerned who do not have adequate resources and need it.~~

~~3.4.~~ Each Party shall adopt ~~the~~ rules under which victims ~~lawfully resident~~ within the territory of the Party concerned shall be authorised to have access to the labour market, **and to** vocational training ~~and education.~~

~~5. 4.~~ Each Party shall take measures, where appropriate, ~~and under the conditions provided for by its national law,~~ to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in victim assistance.

**5. Each Party shall ensure regular and periodic assessments of the needs of the trafficked person and shall take appropriate measures to ensure appropriate assistance to address such needs.**

6. Each Party shall adopt such legislative or other measures as may be necessary to ensure that such assistance to a child victim, as is necessary to protect their rights and best interests, is provided without delay. Full account shall be taken of their special rights and needs. ~~is not made conditional on the child's willingness to act as a witness. This provision is without prejudice to the possibility for a child victim to benefit from a residence permit issued to victims who cooperate with the competent authorities, when the legislation of a Party provides for this possibility for minors. In this case, The~~ Party concerned shall ensure that the assistance provided and any procedure(s) related thereto are appropriate to the age and maturity of the child.

**Each Party shall ensure the right of a child victim, who is capable of forming his or her views, to express those views freely in all matters affecting him or her, and ensure that such views are given due weight in accordance with his or her age and maturity.**

## **Article 13: Recovery and Reflection Period**

**Require a minimum of three months for recovery and/or reflection and regularization of the person's stay**

Amnesty International and Anti-Slavery International welcome the aim of Article 13, requiring state parties to ensure that their laws permit persons reasonably believed to have been trafficked to remain in the territory for a sufficient period for them to recover and escape the influence of their traffickers and/or for the purpose of taking an informed decision about assisting the competent law authorities.

The failure to specify a minimum reflection period could result in state parties setting timeframes which are unrealistic to achieving the desired aims of the reflection period, namely to provide an opportunity for the trafficked person to begin a recover, escape the influence of their trafficker(s) and make informed decisions about their future, in safety and security. Organizations working with and on behalf of trafficked persons have overwhelmingly agreed that a minimum reflection period of at least three months is needed to achieve this aim.<sup>6</sup> This recommendation is consistent with the Opinion of the European Commission's Expert Group on Trafficking in Human Beings to the Council of Europe.<sup>7</sup>

In addition the regularization and official recognition of a person's status in the country during this period will help to ensure that their presence in the country is secure and not called into question by any authorities.

The organizations therefore recommend that Article 13:

- Set out a minimum recovery and reflection period of no less than 3 months;
- Expressly require state parties to regularize a person's presence in the country during the reflection and recovery period, including by the issuance of appropriate official identification and documentation.

Accordingly, Amnesty International and Anti-Slavery International recommend amending the provisions of Article 13 along the following lines:

### **Article 13 – Recovery and reflection period**

1. Each Party shall provide in its internal law a recovery and reflection period, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be a sufficient period, **of at least three months in length**, for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on co-operating with the competent authorities. During this period it shall not be possible to **involuntarily remove a victim**. ~~enforce any expulsion order against him or her~~. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned.

2. During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1, **2 and 3**.

**3. A person's stay in the country during this period shall be recognized and regularized**

<sup>6</sup> See paragraph 16 of the Joint NGO Statement, contained in appendix 2.

<sup>7</sup> [http://europa.eu.int/comm/justice\\_home/fsj/crime/trafficking/fsj\\_crime\\_human\\_trafficking\\_en.htm#](http://europa.eu.int/comm/justice_home/fsj/crime/trafficking/fsj_crime_human_trafficking_en.htm#)

**by the authorities.**

### **Article 14: Residence Permit**

#### **Ensure a minimum of 6 months-renewable and permanent residence permits, and the possibility of family reunification**

Amnesty International and Anti-Slavery International welcome provisions of the current draft of Article 14 which require state parties to provide for the possibility of granting trafficked persons renewable residence permits.

The organizations are concerned however that the draft of Article 14 does not require states parties to issue a residence permit – it only requires state parties to “provide for the possibility” of issuing of a residence permit if the competent authorities consider that the trafficked persons falls within two categories.

Amnesty International and Anti-Slavery International also believe that the categories set out in Article 14(1) should be expanded to require the issuance of a residence permit if a person’s stay is necessary to their participation in *any legal or administrative proceedings* (including criminal proceedings and proceedings for reparation).

We also regret that the current draft of Article 14: does not set out a minimum duration of such residence permits; does not make specific reference to the granting of permanent residence permits; and omits a provision relating to family reunification which appeared in previous drafts.<sup>8</sup>

Amnesty International and Anti-Slavery International urge that Article 14(1) should:

- require states to provide renewable residence permits, *of at least six months in length*, to trafficked persons if their stay is necessary owing to their personal situation *and/or* for the purpose of investigation or *legal or administrative proceedings, including criminal proceedings*;
- ensure renewal of residence permits or issuance of permanent residence permits based on the continuing existence of the conditions set out in the Article *and/or* other criteria provided for by national or international law;
- include a provision for family reunification.

Accordingly, Amnesty International and Anti-Slavery International urge that draft Article 14 be amended along the following lines:

#### **Article 14 - Residence Permit**

1. Each Party shall provide ~~for the possibility to issue~~ a renewable residence permit to victims, ~~either in one of the two following situations or in both if:~~

1. the competent authority considers that their stay is necessary owing to their personal situation; **and/or**
2. the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation, ~~or~~ criminal proceedings,

<sup>8</sup> This would be consistent with Article 8(3) of the EU Council Directive (2004/81/EC) of 29 April 2004.

**and/or for the duration of any proceedings related to their compensation.**

2. The residence permit related to child victims, when this is legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.

**3. The residence permit shall be renewed on either a temporary or permanent basis if either of the conditions set out in paragraph 1 still apply, as well as on the basis of other criteria provided for by national or international law.** ~~The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the State Party.~~

4. If a victim submits an application for another kind of residence permit, the Party concerned shall take account of the fact that the victim has benefited or benefits from a residence permit in conformity with paragraph 1.

5. Having regard to the obligations of States Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

**6. Each Party shall provide victims with the possibility of family reunification for the period of legal residence.**

## **Article 15: Compensation and Legal Redress**

### **Ensure legal aid and reparation is available to all trafficked persons**

Amnesty International and Anti-Slavery International urge that Article 15 be strengthened to require all state parties to ensure that legal aid is available to *all* trafficked persons.

Amnesty International and Anti-Slavery International are concerned that the current draft requires provision of free legal aid only “in accordance with existing provisions of national law”; thus a trafficked person’s access to counsel free of charge will depend not only on their ability to pay for counsel but also, states’ practices in granting legal aid to trafficked persons may vary depending on their national laws.

The provisions of Article 15(3) and (4) should also be strengthened to require state parties to ensure the rights of victims of trafficking to internationally recognized elements of reparation – which include, among others, compensation, restitution, rehabilitation - regardless of the identification, arrest, charge, prosecution or punishment of those responsible.<sup>9</sup>

Amnesty International and Anti-Slavery International therefore recommend that the current draft of Article 15 be amended along the following lines:

### **Article 15 – Compensation and legal redress**

1. Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant court and administrative proceedings, **in a language that they understand.**

2. Each Party shall provide, in its internal law, for the right to **free** legal assistance for victims,

<sup>9</sup> This recommendation is consistent with the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the European Convention on the Compensation of Victims of Violent Crimes.

**including in the context of legal and administrative proceedings and for the conditions under which the victim may benefit from free legal aid.**

3. Each Party shall provide, in its internal law, for the right to **reparation, including** compensation, for victims from the perpetrators.

4. Each Party shall adopt such legislative or other measures as may be necessary to guarantee **reparation, including** compensation, **restitution and rehabilitation**, for victims ~~in accordance with the conditions under its national law~~, **regardless of the identification, arrest, prosecution or conviction of the perpetrator(s)**. For instance, ~~through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be~~ **established and** funded by the assets resulting from the application of measures provided in Article 23.

## **Article 16: Repatriation of Victims**

### **Require a risk assessment prior to the repatriation of each trafficked person**

Amnesty International and Anti-Slavery International welcome the fact that the current draft of Article 16 provides that return of trafficked persons to another state should be made with due regard for the rights, safety and dignity of the victim.

