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Panel 1 - Understanding human trafficking in the private economy - forms, industries and sectors involved, latest trends and responsibility of the private sector
Conference "The Public-Private Partnership in the Fight against Human Trafficking"
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I am delighted and honoured to be invited to speak at today's conference dedicated to such a crucial issue for our societies as is the fight against human trafficking, a phenomenon with far-reaching economic, social and legal implications which concerns governments, civil society and businesses alike.

The organisation that I represent, the Council of Europe, has been actively engaged in combating human trafficking in its member States and beyond, in partnership with other international organisations, notably the OSCE. The Council of Europe Convention on Action against Trafficking in Human Beings, opened for signature in 2005, is currently in force in 46 of the 47 CoE member States. The Convention takes a human rights-based and victim-centred approach to action against human trafficking and places obligations on States Parties to prevent human trafficking, to identify, protect and compensate its victims, to prosecute and punish those responsible for human trafficking, including legal persons, and to engage in international co-operation and partnerships.

I must stress that, regardless of the form human trafficking may take, we are not only dealing with a serious criminal phenomenon, but also with a violation of human rights. Indeed, human trafficking represents a direct attack on the prohibition of slavery, servitude and forced labour, which is enshrined in Article 4 of the European Convention of Human Rights.

On 30 March 2017, the European Court of Human Rights (ECtHR) adopted a landmark judgment in the case of *Chowdury and Others v. Greece* brought before to

the Court by a group of 42 Bangladeshi men who used to work at a strawberry farm in Manolada (Southern Greece). They did not have work permits, worked up to 12 hours per day under the supervision of armed guards and lived in makeshift shacks without toilets or running water. For several months, the men did not receive the agreed wages and their employers threatened them that they would only receive wages if they continued to work. When a group of workers demanded their wages on 17 April 2013, one of the armed guards opened fire, seriously injuring 30 workers. Before this incident the Greek authorities had known for years about the circumstances under which thousands of workers lived and worked in strawberry farms around Manolada, due to media reports and an Ombudsman's report which had been submitted to all relevant authorities and labour inspections, but no effective action to remedy the situation had been taken. Before the case reached the Court in Strasbourg, the Patras Assize Court had acquitted the defendants - two employers, the guard who opened fire and an armed overseer - of the charge of trafficking in human beings, finding, in particular, that it had not been absolutely impossible for the workers to protect themselves and that their freedom of movement had not been compromised in that they had been free to leave their jobs. The ECtHR considered that a restriction on freedom of movement was not a condition *sine qua non* for establishing a situation as forced labour or human trafficking because a trafficking situation could exist in spite of the victim's freedom of movement. The Court saw the situation of the workers in Manolada as a case of human trafficking for the purpose of forced labour and concluded that there had been a violation of Article 4, paragraph 2, of the European Convention on Human Rights due to the failure of the Greek authorities to fulfil their positive obligations under this article to prevent human trafficking, to protect victims, to effectively investigate the offences committed, and to punish those responsible for human trafficking offences.

Trafficking in human beings for labour exploitation is one of the most challenging aspects of "modern day slavery". Challenging on many accounts – because labour exploitation is not well-defined in law, because victims prefer not to lodge complaints or stand as witnesses, and not least because states cannot tackle it on their own and

need to engage with the private sector and civil society to ensure maximum efficiency in order to stamp out this scourge.

Despite the limitations on data collection on THB, it is evident from the available statistics that trafficking for the purpose of labour exploitation is one the rise or is better identified. For example, in Belgium, the majority of the identified victims in the period 2013-2015 were men (233), and most of the victims were trafficked for the purpose of economic exploitation (260). In the UK, labour exploitation accounted for 35% of the presumed victims of trafficking identified in the period 2012-2015. In Greece, the second most common form of trafficking was for the purpose of labour exploitation, with 30% of the identified victims.

Article 6 of the Council of Europe Anti-trafficking Convention requests States to take a range of measures to discourage demand for services of trafficked persons, as one of the root causes of trafficking in human beings. GRETA has stressed in its reports that measures to discourage demand should target all forms of exploitation and not just the sex industry. The absence of effective regulation of certain labour market segments (e.g. labour-intensive industries, such as agriculture, construction and low-skilled manufacturing) is one of the factors that help to create an environment in which it is possible and profitable to use trafficked labour. Effectiveness requires combined labour inspection and enforcement powers, international information exchange, worker awareness of their rights, and practical support by the industry to ensure ethical standards by the companies they use.

An efficient fight against human trafficking always calls for a multi-disciplinary approach and this is something that the Council of Europe Anti-Trafficking Convention unequivocally spells out and on which GRETA always insists. In the case of human trafficking for the purpose of labour exploitation, it requires going beyond the “usual” stakeholders (in particular, law enforcement agencies and specialised NGOs) and reach out to other actors, such as labour inspectors, trade unions, employers’ associations and the private sector. GRETA has also recommended training and sensitising all relevant officials about trafficking for the purpose of labour exploitation and the rights of victims, and increasing efforts to proactively identify

victims of trafficking for the purpose of labour exploitation, including among irregular migrant workers, by reinforcing the role and capacity of labour inspectors and adopting a multi-agency approach to victim identification. Another recommendation is to work closely with the private sector, in line with the UN Guiding Principles on Business and Human Rights, to require businesses to report publicly on measures to reduce human trafficking or forced labour in their supply chains, and to conduct a comprehensive human rights-led revision of the State's procurement practices.

