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(Final version)

Concerted action against human trafficking and the smuggling of migrants

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A. Draft Resolution

1. The Parliamentary Assembly notes with deep concern the high numbers of victims of human trafficking in Europe, most of whom are subjected to prostitution, forced labour, organ trafficking, forced marriage or illegal adoption. More than ever over the past few years, Europe has been a major destination for migrants who are prime targets for such exploitation by human traffickers and smugglers.
2. Recalling its Resolution 1922 (2013) on trafficking of migrant workers for forced labour and its Resolution 1983 (2014) on prostitution, trafficking and modern slavery in Europe, the Assembly fully supports the decision taken by the Committee of Ministers at its 129th session in Helsinki on 17 May 2019 to examine ways of strengthening action against trafficking in human beings. The Council of Europe should do more to combat human trafficking and to ensure that its legal standards are adequate and implemented by all member States.
3. Welcoming the case-law of the European Court of Human Rights, which recognises that human trafficking is prohibited under Article 4 of the European Convention on Human Rights (ETS N° 5), the Assembly emphasises that member States must protect everyone under their jurisdiction against human trafficking and victims of human trafficking have the right to have any violations reviewed by the European Court of Human Rights as a last resort.
4. The Assembly recognises that Article 5 of the Charter of Fundamental Rights of the European Union specifically provides for the prohibition of human trafficking. This provision binds all EU member States and EU organs and should be taken as a reference when interpreting Article 4 of the European Convention on Human Rights.
5. Recognising the important work of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the framework of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS N° 197), the Assembly calls on the Parties to this convention to ensure effective and timely implementation of all country-specific recommendations. National parliamentarians should assist in the domestic implementation of the recommendations contained in respective GRETA reports. Member States should increase their efforts to collect statistical data and produce official estimates regarding victims of human trafficking and make them available to GRETA.
6. An increasing number of persons falls victim to traffickers across Europe, in particular migrants. Their exploitation is often accompanied by physical and psychological violence and threats. Preventing trafficking and providing protection to victims must be of highest priority. For this purpose, member States should in particular ensure that victims of human trafficking are not penalised, that they receive adequate health services and legal assistance, and that witness protection programmes exist for their testimony against human traffickers.

Amendment 1 Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, after paragraph 6, insert the following paragraph:

“The Assembly underlines that trafficking in human beings disproportionately affects women and girls, who represent the vast majority of victims. A gender perspective should be taken into account in the analysis of trafficking

phenomena and in the design and implementation of any action and policy to prevent and combat this scourge."

7. Referring to Article 4 (b) of the Convention on Action against Trafficking in Human Beings, the Assembly reminds member States that circumstantial indications of coercion, abuse of power or vulnerability, deception or payment for exploitation must lead to the presumption that consent to the forms of exploitation set out in the convention has not been freely given, and is thus irrelevant under this provision. National law enforcement authorities should ensure that impunity for human trafficking never prevails.
8. Referring to Article 2 of the European Union Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, the Assembly considers that the exploitation of criminal activities of others could be included in Article 4 (a) of the Convention on Action against Trafficking in Human Beings.
9. The Assembly furthermore invites the Parties to the Convention on Action against Trafficking in Human Beings to consider common policies to combat human trafficking for the purpose of forced marriage or illegal adoption and better protect victims.
10. Referring to Article 15 of the Convention on Action against Trafficking in Human Beings and the European Convention on the Compensation of Victims of Violent Crimes (ETS N° 116), the Assembly invites member States to ensure that victims of human trafficking receive compensation from their perpetrators or public authorities as well as information on relevant judicial and administrative proceedings in a language which they can understand, legal assistance and free legal aid. Seizure by authorities of financial assets derived from human trafficking should be used for action for the benefit of victims.
11. Referring to the Protocol against the Smuggling of Migrants by Land, Sea and Air to the United Nations Convention against Transnational Organised Crime ("Palermo Convention", 2000), member States should strengthen at European level the prohibition of the smuggling of migrants and ensure the rights of migrant victims who have been smuggled to Europe.
12. The Assembly notes that the removal and trafficking of organs can fall under the Convention on Action against Trafficking in Human Beings of 2005 as well as the Council of Europe Convention against Trafficking in Human Organs of 2015 (CETS N° 216) and calls on

Amendment 2
Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, at the end of paragraph 9, add the following sentence: "In this respect, the Assembly underlines the relevance of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") and invites the member States of the Council of Europe to sign and ratify it, if they have not done so."

member States which have not yet done so to sign and ratify both conventions. Observer States and Partners for Democracy are also encouraged to accede to these conventions, in order to join action with the Council of Europe regarding this global challenge.

13. With respect to children who are victims of trafficking, the Assembly recalls that the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 2007 (CETS N° 201) is the first instrument to establish the various forms of sexual abuse of children as criminal offences and that it contains provisions on programmes to support victims as well as to encourage reporting of suspected sexual exploitation and abuse. Irregular migration status or the fact that a child is an unaccompanied migrant, should both be considered as particularly vulnerable situations under Article 18 (1.b) of this convention, and thus sexual activities of adults with such children under the age of 18 years should be criminalised.

14. Welcoming the decision of the G7 Interior Ministers, taken at their meeting in Paris in April 2019, to increase operational co-operation and share relevant law enforcement information via Interpol in order to better combat human trafficking and international crime, the Assembly calls on all member States to support this decision and ensure that mutual legal assistance is carried out in accordance with the European Convention on Mutual Assistance in Criminal Matters and its two protocols (ETS N° 30, 99 and 182).
15. Recognising the work of the International Labour Organisation (ILO), the Assembly invites member States which have not yet done so to sign and ratify the Protocol of 2014 to the ILO Convention No. 29 on forced or compulsory labour of 1930 as well as the ILO Domestic Workers Convention (No. 189) of 2011.
16. Welcoming the OSCE project Combating Human Trafficking along Migration Routes (2016-2019), aimed at enhancing capacities to effectively investigate and prosecute human trafficking and to promptly identify victims of human trafficking along migration routes by promoting a multi-agency and human rights-based approach, the Assembly invites member States and Partners for Democracy to support the setting up of similar projects.