The organizations believe that Article 16 should, in addition, expressly provide that returns of *any* trafficked person are only made following a risk assessment - carried out by suitably trained professionals - which indicates that such return is safe and durable. (The current draft requires such risk assessment only for children.)

In particular, Amnesty International and Anti-Slavery International recommend the addition of the following text to Article 16(2):

### **Article 16 (2) – Repatriation and Return of Victims**

2. When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary. **No victim shall be returned without a full assessment being made by a competent authority of the risks involved. Under no circumstances should a victim be returned if there is a danger to the life or safety of the individual in question, including the risk of suffering further violations of human rights, such as re- trafficking.**

## **Article 16bis: Review**

In view of the importance of ensuring accurate identification of trafficked persons, and ensuring that they receive the assistance and protection which they need and to which they are entitled, Amnesty International and Anti-Slavery International urge the member states of the Council of Europe to add a provision which requires state parties to ensure that persons have a right to have the decisions of the competent authorities in relation to identification, assistance,

recovery and reflection period, residence permit and repatriation reviewed within a reasonable time by an independent, impartial body established by law. Requiring state parties to ensure the right to review such decisions by an independent and impartial body established by law will not only enhance the likelihood of respect of the rights of trafficked persons but also is likely to enhance law enforcement efforts.

To these ends Amnesty International and Anti-Slavery International urge that the following Article, which we have designated as 16 bis, be added to the draft European Convention against Trafficking in Human Beings:

**Article 16 bis:**

**Each State Party shall take the necessary legislative or other measures to ensure that 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 26: Non-Punishment Provision**

**Prohibit detention, charge, or prosecution of trafficked persons for illegal entry or residence and activities which are a direct consequence of their situation as trafficked persons**

The principle - that a trafficked person should not be detained, prosecuted or punished for their illegal entry or residence in a country or their involvement in illegal activities, to the extent that such involvement is directly related to their situation as a trafficked person - has been incorporated into instruments and recommendations previously adopted by the United Nations and in part by the Council of Europe, the OSCE and the EU.<sup>10</sup>

The organizations are concerned however that the current formulation of the non-punishment provision set out in draft Article 26 departs from this principle. The current Article instead does not prohibit detention, arrest or charge of trafficked persons. It requires states only to provide for the “possibility of not imposing penalty”. In addition the current formulation of

<sup>10</sup> See General Assembly Resolution A/RES/59/166. See also Principle 7 of the *UN Recommended Principles and Guidelines on Human Rights and Human Trafficking* states: “trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in the countries of transit and destination or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.” The *EU’s Brussels Declaration on Preventing and Combating Trafficking in Human Beings* states: “Trafficked victims should be recognized as victims of serious crime. Therefore they should not be re-victimized, criminalized, prosecuted or held in detention centres for offences that may have been committed due to their situation as victims of trafficking.” See also, Part III, Article 1.8 of the *OSCE Action Plan to Combat Trafficking in Human Beings*. The *UN General Assembly, the Committee on Economic Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women* have called on states to ensure that victims of trafficking are not penalized, UN Docs: GA res. 57/176, 30 January 2003 at para 8; E/2002/22 at para 510 and CEDAW/2004/I/CRP.3/Add.1/Rev.1, at para 28, respectively. See also, the *Council of Europe’s Committee of Ministers’ Recommendation R(2001) 16 on the protection of children against sexual exploitation*, at para 36, which recommends that the Council of Europe member States “ensure that children who have been victims of sexual exploitation cannot be prosecuted for any act connected with this exploitation.”

the provision risks placing an almost impossible burden of proof on the trafficked person: that of proving that they were compelled to commit the particular crime.

We consider that the current formulation set out in draft Article 26 is incompatible with the very definition of the crime of trafficking to which trafficked persons are victims as set out in Article 4 of the draft European Convention against Trafficking, as well as their status of victim of trafficking. This formulation also reverses the burden of proof, requiring the victim to show that s/he has been compelled to commit the crime charged.<sup>11</sup>

For the above reasons, Amnesty International and Anti-Slavery International suggest the following amendments to Article 26.

#### **Article 26 – Non-Punishment Provision**

Each Party shall, in accordance with the basic principles of its national legal system, **prohibit** ~~provide for~~ the possibility of **the detention, charging, or not-imposing of penalties** on victims for **the illegality of their entry or residence in a country or their involvement in unlawful activities, unless it is demonstrated that such unlawful activity was not a consequence of their situation as a victim** ~~to the extent that they have been compelled to do so.~~

#### **Article 31: Jurisdiction and Article 45: Reservations**

##### **Ensure there are no safe havens for traffickers**

Among the positive obligations of states with respect to human rights violations, including trafficking of human beings, is the duty to bring to justice those responsible for such crimes.

At present, the article requires states to take measures to establish jurisdiction in a range of circumstances. However, unlike other international standards- such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, many of the treaties related to terrorism and the draft Convention on the Prevention of Terrorism which also under consideration by the Parliamentary Assembly of the Council of Europe- , Article 31 does not specifically require a state party : to extradite or try a suspect; to include trafficking as an extraditable offence in agreements with other states; or to secure the presence of a non-national reasonably suspected to have committed the offence of trafficking and conduct an investigation.

In addition, paragraph 2 of Article 31 and Article 45 on Reservations allow states to opt out of taking measures to establish jurisdiction over its nationals, if the offence is committed outside the territory of the state; and if the offence is committed against one of its nationals.

Amnesty International and Anti-Slavery International are concerned that such provisions are not strong enough to tackle impunity for trafficking, including such offences that have been

<sup>11</sup> See judgement of the European Court of Human Rights in *M.C. v. Bulgaria*, 4 March 2004.

carried out by members of the international community in the course of peacekeeping operations.<sup>12</sup>

With a view to ensuring that the European Convention against Trafficking which is adopted by the Council of Europe sets out provisions which ensure, as far as possible, that there are no safe havens for traffickers, Amnesty International and Anti-Slavery International recommend amending Articles 31 and 45 along the following lines:

### **Article 31 - Jurisdiction**

1. Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

- (a) in its territory **or under its jurisdiction**; or
- (b) on board a ship flying the flag of that Party; or
- (c) on board an aircraft registered under the laws of that Party; or
- (d) by one of its nationals or by a stateless person **or other person present in its territory or subject to its jurisdiction** ~~who has his or her habitual residence in its territory~~, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State;
- (e) against one of its nationals.
- (f) **by a member of its security forces or private contractors carrying out such functions, in any state, regardless of their nationality, and regardless if the offence is punishable under the law where it was committed.**

~~2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 (d) and (e) of this article or any part thereof.~~

~~3-2.~~ Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in this Convention, in cases where an alleged offender is present in its territory and it does not extradite him/her to another Party, ~~solely on the basis of his/her nationality, after a request for extradition.~~

~~4-3.~~ When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

~~5-4.~~ Without prejudice to the norms of general international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with internal law.

Amnesty International and Anti-Slavery International also suggest the addition of **Article 31 bis**, following the wording of Articles 6 to 8 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with relevant modification.

<sup>12</sup> See, for example, Amnesty International, *Kosovo (Serbia and Montenegro) "So does it mean that we have the rights?" Protecting the human rights of women and girls trafficked for forced prostitution in Kosovo*, AI Index: EUR 70/010/2004.

**Article 31 bis:** *(NB the following provisions follow the wording of Articles 6 and 7 of the Convention against Torture with relevant modification)*

- 1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in articles 18 -21 is present, shall take him or her into custody or take other legal measures to ensure his or her presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.**
- 2. Such State shall immediately make a preliminary inquiry into the facts.**
- 3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, to the representative of the State where he or she usually resides.**
- 4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 31, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said State and shall indicate whether it intends to exercise jurisdiction.**
- 5. The State Party in territory under whose jurisdiction a person alleged to have committed any offence referred to in articles 18-21 is found, shall in the cases contemplated in article 31, if it does not extradite him or her, submit the case to its competent authorities for the purpose of prosecution.**
- 6. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 31, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 31, paragraph 1.**
- 7. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 18-21 shall be guaranteed fair treatment at all stages of the proceedings.**
- 8. The offences referred to in article 18 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.**
- 9. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.**
- 10. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested state.**

#### **Article 45 - Reservations**

No reservation may be made in respect of any provision of this Convention, ~~with the exception of the reservation of Article 31, paragraph 2.~~

#### **Articles 36, 37 and 38: Monitoring Mechanism**

##### **Ensure body of independent experts to monitor implementation, visit state parties and consider collective complaints**

Amnesty International and Anti-Slavery International welcome that the draft European Convention against Trafficking establishes an independent body (GRETA) to monitor the implementation of the convention by state parties.

