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**“ALLIANCE AGAINST TRAFFICKING IN PERSONS”**  
**Human Trafficking for Labour Exploitation/Forced and Bonded Labour:**  
**Prosecution of Offenders, Justice for Victims**  
**Vienna 16-17 November**

**LESSONS LEARNED, WAYS FORWARD & NEXT STEPS**

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- Action to combat trafficking in human beings is receiving world-wide attention because trafficking threatens the human rights and the fundamental values of democratic societies.
- Given that one of the primary concerns of the Council of Europe is the safeguarding and protection of human rights and human dignity, it is logical that finding solutions to this problem is a top priority for the Organisation. It is all the more relevant as the Council of Europe is a pan-European organisation, regrouping among its 46 member states countries of origin, transit and destination of the victims of trafficking in human beings.
- On 3 May 2005, the Committee of Ministers adopted the Council of Europe Convention on Action against Trafficking in Human Beings. The Convention was opened for signature in Warsaw on 16 May 2005, on the occasion of the 3rd Summit of Heads of State and Government of the Council of Europe.
- The Council of Europe Convention, the first European treaty in this field, is not a mere declaration of principles, but rather a practical tool specifically designed to prevent trafficking, protect and assist victims of trafficking, to bring traffickers to justice and to foster international co-operation. In addition, the Convention provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention.

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- I have been asked to present the lessons learned by the Council of Europe in addressing trafficking in human beings and to make recommendations to the participating states as to ways forward and next steps. The Council of Europe Convention is in the process of being ratified. Once it has entered into force I will be able to share with you the lessons learned – in particular the conclusions resulting from the monitoring mechanism. But I will make some observations based on our experience in this field and the issues raised by the Convention.
- **My first observation: it is essential to always emphasise that trafficking in human beings is a human rights issue.** Victims cannot merely be considered as tools to prosecute traffickers. On the contrary, they are the very reason why we are combating this scourge.
- The objective is clear: such a modern form of slavery, such “a violation of human rights, [...] such an offence to the dignity and the integrity of the human being” is intolerable in today’s world and must be eliminated.
- In addition, the protection of victims of trafficking will lead to the effective prosecution of traffickers
- The Council of Europe Convention focuses mainly on the protection of victims of trafficking and the safeguard of their rights. It is based on recognition of the principle that trafficking in human beings constitutes a violation of human rights and is an offence to the dignity and integrity of the human being. This human rights perspective and its focus on victim protection is the main added value of the Convention in relation to other international instruments.
- Thus, for instance, Parties are required to take a number of measures to assist victims in their physical, psychological and social recovery. Another innovative provision of this new Convention concerns the recovery and reflection period. The Convention contains a provision requiring Parties to provide for this period to last at least 30 days. Furthermore, the Convention opens the possibility to deliver residence permits not only on the basis of the persons’ co-operation with law enforcement authorities, but also on the basis of their personal situation.
- No other international text defines victims, leaving it to each state to define who is a victim and therefore deserves the measures of protection and assistance. In the Council of Europe Convention a victim is any person who is subject to trafficking as defined in the Convention.
- I would like to mention a recent judgment from the European Court of Human Rights. The human rights based approach adopted by the Council of Europe Convention and its main aim of protecting the victims of

trafficking has recently been confirmed in a judgment against France (Judgment of 26 July 2005, *Siliadin v. France*). The Court condemned France for not fulfilling its positive obligations under Article 4 of the European Convention of Human Rights (prohibition of servitude/forced labour) in a case which dealt with issues concerning trafficking in human beings for the purpose of labour exploitation. The Court stated, in relation to the provision which prohibits forced labour and servitude, that the fact that a state had refrained from infringing the guaranteed rights did not suffice to conclude that it had complied with its obligations; it gave rise to positive obligations on states, consisting in the adoption and effective implementation of criminal-law provisions making the practices set out in Article 4 a punishable offence.