Amendment 3

Tabled by the Committee on Equality and Non-Discrimination

In the draft resolution, after paragraph 13, insert the following paragraph:

“With regard to victims of forced marriages, the Istanbul Convention requires that the intentional act of forcing an adult or a child to enter into a marriage be made a criminal offence (Article 37). As the Convention is oriented towards the protection of victims, it creates an obligation to ensure that victims can recover their residence status if they have left their country of residence for a longer period than legally permitted (without being able to return) because they have been brought to another country for the purpose of that marriage (Article 59). In addition, the Convention requires State Parties to ensure that gender-based violence can be recognised as a form of persecution within the meaning of the 1951 Convention relating to the Status of Refugees (Article 60). Finally, the Convention reiterates the obligation to respect the principle of non-refoulement, in particular with regard to victims of gender-based violence in need of protection, regardless of their status or place of residence (Article 61).”

17. Referring to the revised Code of Sports Ethics adopted by the Committee of Ministers on 16 June 2010, which defines the scope of sports ethics as including physical and verbal violence, sexual harassment and abuse of children, young people and women and trafficking in young sportspeople, the Assembly invites the Enlarged Partial Agreement on Sport (EPAS) to consider practical action for preventing trafficking of sportspeople. Recalling the European Parliament Resolution on forced prostitution in the context of world sports events of 2006, the EPAS is invited to further examine issues of human trafficking in connection with such events.
18. Aware of the multitude of excellent reports by outstanding experts having addressed human trafficking over many years, there does not seem to be a shortage of expert analyses, but instead a lack of willingness to make a change and to revise culturally engrained perceptions which are conducive to human trafficking. Parliamentarians are in a privileged position to support such changes in policies, legislation and action. Therefore, the Assembly calls on:
 - 18.1. governments to establish anti-trafficking commissioners or ombudspersons, who can address human trafficking and migrant smuggling and serve as a contact-point for victims;
 - 18.2. parliaments to co-operate more actively multilaterally in the fight against human trafficking and establish a collaborative anti-trafficking parliamentary network in co-operation with the Assembly;
 - 18.3. Partners for Democracy and Observer States as well as interested non-member States to join such initiatives and co-operation with the Council of Europe.

B. Draft Recommendation

1. Welcoming the decision by the Committee of Ministers taken in Helsinki on 17 May 2019 to make action against human trafficking a priority for the Council of Europe work programme, the Parliamentary Assembly refers to its Resolution (2020) on concerted action against human trafficking and migrant smuggling, Resolution 1983 (2014) on prostitution, trafficking and modern slavery in Europe and Resolution 1922 (2013) on trafficking of migrant workers for forced labour. The Assembly stands ready to co-operate actively in the implementation of concrete action and invites the Committee of Ministers to take account of the above resolutions when implementing its decision of 17 May 2019.
2. The Assembly recommends that the Committee of Ministers:
 - 2.1. instruct the Steering Committee for Human Rights (CDDH) to examine the means of strengthening the prohibition of human trafficking in accordance with Article 4 of the European Convention on Human Rights (ETS N° 5) as interpreted by the case-law of the European Court of Human Rights and Article 5 of the Charter of Fundamental Rights of the European Union;
 - 2.2. instruct the European Committee on Crime Problems (CDPC) to:
 - 2.2.1. elaborate a new Council of Europe convention to combat the smuggling of migrants which could build upon and go further than the Protocol against the Smuggling of Migrants by Land, Sea and Air to the United Nations Convention against Transnational Organised Crime (Palermo, 2000);
 - 2.2.2. analyse whether differences between the Convention on Action against Trafficking in Human Beings (CETS N° 197) and the European Union Directives 2004/81/EC, 2009/52/EC and 2011/36/EU, in particular regarding human trafficking for the exploitation of begging and criminal activities, require reinforcing the Convention;

Amendment 4

**Tabled by Mr Sergey KALASHNIKOV, Mr
Sergey FABRICHNYY, Mr Igor
KAGRAMANYAN, Ms Irina
RUKAVISHNIKOVA, Ms Irina RODNINA**

*in the draft recommendation, paragraph 2.1,
replace the words "the means of strengthening"
with the following words: "the practice of".*

Amendment 5

**Tabled by Mr Sergey KALASHNIKOV, Mr
Sergey FABRICHNYY, Mr Igor
KAGRAMANYAN, Ms Irina
RUKAVISHNIKOVA, Ms Irina RODNINA**

*In the draft recommendation, after paragraph
2.1, insert the following paragraph:*

*"instruct the Steering Committee for Human
Rights (CDDH) to examine the possibility of
adopting recommendations on the development
of norms regarding the activities of ethnic
diasporas and their transformation into national
cultural autonomies".*

- 2.3. invite those non-member States, whose citizens are frequently victims of human trafficking to Europe, to sign and ratify the Convention on Action against Trafficking in Human Beings;
- 2.4. invite those non-member States, whose citizens are frequently victims of organ trafficking to Europe including trafficking in human beings for organ removal, to sign and ratify the Convention on Action against Trafficking in Human Organs (CETS N° 216);
- 2.5. invite the Secretary General of the Council of Europe and her Special Representative on migration and refugees to address human trafficking and the smuggling of migrants.