The organizations welcome that Article 36(3)(a) specifically states that members of GRETA shall be chosen among “persons of high moral character, known for their recognised competence in the fields of Human Rights, assistance and protection of victims and of action against trafficking in human beings or having professional experience in the areas covered by this Convention”.

The organizations also welcome that the current provisions stipulate that each state party to this treaty will be required to provide information to GRETA about the measures taken to implement each of the provisions of the treaty, and that GRETA is expressly empowered to make country visits seek and consider information from civil society.

Amnesty International and Anti-Slavery International consider that the implementation of this treaty would be greatly enhanced if GRETA were also mandated to receive and consider information from any source, including from mechanisms of the European Union, as well as to receive and consider collective complaints from selected organizations about a Party’s implementation of the Convention, in a similar way to the procedure of the European Committee on Social Rights.

In line with the above, the organizations urge that Article 38 be amended as follows:

#### **Article 38 - Procedure**

...

**3. GRETA may request and receive information from any source, including from the members of civil society and bodies and mechanisms of the European Union.**

...

**8. GRETA shall also have the authority to consider and make findings on the basis of collective complaints made by organizations approved by GRETA. The rules for this procedure will be established by GRETA and adopted by the Committee of the Parties.**

Amnesty International and Anti-Slavery International note with concern that the European Community, represented in these treaty negotiations by the European Commission, reserved its position on Articles 36-38 relating to the monitoring body.

We have urged the EU and its member states to adopt these draft Articles with the amendments suggested above. We consider that it would be most appropriate for the obligations of all of the state parties under this treaty to be monitored by a single, independent body of experts established by the treaty for such a purpose. Allowing instead, a separate EU body to monitor the implementation of the provisions of this treaty by EU member states would risk creating a two-tiered monitoring system for EU and non-EU member states, which may apply differing standards in relation to the obligations set out in the Council of Europe treaty. Instead, the organizations consider that the EU bodies and mechanisms which monitor implementation of EU standards on trafficking should cooperate and communicate closely with the GRETA. We believe that GRETA would benefit from receiving information from relevant EU bodies, and thus have recommended amending Article 38(3) to this effect. Such an interchange would be consistent with the exchange of information that takes place between the EU's Monitoring Centre on Racism and Xenophobia and the Council of Europe's ECRI on the basis of an Agreement concluded in 1998 (See CoE Doc: CM/Inf(99)5 of 18 January 1999). In addition, similar to the structure of the EUMC, consideration may be given by the Council of Europe and the EU to the participation of an independent expert from each body in each of the mechanisms (i.e., an independent EU expert on trafficking participating in GRETA and an independent member of GRETA participating in the relevant EU mechanisms monitoring the implementation of EU standards related to trafficking).

### **Article 40, paragraph 1**

Amnesty International and Anti-Slavery International welcome the wording of Article 40 (1), which provides that a state party's obligations under this Convention shall not affect the rights and obligations under other international treaties to which the state is a party, to the extent that such other treaties ensure greater protection and assistance for victims of trafficking.

The organizations note with concern, however that the European Community, represented by the European Commission, has also reserved its position on this provision. We urge the European Union and its member states to approve the adoption of Article 40(1) as drafted in the interest of ensuring the highest standards for the protection and respect of the rights of trafficked persons.

## **3. Conclusion**

Amnesty International and Anti-Slavery International warmly welcome the aims of the draft European Convention against Trafficking (as reflected in Article 1).

However, in order to meet these aims, we consider that several of the provisions, in particular those relating to identification, assistance and protection and repatriation as well as those relating to jurisdiction and the monitoring mechanism require strengthening. The provisions relating to non punishment of trafficked persons should be also strengthened

If the Council of Europe succeeds in adopting a treaty which meets the aims set out in Article 1, it will be filling a significant gap, as today there are no international treaties which specifically and comprehensively address states' obligations to respect and protect the rights of trafficked persons.

To this end, Amnesty International and Anti-Slavery International urge the Parliamentary Assembly of the Council of Europe and the Committee of Ministers to adopt the recommendations contained in this document.

We also urge the Committee of Ministers to ensure that CAHTEH is convened again- after the adoption of the Parliamentary Assembly's Opinion and before the next session of the Committee of Ministers in March 2005-for the purpose of considering the recommendations contained in the Assembly's Opinion and the recommendations made by non-governmental organizations on the draft European Convention against Trafficking in Human Beings. Amnesty International and Anti-Slavery International also urge the Committee of Ministers to ensure that relevant NGO representatives are invited to attend and participate in the discussion throughout the CAHTEH session, in the light of the fact that, although they play key roles in assisting trafficked persons in many Council of Europe member states, few NGOs have been consulted by member states during the drafting of this treaty.

## **Appendix I:**

### **Draft European Convention on Action against Trafficking in Human Beings**

CAHTEH (2004) Info 9 - E

## **Foreword**

This document contains the draft Council of Europe Convention on Action against Trafficking in Human Beings as approved during the 7<sup>th</sup> meeting of the CAHTEH held from 7-10 December 2004.

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# **draft Council of Europe Convention on action against trafficking in human beings**

## **PREAMBLE**

The member States of the Council of Europe and the other States signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being;

Considering that trafficking in human beings may result in slavery for victims;

Considering that the respect for the rights and protection of victims and the fight against trafficking in human beings must be the paramount objectives;

Considering that all actions or initiatives against trafficking in human beings should be non-discriminatory and take into account gender equality aspects as well as a child-rights approach;

Recalling the declarations of the Foreign Affairs Ministers of the Member States during the 112<sup>th</sup> (14-15 May 2003) and the 114<sup>th</sup> (12-13 May 2004) Sessions of the Committee of Ministers calling for reinforced action by the Council of Europe in the field of trafficking in human beings;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols;

Bearing in mind the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence; Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation; Recommendation Rec (2002) 5 on the protection of women against violence;

Bearing in mind the following texts of the Parliamentary Assembly of the Council of Europe: Recommendation 1325 (1997) on traffic in women and forced prostitution in

Council of Europe member states; Recommendation 1450 (2000) on violence against women in Europe; Recommendation 1545 (2002) on a campaign against trafficking in women; Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution; Recommendation 1611 (2003) on trafficking in organs in Europe; Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and mail-order brides;

Bearing in mind the European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings, the European Union Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and the European Union Council Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

Taking into due account the United Nations Convention against Transnational Organised Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children with a view to improving the protection afforded by it and to developing the standards contained therein;

Taking into due account the other international legal instruments relevant in the field of action against trafficking in human beings;

Taking into account the need to prepare a comprehensive international legal instrument focusing on the human rights of victims of trafficking and setting up a specific monitoring mechanism,

Have agreed as follows:

## **CHAPTER I – PURPOSES, SCOPE, NON-DISCRIMINATION PRINCIPLE AND DEFINITIONS**

### **Article 1 – Purposes of the Convention**

1. The purposes of this Convention are:

a. to prevent and combat trafficking in human beings, also taking gender equality aspects into consideration;

b. to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, also taking

gender equality aspects into consideration, as well as to ensure effective investigation and prosecution;

c. to promote international cooperation on action against trafficking in human beings.

2. In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

## **Article 2- Scope**

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not related to organised crime.

## **Article 3 – Non-discrimination principle**

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## **Article 4 – Definitions**

For the purposes of this Convention:

- (a) "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;

- (d) "Child" shall mean any person under eighteen years of age;
- (e) "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article.

## **CHAPTER II – PREVENTION, CO-OPERATION AND OTHER MEASURES**

### **Article 5 – Prevention of trafficking in human beings**

1. Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.
2. Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.
3. Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2.
4. Each Party shall take appropriate measures, as may be necessary, to enable migration to be carried out legally, in particular through dissemination of accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.
5. Each Party shall take specific measures to reduce the vulnerability of children to trafficking, notably by creating a protective environment for them.
6. Measures established in accordance with this article shall involve, where appropriate, non-governmental organisations, other relevant organisations and other elements of civil society committed to the prevention of trafficking in human beings, the protection of or assistance to victims.