There are some examples in GRETA's reports of steps taken in this respect. In the **UK**, an innovative feature of the Modern Slavery Act 2015 is the introduction of a requirement for businesses of a certain size to prepare a "slavery and human trafficking statement" for each financial year on the steps taken to ensure that slavery and human trafficking are not taking place in any of their supply chains and any part of their own business. Following a public consultation, the threshold of GBP 36 million annual turnover was set for this provision to apply, which would concern an estimated 12 000 businesses in the UK. A failure to produce a slavery and human trafficking report can result in the Secretary of State bringing civil proceedings in the High Court for an injunction against the companies concerned. In October 2015 the Home Office published guidance for companies entitled "Practical Guide on Transparency of Supply Chains". In **France**, a law on due diligence by parent companies and principal companies operating with subcontractors was adopted on 21 February 2017 by the National Assembly. It provides for the creation of an obligation for companies employing at least 5 000 employees within the company itself and in direct or indirect subsidiaries to introduce a vigilance plan "geared to identifying and obviating risks of violations of human rights and fundamental freedoms, serious physical harm or environmental damage or health risks resulting from its activities and those of companies under its direct or indirect control, as well as the activities of subcontractors or suppliers over which they exert decisive influence". In addition, France has adopted a number of laws against unfair corporate competition and reinforcing employers' obligations regarding seconded employees.

In **Denmark**, the Danish Centre against Human Trafficking (CMM) issued in 2014 guidelines for companies and employers on managing the risk of hidden forced labour, which are available as an interactive web-based tool, including checklists for

measures which companies can take to reduce the risk of hidden forced labour. The guidelines are based on a mapping of risk factors and interviews with employers.

In the **UK**, the Gangmasters Licensing Authorities (GLA) has sought private sector engagement through the 2013 Supplier/Retailer Protocol (known as the Supermarket Protocol) agreed with the major food retailers and suppliers, which aims to ensure that safety and welfare standards for workers are maintained and any exploitation of workers is eliminated. The protocol acts as a prevention/deterrence mechanism, as well as a source of information.

At a conference organised by the CoE in Sofia in December 2012, entitled "Making Prevention Work: Addressing the Root Causes of Human Trafficking in Europe", Professor Julia O'Connell Davidson noted that, although there has been an increase in awareness on producing and consuming more "ethically", it is often not up to the consumers to choose "fair" products. "In contexts where regulation and monitoring are weak, where the budgets of agencies that inspect workplaces are actually being cut, and where those higher up the supply chain are squeezing costs, this can readily translate into a willingness to exploit trafficked persons, along with otherwise vulnerable and unprotected workers. This situation cannot be transformed by individual consumer or producer choices - it requires collective political action."

The question facing businesses is what should they do? To date, most businesses that have engaged on the issue of combating human trafficking, have concentrated on awareness-raising or signing voluntary codes of conduct. The Athens Ethical Principles, a seven-step charter designed to stamp out the use of trafficked labour by companies and other organisations, now counts over 12,500 signatories. The Manpower Group, which has a worldwide network of 4,100 offices in 82 countries, was the first company to sign up to the Athens Principles, and it released in 2012 a framework for combating human trafficking and forced labour, The Ethical Framework for Cross Border Labor Recruitment. Manpower also funds programmes that help women and children recognise illegal recruiters and understand the risks

involved and partners with governments and NGOs to provide employment training that reduces the risk of being trafficked.

However, there has only been limited success in attracting the private sector to act. One risk with voluntary code of conduct is that some participating businesses would be more interested in the positive publicity for their brand and less in the improvement of labour rights and workers safety. Being ethical and doing ethical is more than signing a paper. Curbing abusive practices within companies' supply chains presents a tougher task, especially when suppliers multiply into hundreds if not thousands of smaller firms. According to Aidan McQuade, Director of Anti-Slavery International, "human trafficking isn't on the corporate agenda because companies think they can probably get away with it ... Companies treat it as a PR issue that needs to be managed rather than a human rights abuse that needs to be addressed."

In line with the 2011 UN Guiding Principles on Business and Human Rights, in March 2016 the Council of Europe's Committee of Ministers adopted a Recommendation on human rights and business, which recognises that businesses have a responsibility to respect human rights and that member states should take appropriate steps so as to require that businesses domiciled or operating in their jurisdiction respect human rights throughout their operations, including abroad.

Allow me to end my presentation in coming back to one of the key concepts underlying the Council of Europe Anti-Trafficking Convention: partnership. The far-reaching effects of human trafficking require innovative solutions and the involvement of the private sector is critical in this respect because human trafficking is not just a crime and a human rights issue, but in many instances a labour issue resulting in unfair competition. Only by working together will governments, businesses and civil society stand a chance to combat human trafficking.