



Christian Organisations
Against Trafficking in Women

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3 October 2006

Advocacy on Council of Europe Convention against Trafficking

Dear colleagues, dear friends,

With this letter we would like to ask you to engage in advocacy activities aiming at the **ratification of the Council of Europe Convention on Trafficking in Human Beings**¹ by your respective country. The Convention was adopted by the Council of Europe's Committee of Ministers on 3 May 2005, and was opened for signature at the Council of Europe's Third Summit of Heads of State and Government on 16-17 May 2005 in Warsaw, Poland. It has now entered a crucial stage in the process of ratification as **26 countries signed the Convention, but there is no ratification yet**². We believe that Christians all over Europe should at this moment in time support this European approach to overcome this modern form of slavery.

The purposes of the Convention (as stated in Art. 1) are to prevent and combat trafficking in human beings, guaranteeing gender equality; to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, guaranteeing gender equality, and ensure effective investigation and prosecution; and to promote international cooperation on action against trafficking in human beings.

This Convention is one of the most important instruments to combat Trafficking in Human Beings in Europe and addresses this human rights violation in a more comprehensive way than other instruments.

Particularly significant aspects of the Convention are that it expands the scope of the UN (Palermo) definition of trafficking to explicitly include internal trafficking (i.e. trafficking within state borders) and trafficking that is not linked with organised criminal groups. It also establishes an independent monitoring mechanism to monitor the implementation of the Convention by Parties which have agreed to be bound by it.

It is open for signature not only by Council of Europe member states (46 states), but also the European Community and states not members of Council of Europe (Canada, the Holy See, Japan, Mexico, the United States) which took part in its drawing.

Your action requested

As the Convention will only enter into force after 10 ratifications, including 8 member states of the Council of Europe **we would like to encourage you to advocate for the ratification**, or in case your country has not signed it yet, for signature. You may also wish to use this

¹ The Convention can be found under http://www.coe.int/T/E/human_rights/trafficking/PDF_Conv_197_Trafficking_E.pdf.

² <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=197&CM=8&DF=09/01/2006&CL=ENG>

opportunity to re-launch the debate in your country on certain issues addressed in the Convention.

To support your action we would like to highlight in the annex to this letter the positive aspects of the Convention as well as aspects where national legislation could go further. It is a short non exhaustive assessment of the Convention.

This call goes out to Churches and Christian agencies in Europe, in particular to the membership of Caritas Europa, Churches Commission for Migrants in Europe and Conference of European Churches. In case you take action in your country we suggest to get in touch with the member organisations of the other umbrella networks in order to enable coordinated and powerful advocacy efforts. Contact details about member organisations in your country are available in the respective European Secretariat of the above mentioned organisations or websites³. We would also encourage you to inform your own umbrella organisations of your activities to enable exchange of good practices and to allow for an overview of what has been achieved. Moreover it would help future advocacy initiatives if you could give a feed back on the utility of this letter.

Signed

On behalf of COATNET,
COATNET Steering Group

Enclosed: short assessment of the Convention

³ For Coatnet Users: on the database on organisations engaged in counter-trafficking activities in the Coatnet-Extranet

Annex: Short assessment of the Convention

1. General content of the Convention

The Convention tries to offer a comprehensive approach to combating Trafficking in Human Beings. It deals with prevention as well as with law enforcement aspects. It also devotes considerable attention to the protection and the promotion of rights of trafficked persons. An experts' group should be established to monitor the implementation of the convention.

2. Positive aspects of the Convention

- After its entry into force the Convention would be the **first legally binding Europe wide instrument against Trafficking in Human Beings**. Every single article has to be applied at national level. The parties to the Convention agreed that no reservations are to be made in respect of any provision of the Convention with the exception of one article (Art. 45, Art. 31, 2).
- The preamble fully recognizes Trafficking as a **violation of human rights** and an offence to human dignity. It equally establishes respect for victims' rights and protection of victims as paramount objectives of the Convention.
- Art. 4 follows the definition of Trafficking as foreseen in the Palermo Protocol⁴, thus clearly focussing on the aspect of exploitation and slavery-like practices.
- Art. 5, 4 underlines the importance of **legal migration** opportunities as a prerequisite for preventing Trafficking.
- Art. 10 along with art. 29 highlight the need for **trained and qualified staff** in authorities as well as the need for specialised entities in Trafficking. Both shall enable a better identification of Trafficked Persons and improved prevention. More specific legislative or other measures for identification shall be adopted according to art. 10,2.
- Art. 12 outlines measures to **assist trafficked persons** in their physical, psychological and social recovery. Assistance may not be conditioned on their willingness to act as a witness in any proceedings against those responsible for their trafficking.
- Art. 14 requires the granting of a renewable **residence permit** to trafficked persons in view of their personal situation or in view of their cooperation with the authorities.
- Art. 16 takes account of the rights and safety of persons being returned and requires to make contact information on assistance available to **returning trafficked persons**. It also suggests measures for the establishment and support of organisations specialised in reintegration (specifically art. 16,6).
- The role of NGO's and civil society at large is emphasised in art. 12,5 and 35. In addition, Art. 29 requires that staffs of specialized authorities and co-ordinating bodies have adequate training *and financial resources* for their tasks.

3. Shortcomings of the Convention

- Art. 7 follows a general logic that enforcement of border control helps to prevent Trafficking - without making provisions how persons who might be in need of protection (e.g. trafficked persons or refugees) can receive the assistance which they need at border points.

⁴ United Nations Convention against Transnational Organized Crime and its Protocol to prevent, suppress and punish Trafficking in Persons, especially women and children adopted by the General Assembly (resolution 55/25) on 15 November 2000. In accordance with Article 38, Annex I of the aforementioned resolution, the United Nations Convention against Transnational Organized Crime entered into force on 29 September 2003:
http://www.unodc.org/unodc/crime_cicp_convention.html

- Although art. 11 makes a provision for the protection of private life and identity of a trafficked person, it does not acknowledge any right of the trafficked person to determine who will under which circumstances receive his/her personal data.
- Although the importance of NGO's and civil society at large is recognised the Convention fails to make clearly binding commitments regarding the involvement of and support to such organisations (s. art. 12, 5).
- In art. 13, 1 provides for a reflection period of at least 30 days. This minimum of 1 month is insufficient for a trafficked person to take a well informed decision about cooperating with authorities or other important decisions related to his or her future.
- While art. 16 foresees that return is organised with due regard for the rights, safety and dignity of a person, the Convention does not make any provision for a risk assessment before return (with the exception of returnees who are children).

The issues described as shortcomings might best have been addressed in a more comprehensive way in the Convention. However, you may consider taking up these issues with your governments to advocate for more far-reaching national legislation.

4. Monitoring Mechanism GRETA

Another opportunity for advocacy work lies in suggesting individuals to serve as members of the Convention's monitoring mechanism, the "group of experts" on action against trafficking in human beings (GRETA) (Art. 36). GRETA shall be composed of ten to fifteen independent and impartial members elected for their individual capacities and taking into account a gender and geographical balance, as well as a multidisciplinary expertise. They shall be elected within a period of one year following the entry into force of the Convention. We suggest you recommend appropriate candidates to your respective governments now (i.e. even prior to the Convention's entry into force).