

Council of Europe Action against Trafficking in Human Beings



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“*Trafficking in Human Beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being and may result in slavery for victims.*”

Extract: Preamble to the Council of Europe Convention on Action against Trafficking in Human Beings



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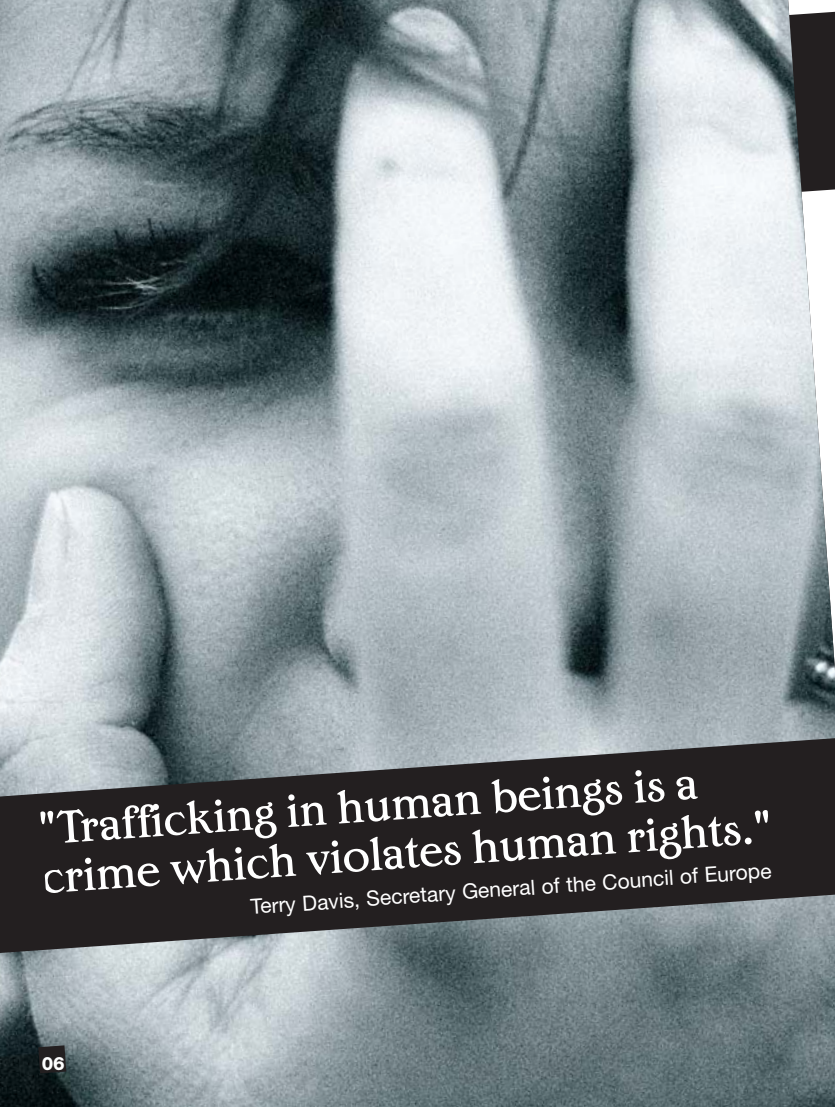
The scope of the problem

Trafficking in human beings is a major problem in Europe. Every year an increasing number of people fall victim to trafficking, mainly for sexual exploitation (43%), but many as underpaid or illegal labour in farms, sweatshops and private households (32%). The International Labour Organization (ILO) estimates the numbers at over 2.45 million, most of them women and children.

Such trafficking, with the entrapment of its victims, is the modern form of the old slave trade. It treats human beings as a commodity to be bought and sold, to be put to forced labour, usually in the sex industry, but also, for example, in agriculture and declared or undeclared sweatshops, to be paid a pittance or nothing at all. Most of the identified victims of trafficking are women, but sometimes men are also victims of trafficking in human beings. Furthermore, many of the victims are young, sometimes children. All are desperate to make a meagre living, only to have their lives ruined by exploitation and extortion.

