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with focus on trafficking for forced labour
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Trafficking in human beings is a modern form of slavery. It treats human beings as a commodity, people are bought and sold and ruthlessly exploited usually in the sex industry but also, for example, in the agricultural sector or in industrial sweatshops, for a pittance or nothing at all. Most of the victims are women but men and also children are victims of trafficking in human beings. All are desperate to make a meagre living, only to have their lives ruined by exploitation and rapacity.

I have been asked to speak at this Seminar about the Council of Europe Convention on action against trafficking in human beings with a special emphasis on trafficking for the purposes of labour exploitation. This is a very timely initiative because as the ILO reports trafficking for the purposes of labour exploitation is on the rise.

At the outset, I wish to express my support for the important effort invested by the ILO to counter this development. Not only has the ILO developed important legal standards, such as the ILO Convention concerning Forced or Compulsory Labour, and the ILO Convention concerning the Abolition of Forced Labour, it is developing specific projects around the world to help victims. One of them – I am informed - is implemented together with Norway and it concerns child labour, and the role and influence of the parties in the labour market. I hope that many more countries will follow the Norwegian example and join forces with international bodies to combat trafficking be it for sexual or labour exploitation purposes.

The European Convention on Human Rights – Europe’s main binding bill of rights - prohibits slavery and forced labour in its Article 4 when it states that “No one shall be held in slavery or servitude” and that “No one shall be required to perform forced or compulsory labour”.

Against this background, the Council of Europe in 2005 adopted the most comprehensive and far-reaching treaty against trafficking in human beings. This Convention, which focuses on the protection of the human rights of victims, has so far been ratified by 17 States, including Norway, and signed by 21 States. It entered into force at the beginning of this year.

When, three years ago, our 47 Heads of State and Government agreed on this new Convention, there was a palpable sense of resolve to act against a phenomenon which is one of the fastest growing forms of international crime. The only thing comparable to the mind-blowing illegal profits earned by the traffickers is the devastation and the cost this despicable crime imposes on its victims and on our societies.

In recent years, I have witnessed a great mobilisation of the international community, at all levels, to stop this modern form of slavery. I have seen it not only in Europe, but also at global level and in other regions of the world. The need to stop trafficking in human beings is amongst the few things on which I believe the world community agrees. But we need to act and the ratification and implementation our Convention provides a clear opportunity to reduce the level of trafficking in Europe and beyond.

Initially though, the ratifications were too few and too far in between. When we looked into reasons, we saw that some member states were worried that the new measures introduced by the Convention to protect the victims of trafficking would be misused for the purposes of illegal immigration. I think that we have moved on and that such fears have been found to be groundless. The Convention has now entered into force, even though its potential will continue to grow with the number of state parties, inside and outside of Europe.

The fact is though that one of the key issues of any anti-trafficking policy is the clear identification of victims of trafficking and the distinction between trafficking and illegal migration. In short, while the main motivation for those who organise illegal immigration is to smuggle people across borders in return for money - “a one off exercise” - the objective of trafficking is exploitation.

This is why the Council of Europe Convention is focused on the protection of victims. This is not only a moral imperative based on the fact that trafficking is a violation of human rights, but also a vital element in the prevention of trafficking and the prosecution of traffickers.

If we group trafficking victims into the same category as illegal migrants, they are likely to be deported back to their country of origin without any of the safeguards provided by the Convention. This runs the risk that the victims will fall into the hands of the same traffickers who will be able to sell them again. At the end of the day, the authorities are back to square one, while the victims are traumatised for a second time and the traffickers get the opportunity to double their profits. This is neither a morally acceptable nor a rational course of action for any government to pursue.

“The purpose of exploitation” is therefore key to identify trafficking.

When it comes to trafficking for labour exploitation, the Council of Europe Convention does not define forced labour because there are relevant ILO treaties doing so. Nonetheless, our Convention fully covers trafficking for the purposes of labour exploitation in its definition of human trafficking. The Council of Europe anti-trafficking Convention refers in this context to Article 4 of our European Convention on Human Rights which – as I said earlier - prohibits forced labour. Let me refer here to a recent judgement from the European Court of Human Rights which confirmed the Human Rights-based approach of our anti-trafficking Convention when dealing with victims of trafficking (Judgement of 26 July 2005, *Siliadin v. France*). The European Court condemned France for not fulfilling its positive obligations under Article 4 (prohibition of forced labour/servitude) of the European Convention on Human Rights in a case which dealt with issues concerning trafficking in human beings for the purpose of labour exploitation. The European Court of Human Rights 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.

Our experience shows that labour exploitation is particularly prevalent in the services sector, the building and construction trade, agriculture, hotel and catering trade. And let’s not forget: trafficking for labour exploitation can also involve private homes.

Having clarified that our Convention fully applies to trafficking for labour exploitation purposes, I would like to share with you some key elements of our Convention.

The approach of our Convention is crucial for any successful fight against trafficking. Our Convention is victim-oriented and based on the protection of their fundamental human rights. Beyond the prosecution of traffickers, it requires an obligation on governments to introduce specific protective and assistance measures. All victims of trafficking, regardless of their age, are entitled under our Convention to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible co-operation with the authorities. Victims may receive renewable residence permits either on the basis of their personal situation or because they need to stay in order to co-operate in a criminal investigation.

All these protective and assistance measures are very important. We know that, once the victims feel protected and secure, they trust the authorities and are more inclined to cooperate with law enforcement. Equally, the latter - that is, co-operation with the authorities - shall never be a precondition for the former - that is, the protection and assistance measures. I believe that only as a result of such a policy the noose will tighten around traffickers.

The possibility to criminalise the clients, that is those who knowingly make use of the services of a victim of trafficking in human beings, and the possibility of not imposing penalties on victims for their involvement in unlawful activities, if they were compelled to do so by their situation, are two other key features of our Convention.

Let me also refer to an innovative provision in our anti-trafficking which, I know, may be particularly controversial in the Nordic countries, that is the closure of any establishment used to carry out trafficking in human beings. The Convention provides for such measures so that action can be taken against establishments which might be used as cover for trafficking in human beings, such as matrimonial agencies, placement agencies, travel agencies, hotels or escort services. This provision does not require States Parties to provide for closure of establishments as a criminal penalty. Parties may, for example, use administrative closure measures.

I will conclude by mentioning the final added-value of the Council of Europe Convention – its monitoring mechanism, composed of two complementary pillars; the Group of Experts against

Trafficking in Human Beings or GRETA, a technical body, composed of independent and highly qualified experts, and a purely governmental body, the Committee of the Parties. GRETA will adopt reports and conclusions on each Party's implementation of the Convention on the basis of country visits, dialogue with government authorities, members of parliament, civil society organizations and the victims themselves. GRETA will start functioning by February 2009.

We need GRETA to keep up with the traffickers who know no limit to increase their sordid gains.

Our experience shows that regular and comprehensive monitoring of legal obligations by independent bodies, based on data collection, exchange of good practices and peer-pressure, significantly increases the effectiveness of our legal instruments. Most of the Council of Europe "new generation" treaties come with such monitoring mechanisms and they have more than proven their worth. We have no doubts about the strength and the genuine character of our member states' commitment to combat trafficking in human beings. But we must make sure that they do not stay at the level of good intentions, because we all know what is said about good intentions and the road to hell. And when we speak of human trafficking, hell is not only a figure of speech.