### **Article 6 – Measures to discourage the demand**

To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures such as:

- a) research on best practices, methods and strategies;

- b) raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings;
- c) target information campaigns involving, as appropriate, *inter alia*, public authorities and policy makers;
- d) measures, including educational programmes for boys and girls during their schooling, which underline the ill-fated consequences of discrimination based on sex and the importance of gender equality, as well as of the dignity and integrity of every human being.

## **Article 7 – Border measures**

1. Without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.
2. Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each Party shall take the necessary measures, in accordance with its internal law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each Party shall adopt such legislative or other measures as may be necessary to permit, in accordance with its internal law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Convention.
6. Parties shall consider strengthening co-operation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.

## **Article 8 – Security and control of documents**

Each Party shall adopt such measures as may be necessary, within available means:

- (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the Party and to prevent their unlawful creation, issuance and use.

### **Article 9 – Legitimacy and validity of documents**

At the request of another Party, a Party shall, in accordance with its internal law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in human beings.

## **CHAPTER III – MEASURES TO PROTECT AND PROMOTE THE RIGHTS OF VICTIMS, TAKING GENDER EQUALITY ASPECTS INTO CONSIDERATION**

### **Article 10 - Identification of the victims**

1. Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, with a view to enabling an identification of victims and in appropriate cases, issuing residence permits under the conditions provided for in article 14 of the present Convention.
2. Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, such a person shall not be removed from its territory until the identification process as victim of an offence provided for in article 18 of this Convention has been completed by the competent authorities and receive the assistance provided for in Article 12, paragraphs 1 and 2.
3. When the age of the victim is uncertain and there are reasons to believe that the victim is a child, the presumption shall be that the victim is a child, and she/he will be accorded special protection measures pending verification of his/her age.
4. As soon as a child is identified as a victim and is unaccompanied, each Party shall:
  - (a) provide for representation of the child by a legal guardian, organisation or authority which is responsible to act in the best interests of that child;

- (b) take the necessary steps to establish his/her identity and nationality;
- (c) make every effort to locate his/her family when this is in the best interests of the child.

### **Article 11 – Protection of private life**

1. Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).
2. Each Party shall adopt measures to ensure, in particular, that the identity, or details enabling the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.
3. Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

### **Article 12 – Assistance to victims**

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:
  - (a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
  - (b) access to emergency medical treatment;
  - (c) translation and interpretation services, when appropriate;
  - (d) counselling and information, in particular as regards their legal rights, in a language that the victims can understand;
  - (e) assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
2. Each Party shall take due account of the safety and protection needs of victims.

3. In addition, each Party shall provide necessary medical or other assistance to the victims lawfully resident within the territory of the Party concerned who do not have adequate resources and need it.

4. Each Party shall adopt the rules under which victims lawfully resident within the territory of the Party concerned shall be authorised to have access to the labour market, to vocational training and education.

5. Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in victim assistance.

6. Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a child victim is not made conditional on the child's willingness to act as a witness. This provision is without prejudice to the possibility for a child victim to benefit from a residence permit issued to victims who cooperate with the competent authorities, when the legislation of a Party provides for this possibility for minors. In this case, the Party concerned shall ensure that the procedure is appropriate to the age and maturity of the child.

### **Article 13 – Recovery and reflection period**

1. Each Party shall provide in its internal law a recovery and reflection period, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on co-operating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned.

2. During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.

### **Article 14 – Residence permit**

1. Each Party shall provide for the possibility to issue a renewable residence permit to victims, either in one of the two following situations or in both:

- (a) the competent authority considers that their stay is necessary owing to their personal situation;

(b) the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.

2. The residence permit related to child victims, when this is legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.

3. The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the State Party.

4. If a victim submits an application for another kind of residence permit, the Party concerned shall take account of the fact that the victim has benefited or benefits from a residence permit in conformity with paragraph 1.

5. Having regard to the obligations of States Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

### **Article 15 – Compensation and legal redress**

1. Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant court and administrative proceedings.

2. Each Party shall provide, in its internal law, for the right to legal assistance for victims and for the conditions under which the victim may benefit from free legal aid.

Each Party shall provide, in its internal law, for the right to compensation for victims from the perpetrators.

Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23.

### **Article 16 – repatriation and return of victims**

1. The Party of which a victim is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving Party shall facilitate and accept, with due regard for the rights, safety, and dignity of that person, the return of that person without undue or unreasonable delay.

2. When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary.
3. At the request of a receiving Party, a requested Party shall verify whether a person is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving Party.
4. In order to facilitate the return of a victim who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.
5. Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non governmental organisations. These programmes aim at avoiding re-victimisation. Each Party should make its best effort to favour the reintegration of victims into the society of the State of return, including reintegration into the education system and the labour market, in particular through the acquisition and improvement of their professional skills. With regard to children, these programmes should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures.
6. Each Party shall adopt such legislative or other measures as may be necessary to make available to victims, where appropriate in co-operation with any other Party concerned, contact information of structures that can assist them in the country where they are returned or repatriated, such as law enforcement offices, non-governmental organisations, legal professions able to provide counselling and social welfare agencies.
7. Child victims shall not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child.

## **Article 17 – Gender equality aspects**

Each Party shall, in applying measures referred to in this chapter, aim to promote gender equality and use gender mainstreaming in the development, implementation and assessment of the measures.

## **CHAPTER IV – SUBSTANTIVE CRIMINAL LAW**

### **Article 18 – Criminalisation of trafficking in human beings**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct contained in article 4 of this Convention, when committed intentionally.

### **Article 19 – Criminalisation of the use of services of a victim**

Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.

### **Article 20 - Criminalisation of acts relating to travel or identity documents**

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following conducts, when committed intentionally and for the purpose of enabling the trafficking in human beings:

- a. producing a fraudulent travel or identity document;
- b. procuring or providing such a document;
- c. retaining, removing, concealing, damaging or destroying a travel or identity document of another person.

### **Article 21 – Attempt and aiding or abetting**

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 18 and 20 of the present Convention.

2. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, an attempt to commit the offences established in accordance with Articles 18 and 20, paragraph a, of this Convention.

### **Article 22 – Corporate liability**

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that a legal person can be held liable for a criminal offence established in

accordance with this Convention, committed for its benefit by any natural person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- a. a power of representation of the legal person;
- b. an authority to take decisions on behalf of the legal person;
- c. an authority to exercise control within the legal person.

2. Apart from the cases already provided for in paragraph 1, each Party shall take the measures necessary to ensure that a legal person can be held liable where the lack of supervision or control by a natural person referred to in paragraph 1 has made possible the commission of a criminal offence established in accordance with this Convention for the benefit of that legal person by a natural person acting under its authority.

3. Subject to the legal principles of the Party, the liability of a legal person may be criminal, civil or administrative.

4. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offence.

## **Article 23 – Sanctions and measures**

1. Each Party shall adopt such legislative and other measures as may be necessary to ensure that the criminal offences established in accordance with Articles 18 to 21 are punishable by effective, proportionate and dissuasive sanctions. These sanctions shall include, for criminal offences established in accordance with Article 18 when committed by natural persons, penalties involving deprivation of liberty which can give rise to extradition

2. Each Party shall ensure that legal persons held liable in accordance with Article 22 shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions or measures, including monetary sanctions.

3. Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with Articles 18 and 20, paragraph a, of this Convention, or property the value of which corresponds to such proceeds.

4. Each Party shall adopt such legislative or other measures as may be necessary to enable the temporary or permanent closure of any establishment which was used to carry out trafficking in human beings, without prejudice to the rights of *bona fide* third parties or to deny the perpetrator, temporary or permanently, the exercise of the activity in the course of which this offence was committed.

## **Article 24 – Aggravating circumstances**

Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention:

- a. the offence deliberately or by gross negligence endangered the life of the victim;
- b. the offence was committed against a child;
- c. the offence was committed by a public official in the performance of her/his duties;
- d. the offence was committed within the framework of a criminal organisation.

## **Article 25- previous convictions**

Each Party shall adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to offences established in accordance with this Convention when determining the penalty.