The Council of Europe's primary concern is to safeguard and protect human rights and extend them to all its 800 million citizens, regardless of gender, race, origin, colour or creed. Trafficking in human beings undermines these fundamental values and the Council is committed to fight it. Furthermore, as a pan-European organisation it is ideally placed to combat all aspects of human trafficking and to protect its victims - many of its 46 member states are among victims' countries of origin, transit and destination.

"A new form
of Slavery"



Action undertaken by the Council of Europe in the fight against trafficking

Since the late 1980s, the Council of Europe has been active in the fight against trafficking in human beings. Trafficking impinges on a number of questions with which the Council of Europe is concerned, such as sexual exploitation of women and children, protection of women against violence, organised crime and migration. The Council of Europe has taken various initiatives in this field: among other things, it has produced legal instruments, devised strategies, conducted research, engaged in legal and technical co-operation and carried out monitoring.

The main texts adopted by the Council of Europe concerning trafficking in human beings are:

- Recommendation (2000) 11 of the Committee of Ministers to Member States on action against trafficking in human beings for the purpose of sexual exploitation;
- Recommendation (2001) 16 of the Committee of Ministers to Member States on the protection of children against sexual exploitation.

The Council of Europe considered it necessary to draft a legally binding instrument which goes beyond recommendations and specific actions. 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 member states. They underlined that this new Convention is a major step forward in the fight against trafficking.

"Trafficking in human beings is a crime which violates human rights."

Terry Davis, Secretary General of the Council of Europe



International initiatives

A worldwide phenomenon, trafficking in human beings can be national or transnational. Often linked to organised crime, for which it now represents one of the most lucrative activities, trafficking has to be fought in Europe just as vigorously as drug and money laundering. Indeed, according to some estimates, trafficking in human beings is the third largest illicit money-making venture in the world after trafficking of weapons and drugs.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) supplementing the United Nations Convention against transnational organised crime laid the foundation for international action on trafficking. The Council of Europe Convention, while taking the Palermo Protocol as a starting point and taking into account other international legal instruments relevant to combating trafficking in human beings, seeks to strengthen the protection afforded by those instruments and to raise the standards which they lay down.

Rising concern about trafficking in human beings has also prompted international agencies such as Interpol, the International Labour Organization (ILO), the International Organization for Migration and the Organization for Security and Co-operation in Europe (OSCE) to take action, and many non-governmental organisations are working to help victims.

The European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings and the EU Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or to third-country nationals who have been the subject of an action to facilitate illegal migration who co-operate with the competent authorities regulate some of the questions concerning trafficking in human beings.

Why a new Convention?

The Council of Europe is ideally placed to combat all aspects of human trafficking enabling countries of origin, transit and destination to agree on a common, binding policy. Existing international texts are either not sufficiently binding or take into account just 'one aspect' of the problem.

The added value provided by the Council of Europe Convention lies firstly in the affirmation that trafficking in human beings is a violation of human rights and violates human dignity and integrity, and that greater protection is therefore needed for all of its victims. Secondly, the Convention's scope takes in all forms of trafficking. Thirdly, the Convention sets up monitoring machinery to ensure that States implement its provisions effectively.

The Convention is a comprehensive treaty which aims to:

- Prevent trafficking
- Protect the human rights of victims of trafficking
- Prosecute traffickers

The Convention applies to:

- All forms of trafficking: whether national or transnational, whether or not related to organised crime
- All victims: women, men or children
- All forms of exploitation: sexual exploitation, forced labour or services, slavery or similar practices, servitude and the removal of organs



What is trafficking in Human Beings?