- **This leads me to my second observation: the necessity to adopt legislation in order to criminalise trafficking in human beings as a specific criminal offence.**
- The Council of Europe Convention contains an obligation to establish trafficking in human beings as a criminal offence. But the Convention goes beyond the simple criminalisation of the traffickers. It also contains an obligation on the Parties to consider adopting measures to criminalise those who use the services of victims. Of course, this is on the condition that the client knows that the person is a victim of trafficking in human beings.
- **My third observation: we have to fight all forms of trafficking**
- From a human rights perspective it does not matter for which purpose a human being is being exploited.
- The Council of Europe Convention's scope includes all kinds of exploitation: sexual exploitation, labour exploitation, servitude and removal of organs. It takes in all forms of trafficking, be it national or international, linked or not to organised crime, and applies to women, children and men alike.
- The internationally agreed definition puts emphasis on **exploitation** as the main distinguishing characteristic of trafficking in human beings. It is important that we all adhere to this distinction in order that we may have a coherent and effective approach in our fight against trafficking in human beings.
- **My fourth observation: a multidisciplinary approach is needed (3Ps)**
- To be effective, a strategy for combating trafficking in human beings must adopt a multidisciplinary approach incorporating prevention, protection of

human rights of victims and prosecution of traffickers. Not only is this multidisciplinary approach basic to the Convention, it must also be basic to any national or international action on trafficking in human beings.

- In this context I would particularly like to draw your attention to the important role of the media and their responsibility in the fight against trafficking. On the one hand, they have a responsibility to protect the private life and identity of the victims of trafficking in human beings and on the other hand they have an important role in raising awareness, in particular on the different ways of recruiting its victims and on its severe consequences for the victims and society as a whole.
- **A fifth observation: the distinction must be made between trafficking in human beings, illegal immigration and prostitution**
- First, the distinction must be made between victims of trafficking and illegal migrants. Of course, smuggling of persons and trafficking are part of the migration process. But trafficking is more than an issue of illegal migration. As any other vulnerable person, an illegal migrant may become a victim of trafficking. But if we group trafficking victims into the same category as illegal migrants, then according to the prevailing policy, victims of trafficking will be immediately returned to their country of origin and consequently denied their rights and protection as victims. This practice will result in a vicious circle of victim recycling which cannot be broken. Once victims are returned to their country of origin without protection and integration they are targeted by traffickers again and once again become victims of trafficking. One of the key issues of any anti-trafficking policy is therefore to clearly identify victims of trafficking and distinguish between trafficking and illegal migration or smuggling of migrants.
- Second, I would like to make an observation on the problem of distinction between trafficking and prostitution. The Convention applies to all cases of trafficking, including forced labour or services, slavery or practices similar to slavery, servitude and removal of organs. Moreover, prostitution differs from trafficking in human beings in that only if the means of threat or use of force or other forms of coercion (or other means referred to under the definition of trafficking in human beings of the Palermo Protocol) are used prostitution can be qualified as “trafficking in human beings”.
- **A sixth observation: better statistics are needed**
- There are no reliable figures about trafficking in human beings, be it in Europe or worldwide. In order to fully understand the phenomenon and combat it more efficiently, reliable statistics are needed. I would like to

encourage the “Alliance against Trafficking in Persons” to continue its very useful work in this field.

- The monitoring mechanism of the Council of Europe Convention (GRETA), which will be set up when the Convention enters into force, will contribute significantly to providing better statistics about trafficking.

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- You have heard my observations on lessons learned in addressing trafficking in human beings. It will not be a surprise to you that my **recommendations to the participating states as to ways forward and next steps** concern the Council of Europe Convention on Action against Trafficking in Human Beings.
- No country alone can defeat trafficking: isolated action is bound to fail, while concerted actions will be effective. With the new Council of Europe Convention, we have a new tool to prevent and combat trafficking more effectively.
- The Council of Europe Convention on Action against Trafficking in Human Beings will enter into force with 10 ratifications. To date, the Convention has been ratified by Austria, Moldova and Romania and signed by 30 other states<sup>1</sup>.
- Earlier this year, we launched the Council of Europe Campaign on Action against Trafficking in Human Beings. The aim of this Campaign is to raise awareness of this new form of slavery among governments, parliamentarians, local and regional authorities, NGOs and civil society and at the same time to promote the signature and rapid ratification of the Convention.
- In order that the Convention may enter into force rapidly, I urge you all to join us in our Campaign and work towards the signature and ratification of this Convention by your respective countries.

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<sup>1</sup> To date, the Convention has been ratified by Austria, Moldova and Romania and signed by 29 other CoE member states: Albania, Andorra, Armenia, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, Finland, France, Georgia, Germany, Greece, Iceland, Italy, Latvia, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, San Marino, Serbia, Slovakia, Slovenia, Sweden, "the former Yugoslav Republic of Macedonia" and Ukraine. A non member state, Montenegro, has signed the Convention