## **Article 26 – Non-punishment provision**

Each Party shall, in accordance with the basic principles of its national legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

## **CHAPTER V – INVESTIGATION, PROSECUTION AND PROCEDURAL LAW**

### **Article 27 - *Ex parte* and *ex officio* applications**

1. Each Party shall ensure that investigations into or prosecution of offences established in accordance with this Convention shall not be dependent upon the report or accusation made by a victim, at least when the offence has been committed in whole or in part on its territory.
2. Each Party shall ensure that victims of an offence in the territory of a Party other than the one where they reside may make a complaint before the competent authorities of their State of residence. The competent authority to which the complaint is made, insofar as it does not itself have competence in this respect, shall transmit it without delay to the competent authority of the Party in the territory in which the offence was committed. The complaint shall be dealt with in accordance with the internal law of the Party in which the offence was committed.
3. Each Party shall ensure, by means of legislative or other measures, in accordance with the conditions provided for by its internal law, to any group, foundation, association or non-governmental organisations which aims at fighting trafficking in

human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence established in accordance with Article 18 of this Convention.

### **Article 28 – Protection of victims, witnesses and collaborators with the judicial authorities**

1. Each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for:
  - (a) Victims;
  - (b) As appropriate, those who report the criminal offences established in accordance with Article 18 of this Convention or otherwise co-operate with the investigating or prosecuting authorities;
  - (c) witnesses who give testimony concerning criminal offences established in accordance with Article 18 of this Convention;
  - (d) when necessary, members of the family of persons referred to in subparagraphs (a) and (c).
2. Each party shall adopt such legislative or other measures as may be necessary to ensure and to offer various kinds of protection. This may include physical protection, relocation, identity change and assistance in obtaining jobs.
3. A child victim shall be afforded special protection measures taking into account the best interests of the child.
4. Each Party shall consider entering into agreements or arrangements with other States for the implementation of this article.

### **Article 29 – Specialised authorities and co-ordinating bodies**

1. Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against trafficking and the protection of victims. Such persons or entities shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. Such persons or the staffs of such entities should have adequate training and financial resources for their tasks.
2. Each Party shall adopt such measures as may be necessary to ensure co-ordination of the policies and actions of their governments' departments and other public agencies against trafficking in human beings, where appropriate, through setting up co-ordinating bodies.

3. Each Party shall provide or strengthen training for relevant officials in the prevention of and fight against trafficking in human beings, including Human Rights training. The training may be agency-specific and shall, as appropriate, focus on: methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers.

4. Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements

### **Article 30 – Court proceedings**

In accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular its Article 6, each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings:

- a. the protection of the private life of victims and, where appropriate, their identity;
- b. the security of victims and their protection from intimidation,

in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures.

### **Article 31 – Jurisdiction**

1. Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:

- (g) in its territory; or
- (h) on board a ship flying the flag of that Party; or
- (i) on board an aircraft registered under the laws of that Party; or
- (j) by one of its nationals or by a stateless person who has his or her habitual residence in its territory, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State;
- (k) against one of its nationals.

2. Each Party may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, by a declaration addressed to the Secretary General of the Council of Europe, declare that it reserves the right not to apply or to apply only in specific cases or conditions the jurisdiction rules laid down in paragraphs 1 (d) and (e) of this article or any part thereof.

3. Each Party shall adopt such measures as may be necessary to establish jurisdiction over the offences referred to in this Convention, in cases where an alleged offender is present in its territory and it does not extradite him/her to another Party, solely on the basis of his/her nationality, after a request for extradition.

4. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

5. Without prejudice to the norms of general international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with internal law.

## **CHAPTER VI – INTERNATIONAL CO-OPERATION AND CO-OPERATION WITH THE CIVIL SOCIETY**

### **Article 32 – General principles and measures for international co-operation**

The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for:

- the purposes of preventing and combating trafficking in human beings;
- the protection of, and providing assistance to victims;
- the purposes of investigations or proceedings concerning criminal offences established in accordance with this Convention.

### **Article 33 - Measures relating to endangered or missing persons**

1. When a Party, on the basis of the information at its disposal has reasonable grounds to believe that the life, the freedom or the physical integrity of a person referred to in Article 28, paragraph 1, is in immediate danger on the territory of another Party, the Party that has the information shall, in such a case of emergency, transmit it without delay to the latter so as to take the appropriate protection measures.

2. The Parties to this Convention may consider reinforcing their co-operation in the search for missing people, if the information available leads them to believe that she/he is a victim of trafficking in human beings. To this end, the Parties may conclude bilateral or multilateral treaties with each other.

## **Article 34 – Information**

1. The requested Party shall promptly inform the requesting Party of the final result of the action taken under this chapter. The requested Party shall also promptly inform the requesting Party of any circumstances which render impossible the carrying out of the action sought or are likely to delay it significantly.
2. A Party may, within the limits of its internal law, without prior request, forward to another Party information obtained within the framework of its own investigations when it considers that the disclosure of such information might assist the receiving Party in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with this Convention or might lead to a request for co-operation by that Party under this chapter.
3. Prior to providing such information, the providing Party may request that it be kept confidential or used subject to conditions. If the receiving Party cannot comply with such request, it shall notify the providing Party, which shall then determine whether the information should nevertheless be provided. If the receiving Party accepts the information subject to the conditions, it shall be bound by them.
4. All information requested concerning Articles 13, 14 and 16, necessary to provide the rights conferred by these Articles, shall be transmitted at the request of the Party concerned without delay with due respect to Article 11 of the present Convention.

## **Article 35 – Co-operation with the civil society**

Each Party shall encourage state authorities, as well as public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.

## **CHAPTER VII – MONITORING MECHANISM<sup>13</sup>**

### **Article 36 – Group of experts on action against trafficking in human beings**

1. The Group of experts on action against trafficking in human beings (hereinafter referred to as “GRETA”), shall monitor the implementation of this Convention by the Parties.
2. GRETA shall be composed of a minimum of 10 members and a maximum of 15 members, taking into account a gender and geographical balance, as well as a

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<sup>13</sup> The European Community, represented by the European Commission, reserves its position on this Chapter.

multidisciplinary expertise. They shall be elected by the Committee of the Parties for a term of office of 4 years, renewable once, chosen from amongst nationals of the States Parties to this Convention.

3. The election of the members of GRETA shall be based on the following principles:

- (a) they shall be chosen from among persons of high moral character, known for their recognised competence in the fields of Human Rights, assistance and protection of victims and of action against trafficking in human beings or having professional experience in the areas covered by this Convention;
- (b) they shall sit in their individual capacity and shall be independent and impartial in the exercise of their functions and shall be available to carry out their duties in an effective manner;
- (c) no two members of GRETA may be nationals of the same State;
- (d) they should represent the main legal systems.

4. The election procedure of the members of GRETA shall be determined by the Committee of Ministers within a period of one year following the entry into force of this Convention. GRETA shall adopt its own rules of procedure.

### **Article 37 – Committee of the Parties**

1. The Committee of the Parties shall be composed of the representatives on the Committee of Ministers of the Council of Europe of the member States Parties to the Convention and representatives of the Parties to the Convention, which are not members of the Council of Europe.

2. The Committee of the Parties shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within a period of one year following the entry into force of this Convention in order to elect the members of GRETA. It shall subsequently meet whenever one-third of the Parties, the President of GRETA or the Secretary General so requests.

3. The Committee of the Parties shall adopt its own rules of procedure.

### **Article 38 – Procedure**

1. The evaluation procedure shall concern the Parties to the Convention and be divided in rounds, the length of which is determined by GRETA. At the beginning of each round GRETA shall select the specific provisions on which the evaluation procedure shall be based.

2. GRETA shall define the most appropriate means to carry out this evaluation. GRETA may in particular adopt a questionnaire for each evaluation round, which may serve as a basis for the evaluation of the implementation by the Parties of the present

Convention. Such a questionnaire shall be addressed to all Parties. Parties shall respond to this questionnaire, as well as to any other request of information from GRETA.