Definition of trafficking in Human Beings

The Council of Europe Convention defines trafficking in human beings as:

- **The action of:** “the recruitment, transportation, 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”.
- **A victim is defined as any person who is subject to trafficking by any of the means specified in the Convention. The consent of a victim to the exploitation is irrelevant where any of the means set forth by the definition (coercion, fraud, deception...) have been used.**




Prevention of trafficking in human beings

Trafficking in human beings takes many forms, cuts across various fields and has implications for many branches of society. To be effective, and given the nature of the phenomenon, preventive action against trafficking must be co-ordinated. Measures should therefore be taken to establish or strengthen co-ordination nationally between the different bodies responsible for preventing and combating trafficking in human beings.

Information, awareness-raising and education campaigns for persons vulnerable to trafficking and actions aimed at discouraging “consumers” are among the main measures to prevent trafficking in human beings. Border control and measures to ensure the validity of travel or identity documents are also among the measures necessary to prevent trafficking in human beings.

Civil society has an important role to play as regards prevention of trafficking and protection of the victims. Consequently, the Council of Europe Convention encourages the co-operation between public authorities, non-governmental organisations and members of civil society.



Protection of the human rights of victims of trafficking in human beings

Identification

The Council of Europe Convention emphasises that victims of trafficking must be recognised as such to avoid police and public authorities treating them as illegal migrants or criminals. Failure to identify a trafficking victim correctly could mean that a victim is denied his or her fundamental rights. During the identification process the person cannot be removed from the territory.

There are special provisions for child victims (minors under 18) who are particularly vulnerable. They need special representation and the necessary steps should be taken to establish the child's identity and nationality. Every effort should be made to locate the child's family when that is in the child's best interest.

Protection of private life

The protection of victims' private life and identity is essential both for victims' physical safety, given the danger from their traffickers, but also to preserve their chances of social reintegration.

Assistance to victims

Victims of trafficking will be granted physical and psychological assistance and support for their reintegration into society. Medical treatment, counselling and information as well as appropriate accommodation are all among the measures provided. Victims should also receive compensation for damage suffered.

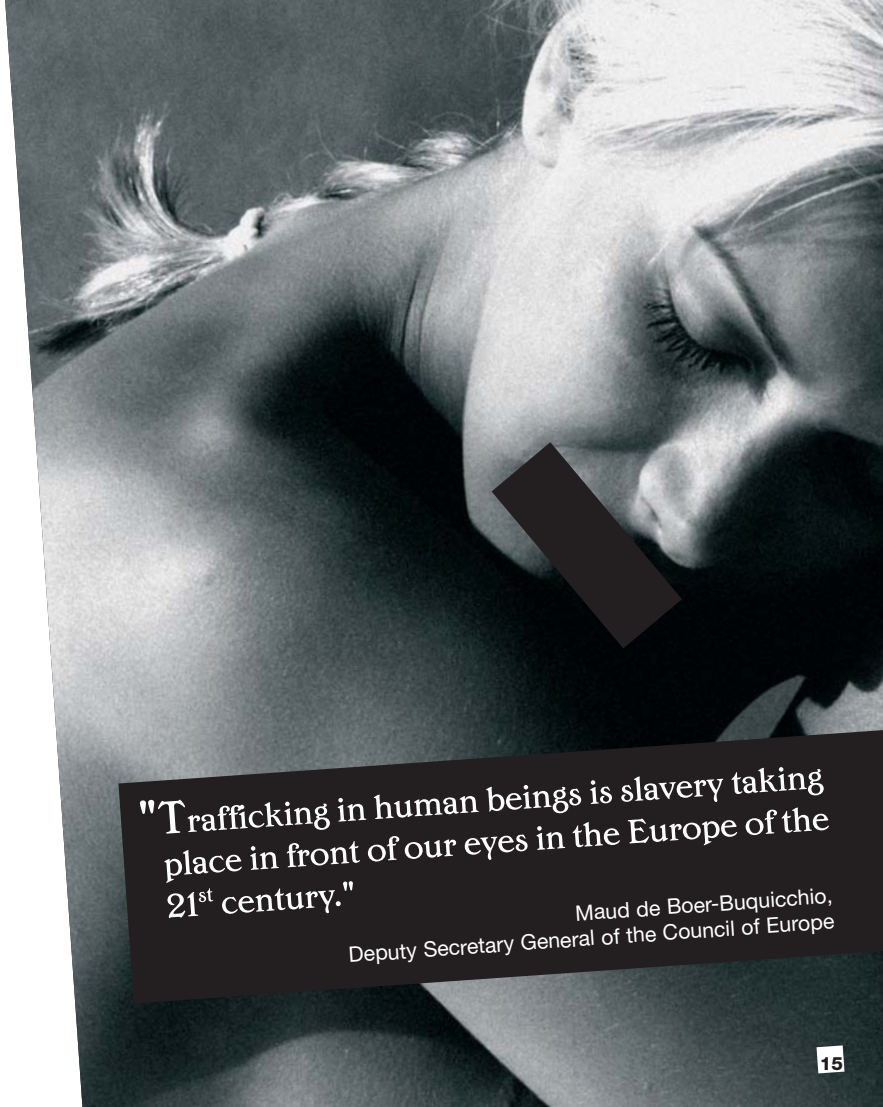
Recovery and reflection period and residence permit

Victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to consider co-operating with the authorities. A renewable residence permit may be granted if their personal situation so requires or if they need to stay in order to co-operate in a criminal investigation.

Repatriation


A State from where a victim of trafficking is a national or where he/she had the right to permanent residence has to accept the return of such a person, with due regard to his/her rights, safety and dignity. When a State returns a person to another State, it will have to do so with due regard for the rights, safety and dignity of the person.

Repatriation programmes should be established in co-operation with NGOs aimed at avoiding re-victimisation.



"Trafficking in human beings is slavery taking place in front of our eyes in the Europe of the 21st century."

Maud de Boer-Buquicchio,
Deputy Secretary General of the Council of Europe



Prosecuting the traffickers and their accomplices

According to the Council of Europe Convention trafficking will be considered as a criminal offence. Therefore traffickers and their accomplices will be prosecuted. The Convention also provides for the possibility to criminalise those who use the services of victims of trafficking in human beings.

The Convention makes it a criminal offence to produce, procure or provide a fraudulent travel or ID document or to damage, retain, remove, conceal or destroy another person's ID document – usually the trafficker's first move and strongest hold over the victim.

Under the terms of the Convention, commercial companies, associations and similar legal entities are liable for criminal actions performed on their behalf by anyone in a leading position in them. Establishments used for trafficking must be closed, the proceeds confiscated and the perpetrators, corporate or individual, must compensate the victim.

The Convention enables authorities to prosecute traffickers and their accomplices without the necessity of a complaint from the victim. The aim is to avoid traffickers subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities.

The following circumstances are regarded as aggravating circumstances in the determination of the penalty for the offence of trafficking: the offence deliberately or by gross negligence endangered the life of the victim; the offence was committed against a child; the offence was committed by a public official in the performance of her/his duties; the offence was committed within the framework of a criminal organisation.

The Convention contains a non-punishment provision which enables States not to impose penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

Monitoring mechanism

The effectiveness of all treaties is measured by the effectiveness of its monitoring mechanism. The monitoring system established by the Council of Europe Convention, which is undoubtedly one of its main strengths, has two pillars:

- *GRETA*, a group of independent experts on action against trafficking in human beings, which will monitor implementation of the Convention. Their task is to draw up reports evaluating the measures taken by the States. Those States which do not fully respect the measures contained in the Convention will be required to step up their action.
- *The Committee of the Parties*, composed of representatives of the States in which the Convention has entered into force, which may, on the basis of the reports and conclusions of GRETA, adopt recommendations addressed to a State.



Council of Europe Convention on Action against Trafficking in Human Beings

Aims to:

- > Prevent trafficking
- > Protect the human rights of victims
- > Prosecute the traffickers

It applies to:

- > All forms of trafficking, national or transnational, and whether or not related to organised crime
- > All victims - men, women or children
- > All types of exploitation - sexual, forced labour or services, slavery or similar practices, servitude or the removal of organs

The Council of Europe's 47 member states

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine, United Kingdom.

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