3. GRETA may request information from civil society.
4. GRETA may subsidiarily organise, in co-operation with the national authorities and the “contact person” appointed by the latter, and, if necessary, with the assistance of independent national experts, country visits. During these visits, GRETA may be assisted by specialists in specific fields.
5. GRETA shall prepare a draft report containing its analysis concerning the implementation of the provisions on which the evaluation is based, as well as its suggestions and proposals concerning the way in which the Party concerned may deal with the problems which have been identified. The draft report shall be transmitted for comments to the Party which undergoes the evaluation. Its comments are taken into account by GRETA when establishing its report.
6. On this basis, GRETA shall adopt its report and conclusions concerning the measures taken by the Party concerned to implement the provisions of the present Convention. This report and conclusions shall be sent to the Party concerned and to the Committee of the Parties. The report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned.
7. Without prejudice to the procedure of paragraphs 1 to 6 of this article, the Committee of the Parties may adopt, on the basis of the report and conclusions of GRETA, recommendations addressed to this Party (a) concerning the measures to be taken to implement the conclusions of GRETA, if necessary setting a date for submitting information on their implementation, and (b) aiming at promoting co-operation with that Party for the proper implementation of the present Convention.

## **CHAPTER VIII – RELATIONSHIP WITH OTHER INTERNATIONAL INSTRUMENTS**

### **Article 39 – Relationship with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime**

This Convention shall not affect the rights and obligations derived from the provisions of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against

transnational organised crime, and is intended to enhance the protection afforded by it and develop the standards contained therein.

## **Article 40 – Relationship with other international instruments**

1. This Convention shall not affect the rights and obligations derived from other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention and which ensure greater protection and assistance for victims of trafficking<sup>14</sup>.

2. The Parties to the Convention may conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it or, without prejudice to the objectives and principles of this Convention, submit themselves to rules on this matter within the framework of a special system which is binding at the moment of the opening for signature of this Convention.

3. Nothing in this Convention shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

## **CHAPTER IX – AMENDMENTS TO THE CONVENTION**

### **Article 41 – Amendments**

1. Any proposal for an amendment to this Convention presented by a Party shall be communicated to the Secretary General of the Council of Europe and forwarded by him or her to the member States of the Council of Europe, any signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43.

2. Any amendment proposed by a Party shall be communicated to GRETA, which shall submit to the Committee of Ministers its opinion on that proposed amendment<sup>15</sup>.

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<sup>14</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

<sup>15</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

3. The Committee of Ministers shall consider the proposed amendment and the opinion submitted by GRETA and, following consultation of the non-member States Parties to this Convention, may adopt the amendment<sup>16</sup>.

4. The text of any amendment adopted by the Committee of Ministers in accordance with paragraph 3 of this Article shall be forwarded to the Parties for acceptance<sup>17</sup>.

5. Any amendment adopted in accordance with paragraph 3 of this article shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

## **CHAPTER X – FINAL CLAUSES**

### **Article 42 – Signature and entry into force**

1. This Convention shall be open for signature by the member States of the Council of Europe, the non member States which have participated in its elaboration and the European Community.

2. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

3. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which 10 States, including at least 8 member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph<sup>18</sup>.

4. In respect of any State mentioned in paragraph 1 or the European Community, which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of its instrument of ratification, acceptance or approval.

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<sup>16</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

<sup>17</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

<sup>18</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

## **Article 43 – Accession to the Convention**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, after consultation of the Parties, invite any non-member State of the Council of Europe, which has not participated in the elaboration of the Convention, to accede to this Convention by a decision taken by the majority provided for in Article 20 *d.* of the Statute of the Council of Europe, and by unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers<sup>19</sup>.
2. In respect of any acceding State or the European Community, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

## **Article 44 – Territorial application**

1. Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply<sup>20</sup>.
2. Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General<sup>21</sup>.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

## **Article 45 – Reservations**

No reservation may be made in respect of any provision of this Convention, with the exception of the reservation of Article 31, paragraph 2.

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<sup>19</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

<sup>20</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

<sup>21</sup> The European Community, represented by the European Commission, reserves its position on this paragraph.

## **Article 46 – Denunciation**

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Secretary General.

## **Article 47 – Notification**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State signatory, any State Party, the European Community, to any State invited to sign this Convention in accordance with the provisions of Article 42 and to any State invited to accede to this Convention in accordance with the provisions of Article 43 of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Articles 42 and 43;
- d any amendment adopted in accordance with Article 41 and the date on which such an amendment enters into force;
- e any denunciation made in pursuance of the provisions of Article 46;
- f any other act, notification or communication relating to this Convention, in particular relating to Article 38, paragraph 4, of this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at ..., this ....., in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention, to the European Community and to any State invited to accede to this Convention.

## **Appendix II:**

### **Joint NGO Statement on the draft European Convention against Trafficking in Human Beings**

*The undersigned non-governmental organizations submit the following comments regarding the draft European Convention against Trafficking in Human Beings<sup>22</sup>:*

#### **Introduction:**

1. As the number of people affected by this contemporary form of slavery in the Council of Europe region has dramatically increased over the last decade, we welcome the Council of Europe's focus on trafficking of human beings.
2. Trafficking is an abuse of human rights. It results in the abuse of the human rights of trafficked persons including the rights to: physical and mental integrity; life; liberty; security of the person; dignity; 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. Measures addressing trafficking must place the protection and respect of these rights at their core, as well as the right of trafficked persons to effective redress, including reparation, for the human rights abuses to which they have been subjected.
3. We welcome the recognition by the Council of Europe's Committee of Ministers that there is a need to develop additional standards which improve the protection of the rights of trafficked persons. We therefore welcome the Committee of Minister's mandate to the *Ad Hoc Committee on Action against Trafficking* (CAHTEH) to draft a European Convention against Trafficking in Human Beings which designs a comprehensive, gender-sensitive framework for the protection of the human rights of trafficked persons focusing on prevention, investigation, prosecution and international cooperation.
4. In order to fulfil this mandate, the Council of Europe and its Member States must ensure that the provisions of the treaty which it proposes *enhance* the protection of the rights of trafficked persons. This will require a text which *improves* on the provisions set out in existing international treaties, many existing state laws as well as principles and guidelines issued by specialised international agencies, and requires states to take particular measures to protect and respect the rights of trafficked persons.

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<sup>22</sup> For more information please refer to submissions from individual NGOs available at their websites.

5. If it succeeds in doing this, the Council of Europe will fill a significant gap, as today there are no international treaties on trafficking that comprehensively address states' obligations to respect and protect the rights of trafficked persons.

#### **Consultation with Civil Society**

6. We consider that to meet these aims, it is of vital importance that, throughout the drafting and process before the adoption of this treaty, each of the governments of the 46 Council of Europe Member States and the CAHTEH consult with trafficked persons and civil society, in particular those individuals and organizations that work with or on behalf of trafficked persons. We regret that to date, most states have not held such consultations. We therefore call on the 46 Council of Europe Member States to consult such persons, without further delay, and to inform their views on the provisions of this treaty on the basis of such consultations.

#### **Identification of trafficking as a human rights violation**

7. We consider that it is important that this treaty identifies trafficking in human beings as a violation of human rights, which results in a range of human rights violations and abuses, and is an offence to the dignity and integrity of the human being. The Convention should assist States to incorporate definitions of trafficking in their domestic legislation in line with the Palermo Protocol, recognising that the issue of consent of a victim to the intended exploitation is irrelevant, where any of the prohibited means has been used to traffic the person.

#### **Trafficked Children**

8. With respect to child trafficking, the European Convention against Trafficking in Human Beings must address the various areas into which children are trafficked, the specific forms of exploitation to which children are subjected and the dependency of children on adults. The Convention should ensure a child rights based approach is adopted in relation to anyone aged under 18 who is suspected of having being trafficked. In defining the specific ways in which children are to be protected, we urge that this convention be explicit rather than referring in a generic way to the "special needs of children". Among others there should be express provisions which require states to ensure that: actions taken with regard to trafficked children must be taken in the best interests of the child; a legal guardian is appointed to represent the interests of the child; and that the wishes of the child are taken into account in so far as their maturity allows. This convention offers the opportunity for the Council of Europe to incorporate child-specific protection measures in line with the *Guidelines for Protection of the Right of Children Victims of Trafficking in South Eastern Europe*.

#### **Identification**

9. The protection and respect for the rights of trafficked persons requires states to ensure that trafficked persons are promptly and accurately identified. Given the

importance and difficulties of accurately identifying individuals as trafficked persons, as well as the risks of a failure to do so to their lives and safety and law enforcement efforts against perpetrators, the organizations urge that the Convention against Trafficking in Human Beings require states to ensure that the authorities who have the responsibility of identifying trafficked persons are adequately trained and qualified to carry out this task in a gender-and-culturally, and where applicable, child rights sensitive manner. We also recommend that persons not so identified be granted access to appeal to an independent impartial and competent body.

### **Protection and Assistance Measures**

10. We consider that the European Convention against Trafficking in Human Beings should require states to ensure the availability and accessibility of a full range of measures to assist trafficked persons and respect and protect their rights and persons. Such measures should be provided on a fully informed and consensual basis, based on a periodic individualized assessment of their needs, undertaken by appropriately trained persons

11. All such measures should respect the dignity and privacy of the trafficked person. Such protection, services and assistance, as well as preventative measures must respect the right to seek and enjoy asylum and other forms of international protection. Protection measures must also be available to, and when appropriate, extended to the families of trafficked persons and others, including those who cooperate with law enforcement authorities or judicial authorities and those who provide services to trafficked persons.

12. The European Convention against Trafficking in Human Beings should require states to ensure that all authorities who are likely to come into contact with trafficked persons, (including police, immigration officials, officials who determine asylum claims, members of judiciary, lawyers (including prosecutors), NGOs, doctors, social service professionals, labour inspectors), are adequately trained and sensitised about the status and needs and rights of trafficked persons as victims of human rights abuses and crime. Particular attention should be paid to women, children and other vulnerable groups.

13. The treaty should require states to provide information about the avenues of services and redress available to trafficked persons, and how to access these in a language they understand. States should provide the following protection, assistance and services, among others: safe and secure housing, material assistance, medical and psychological care, legal services, translation and interpretation, and education (particularly for children), vocational guidance and training and access to the labour market. This will enable persons to begin to recover, take steps toward emotional and financial independence, permit them to avail themselves of available avenues of redress, and will render them less vulnerable to further human rights abuses, including

re-trafficking. Such services must not be conditioned on the agreement of a person to cooperate with law enforcement efforts to bring the perpetrators to justice.

14. The European Convention against Trafficking in Human Beings should require states to cooperate with, and, where relevant, provide support to qualified organizations who work with or on behalf of trafficked persons. Services should be provided to meet individual needs, as assessed by suitably qualified support personnel.

### **Recovery and Reflection Period**

15. We recommend that the treaty expressly require states to ensure a sufficient reflection and recovery period of a minimum of 3 months, during which time, any person reasonably believed to have been trafficked should be allowed to remain in the country, and have access to a full range of assistance, protection and services, so as to allow them to begin to recover *and/or* to make informed decisions about their future (including willingness to cooperate in law enforcement efforts against their traffickers), in security. The person's status in the country during this time must be regularized and recognized, including by the issuance of appropriate official documentation.

### **Renewable and Permanent Residence Permits**

16. States should be required to issue renewable residence permits, of a minimum length of six months, and permanent residence permits. Such permits should be issued (and renewed) on the basis of periodic needs and risk assessments which are carried out by suitably trained and sensitized individuals, and should not be conditional on the agreement of the trafficked person to cooperate with law enforcement efforts. Renewal of residence permits should also occur in compliance with other national and international laws, including the right to seek asylum. Family reunification should be available.

### **Repatriation and Resettlement**

17. Repatriation to *any* state (including the country of origin) should be preferably voluntary, assisted and only take place after a needs and risk assessment is conducted. All such returns must be consistent with respect for the rights (including to dignity and privacy) of the trafficked person. In no event should a person be returned if there is a risk to his or her life or safety, including a risk of re-trafficking. States must be required to ensure the provision of repatriation assistance and support. In the case of any trafficking victim under 18, it should be obligatory to ensure that a legal guardian is available in the country to which a young person might be repatriated before proceeding with repatriation.

18. When remaining in a country of destination or origin is not a safe and viable option, states should be required to ensure third-country protection.

### **Reparation**

19. States should be required by the treaty to ensure the rights of trafficked persons to all internationally recognized forms of reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition. To these ends, the treaty should ensure access to justice for trafficked persons. Trafficked persons should be permitted to remain in a country while they are pursuing avenues of redress, including claims for reparation. States should also be required to consider establishing a fund from trafficking proceeds for these purposes. However, the treaty should clarify that the absence of such a fund does not relieve a state of its obligations to ensure reparation to trafficked persons.

### **Non-Punishment of trafficked persons**

20. The European Convention against Trafficking in Human Beings should prohibit the detention, charge or prosecution of a trafficked person for the illegality of their entry into or residence in a country or their involvement in unlawful activities that are a consequence of their situation as trafficked persons.

### **Preventative Measures**

21. With regards to preventative measures, the European Convention against Trafficking in Human Beings should contain provisions that border controls and other such measures (including carrier regulations and sanctions) are carried out in a manner consistent with the rights to seek and enjoy asylum and to privacy. The European Convention against Trafficking in Human Beings should also require states to take specific and concerted individual and cooperative measures to address the root causes of trafficking and provide and increase avenues for safe, legal migration.

### **Criminal Measures**

22. In relation to criminal measures, among others, we welcome the provisions that ensure that the intentional unauthorised retention, removal or destruction of the identity or travel documents of another person for the purpose of enabling trafficking is criminalized. The treaty should also require states to ensure that those without them are furnished with identity documents without delay, without being required to return to their country of origin or provide testimony to their embassy or authorities of such countries.

23. It is well-established that trafficking flourishes in conflict and post-conflict situations, including, notably, those involving an international presence (such as peacekeepers, peace-builders, civilian policing) and that international law acknowledges state responsibility to ensure respect for human rights of those in territory within the effective control of the state. The European Convention against Trafficking in Human Beings should require states to exercise jurisdiction over

trafficking and related offences against or by persons in territory within its effective control.

### **Monitoring Body**

24. The treaty should set up an independent expert body to regularly and periodically monitor its implementation by State Parties. This body should be comprised of persons who are experts in the fields of trafficking and the protection of human rights of trafficked persons, and should include experts from countries of destination, transit and origin within the Council of Europe region who have worked with and on behalf of trafficked persons. The body should seek and consider the views of civil society about the implementation of the treaty by a State Party. State parties should be required to submit regular reports on the implementation of each of the parts of the treaty. It should be empowered to make on site visits and to receive and consider collective complaints. Its reports (including recommendations) and the results of its consideration of collective complaints should be made public on adoption. Its recommendations should be reviewed and reinforced by the Council of Europe's Committee of Ministers, which should play a role in ensuring the implementation of such recommendations.

**If your NGO would like to join this NGO statement, please send an e-mail to Tomaso Falchetta (Amnesty International, International Secretariat) at [europeigoteam@amnesty.org](mailto:europeigoteam@amnesty.org) Please include in the e-mail the name and contact details of your organization (including the name of the person authorizing the organization's signature).**

**Signatures as of 13 January 2005**

1. ACT UP HELLAS (Greece)
2. AFESIP International
3. AFIV ARTEMIS Cluj (Romania)
4. ALTEN
5. Amnesty International
6. Animus Association/ La Strada Bulgaria (Bulgaria)
7. ANPPCAN Kenya Chapter (Kenya)
8. Antenna May Day (Switzerland)
9. Anti-Slavery International
10. Anti Trafficking Centre (Serbia and Montenegro)
11. Apis Graubünden (Aidsprävention im Sexgewerbe) (Switzerland)
12. Associação Obra Gay - Opus Gay (Portugal)
13. ASOCIATIA FEMINA 2000 (Romania)
14. Asociatia Jurnalistelor din Romania (Romania)
15. Association Fleur de Pavé (Switzerland)
16. Associazione "Differenza Donna" (Italy)
17. Associazione IRENE (Italy)
18. Associazione IROKO (Italy)
19. Associazione TAMPEP (Italy)
20. ASTRA- Anti Sex Trafficking Action (Serbia and Montenegro)
21. Asylum Aid (United Kingdom)
22. Ban Ying (Germany)
23. BLLF-Sweden (Sweden)
24. Caritas Hellas (Greece)
25. Catholic Bishops' Conference of England and Wales (United Kingdom)
26. CCEM (Committee Against Modern Slavery) (Spain)

27. Center for Legal Resources (Romania)
28. Center for Women Policy Studies
29. Centre for Family Support (Greece)
30. Centro Antiviolenza della Provincia di Roma (Italy)
31. CHASTE
32. CISL Milano (Italy)
33. Child and Women Abuse Studies Centre, London Metropolitan University (UK)
34. Chortiatis Local Youth Council (Greece)
35. Christian Partners Development Association (Kenya)
36. Clube Safo (Portugal)
37. Church Women United (United States of America)
38. Comitato per i diritti civili delle prostitute (Italy)
39. Cnca - Coordinamento nazionale comunità di accoglienza (Italy)
40. CONEDIS (Italy)
41. Conexiuni Deva (Romania)
42. Cooperativa Sociale "Magliana '80" (Italy)
43. Cradle-the Children's Foundation (Kenya)
44. Danish Anti-Slavery Society (Denmark)
45. Danish Women's Society (Denmark)
46. December 18 vzw
47. DIKPO Thélesphere T
48. DIYA
49. Dutch Foundation of the Religious against Trafficking in Women (SRTV)
50. ECPAT International
51. ECPAT Italia (Italy)
52. ECPAT Nederland/ Defence for Children International Nederland (Netherlands)
53. ECPAT UK

54. Ecumenical Forum of European Christian Women - Scotland Branch (United Kingdom)
55. Ensi- ja turvakotien liitto - The Federation of Mother and Child Homes and Shelters in Finland (Finland)
56. EPER (Entraide Protestante Suisse) / HEKS (Hilfswerk der evangelischen Kirchen Schweiz) (Switzerland)
57. European Network of Women –Greece (Greece)
58. European Roma Rights Centre
59. Fédération Internationale pour l'Education des Parents
60. Feminist Net (Greece)
61. FiM - Frauenrecht ist Menschenrecht e.V Beratungs- und Informationsstelle für Migrantinnen (Germany)
62. Finnish Refugee Advice Centre (Finland)
63. FIZ - Fraueninformationszentrum für Frauen aus Afrika, Asien, Lateinamerika und Osteuropa (Women's Information Center for Women from Africa, Asia, Latin America and Eastern Europe) (Switzerland)
64. FN Forbundet / Danish United Nations Association (Denmark)
65. Franciscans International
66. GAATW
67. Genathlon – Centre for the Interdisciplinary Study of Human and Natural Systems (Greece)
68. Global Ministries of the Protestant Church in the Netherlands (the Netherlands)
69. Greek Helsinki Monitor (Greece)
70. HERRMANN - Prävention, Information und Beratung für Sexworker (Switzerland)
71. Hotline for Migrant Workers (Israel)
72. Human Rights Watch
73. Ibis (Denmark)
74. Immigration Advisory Service (United Kingdom)
75. International Federation of Social Workers (IFSW)
76. International Federation of Terre des Hommes

77. International Movement Against All Forms of Discrimination and Racism (IMADR)
78. Irish Congress of Trade Unions (Ireland)
79. Israel Women's Network (Israel)
80. ISSAS - Istituto superiore di studi e ricerca per l'assistenza sociale e sanitaria (Italy)
81. Justice (United Kingdom)
82. Karditsa Women Centre (Greece)
83. Kav LaOved (Worker's Hotline) (Israel)
84. KOOFRA - Coordination Center against Trafficking in Women (Germany)
85. "Korais" Cultural Association (Greece)
86. Kumppanuushanke Tyttöjen Talo - Girls' House Cooperative Project (Finland)
87. Kurdish Human Rights Project
88. Kvinderådet/Women's Council in Denmark (Denmark)
89. Lamed Alef (No to Violence) (Israel)
90. Law Centre (NI)
91. Law Society (United Kingdom)
92. LEFO (Austria)
93. Legal Clinic for Minors
94. Legal Resource Foundation (Kenya)
95. Lithuanian Human Rights association (Lithuania)
96. Ludwig Boltzmann Institute of Human Rights (Austria)
97. Lykeion Ellinidon (Greece)
98. Maltese Association of Social Workers (Malta)
99. Medical Foundation for the Care of Victims of Torture
100. Minority Ethnic Women Cymru (United Kingdom)
101. Minority Rights Group (Greece)
102. Monika - Multicultural Women's Association (Finland)
103. Naisten Linja Suomessa ry - National Women's Line in Finland (Finland)

104. National Council of Women of Malta (Malta)
105. National Council of Women, Foreign Affairs Committee (United Kingdom)
106. National Council of Women of South Africa (South Africa)
107. The National Federation of Women's Institutes (NFWI)
108. The National Federation of Women's Institutes - Wales (NFWI - Wales)
109. National Missing Persons Helpline (United Kingdom)
110. NPF (Help for Children)
111. New York Asian Women's Center (United States of America)
112. NGO Centre Against Violence and Human Trafficking (Russian Federation)
113. Norske Antislaveriselskapet (Norwegian Anti Slavery Society) (Norway)
114. Northern Ireland Council for Ethnic Minorities (United Kingdom)
115. Northern Ireland Women's Aid Federation (United Kingdom)
116. The Norwegian Anti-Racist Centre (Norway)
117. The Norwegian Bar Association's Human Rights Council (Norway)
118. The Norwegian Council of the Rights of the Kurdish People (Norway)
119. Norwegian Helsinki Committee (Norway)
120. Norwegian Mission to the East (Norway)
121. The Norwegian Organisation for Asylum Seekers (Norway)
122. Nytkis - The Coalition of Finnish Women's Associations (Finland)
123. On the Road (Italy)
124. Open Gate / La Strada Macedonia
125. Open Society Foundation (Romania)
126. Pag-Asa (Belgium)
127. "Panathinaiki" Panhellenic Women's Organization (Greece)
128. Parsec (Italy)
129. Partnership for Equality Center (Romania)
130. Phoenix Women Take Back the Night (United States of America)
131. The Pro Centre (Norway)
132. Pro-Tukipiste - Prostitute Counselling Service (Finland)

133. Psycho-social centre “Yatra”
134. Rabbis for Human Rights (Israel)
135. The Rehabilitation Centre For Victims Of Torture And Other Forms Of Abuse (CRTV) (Greece)
136. Refugee Consortium of Kenya (Kenya)
137. Refugees Women’s Legal Group (United Kingdom)
138. Respect (United Kingdom)
139. Ruhama (Ireland)
140. Salvation Army
141. Save the Children
142. Scottish Human Rights Centre (United Kingdom)
143. Scuola Superiore Sant’Anna di Pisa (Italy)
144. Social Aid of Hellas (Greece)
145. Society for Human Rights, Environment, Law and Governance Activities (SHELGA) (Nepal)
146. Soroptimist International of Great Britain and Ireland
147. South Essex Rape and Incest Crisis Centre (SERICC) (United Kingdom)
148. La Strada Belarus (Belarus)
149. La Strada Czech Republic (Czech Republic)
150. La Strada Moldova (Republic of Moldova)
151. La Strada Network
152. La Strada Ukraine (Ukraine)
153. STV (Netherlands)
154. Sudanese Community In Greece (Greece)
155. Sudan National Alliance, Greece Chapter (Greece)
156. Suomen Unifem - National Committee for Unifem in Finland (Finland)
157. Swedish Helsinki Committee for Human Rights (Sweden)
158. The Swedish NGO Foundation for Human Rights (Sweden)
159. Terre des hommes Italia (Italy)

160. Terre des hommes Switzerland (Switzerland)
161. Traditional – Cultural Association “O Arapis” (Greece)
162. Transparency International Denmark (Denmark)
163. Transparency International Greece (Greece)
164. Trócaire (Ireland)
165. Truth About Rape (United Kingdom)
166. Tukinainen - Rape Crisis Centre (Finland)
167. Unioni - The League of Finnish Feminists (Finland)
168. University of Nottingham Human Rights Law Centre (United Kingdom)
169. Wales Women’s National Coalition (United Kingdom)
170. Womankind (United Kingdom)
171. Womanzone (United Kingdom)
172. Women’s Empowerment project (Kvinna till Kvinna Foundation) (Sweden)
173. Women in Black (Serbia and Montenegro)
174. Women's International League for Peace and Freedom German Section (Germany)
175. Women’s Shelter Association (Samtök um kvennaathvarf) (Iceland)
176. The World Organisation Against Torture (OMCT)
177. Youth Council of Municipality of Sofades (Greece)
178. Youth Information Centre (Greece)
179. Youth Secretariat of the Greek Workers Confederation (Greece)