

Recommendations on the Framework Decision on Combating Trafficking in Human Beings COM (2000) 854 final/2

The European Union Framework Decision on Combating Trafficking in Human Beings is a welcome step in the fight against trafficking. However, the rights and needs of the trafficked persons must be at the centre of any strategy to combat trafficking in human beings and the measures for the protection of and assistance to victims should be clearly stated in [this framework decision](#).

This document takes into account recommendations from the European Parliament Report on the proposal for a Council framework decision on combating trafficking in human beings (COM (2000) 854); "Summary of recommendations regarding the Council framework decision on combating trafficking in human beings submitted by Human Rights Watch and Anti-Slavery International"; "Observations by the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees on the Proposal for an EU Council Framework Decision on Combating Trafficking in Human Beings" and; "NGO Recommendations on the EC Proposal for Combating Trafficking in Human Beings, COM (2000) 854 final/2" signed by 49 NGOs.

In the light of the JHA Council Meeting in September, the signatories of this document wish to comment on some of the recommendations made in the European Parliament's Report on the proposal for a Council framework decision on combating trafficking in human beings (COM (2000) 854 in view of the fact that these will be discussed by the Council.

1. Recital 3

Discrimination and violence against women are, along with poverty, lack of education and professional opportunities, causes for falling into the trap of trafficking for sexual and labour exploitation. Violence against women and children in their countries of origin should therefore be included as root causes in addition to the lack of education and professional opportunities.

2. Recital 3b new

The Framework Decision should adopt a similar approach to the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime (A/55/383), in order to ensure a strong link between the two documents. Moreover, the UN Protocol on trafficking in human beings should be referred to as a decisive step towards international cooperation in this field.

3. Article 1a (new)

The signatories of this document welcome article 1a containing definitions set out in coherence with international conventions:

- by defining trafficking as limited to situations in which coercion or deceit are used in the recruitment, transportation, transfer, harboring or receipt of a person for the purpose of placing that person into slavery, forced labour, debt bondage, slavery-like practices or servitude.
- by making a distinction between child and adult victims of trafficking in terms of coercion. In the case of children, the definition of trafficking should not be limited to situations involving coercion.
- By stating that child shall mean any person under eighteen years of age.

The Framework decision should give specific attention to child trafficking by adopting a distinct definition of child trafficking; making explicit reference to the Convention on the Rights of the Child; special protective measures and repatriation; education; protection from punitive measures, criminalisation and detention for immigration reasons.

4. The framework should include, in order to ensure respect for, and protection of human rights of trafficked persons:

- **Article 4:2, 7 and 30 e:a**

Provisions for victims of trafficking with the opportunity to seek legal redress and compensation, regardless of their immigration status. Assets confiscated from traffickers (in accordance with due process protection) should be made available to settle financial claims of trafficking victims

- **Article 7**

Protective measures to ensure that trafficked persons are not detained, prosecuted or punished for status-related offenses or crimes related to them being trafficked. National laws, policies and procedures must not stigmatise, criminalise or further marginalise victims of trafficking. Particular attention must be paid to the needs of unaccompanied children who are especially vulnerable and should not be criminalised neither should they be detained for immigration reasons.

- **Article 7 and 8**

Protective measures for witnesses of trafficking including e.g. physical safety, protection from retaliation, right to be informed about the progress of the case, psychological and physical well-being, dignity and privacy. Child victims and witnesses should be assisted in a manner appropriate to their age and maturity and the best interests of the child shall be a primary consideration.

- **Article 8**

Protective measures for victims of trafficking including children. This should include appropriate shelter, financial assistance, legal assistance, information about their rights in a language they understand, physical safety, counselling, information, health services, psycho-social services, having in mind durable solutions that prevent re-trafficking. Children should be provided with an opportunity to express their views, particularly within the framework of any administrative or judicial proceeding related to them.

- **Article 8a new**

The Framework should incorporate a Safeguard Clause in order to maintain the right to submit an application for asylum, in accordance with the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and other relevant international instruments. This will prevent victims of trafficking who wish to apply for asylum or for a residence permit on humanitarian grounds, from being expelled or returned before having had an opportunity to apply for asylum, or before the assessment of the substance of their application. If the circumstances warrant, such as the existence of imminent danger if returned, the right to remain permanently.

5. Article 9, paragraph 4a new

The fight against criminal activity should embrace the possibility of prevention, not only as regards to crime prevention. Therefore, include preventive measures with explicit reference to e.g. the need to eliminate discriminatory policies and practices that limit women and girls' access to education and/or employment; requirements for information campaigns educating women and children about their rights as stated in international conventions. For instance, all victims, and all those in contact with the victims (including judicial authorities and immigration officials) must be informed about

the conventions regulating rights for children and women, and educated in how to prevent and respond to violations to these conventions.

The following organisations endorse these recommendations:

September 14, 2001

- ACT
- ACTIONAID
- Anti-Slavery International, UK
- Asian Human Rights Commission
- British Refugee Council, UK
- Caritas Europa Migration Commission
- Caritas Internationalis
- Catholic Bishop's Conference of England and Wales, Office of Migration Policy
- COCIS Italy
- Comite Contre l'Esclavage Moderne, France
- COSV, Italy
- DECEMBER 18, Portal for the promotion and protection of the rights of Migrants, Belgium
- Dutch Foundation of the Religious Against Trafficking in Women, The Netherlands
- ECPAT Switzerland
- ECPAT UK
- European Women Lawyers Association (EWLA), Germany
- Foundation Against Trafficking in Women, the Netherlands
- Foundation For Women, Thailand
- Global Alliance Against Traffic in Women, Thailand
- Heartland Alliance for Human Needs & Human Rights, United States
- HMD Response International, UK
- Hospitality House for Thai Migrant Workers, Thailand
- Human Rights and Development Centre, Armenia
- Human Rights Watch
- ICMC
- International Human Rights Law Group, USA
- INTERSOS, Italy
- La Strada CR, Czech Republic
- Medecins du Monde Chypre
- Medecins du Monde International
- Medecins Sans Frontieres, Belgium
- Mercy Corps, UK
- Mr A de Graaf Foundation, the Netherlands
- ON THE ROAD, Italy
- OXFAM GB
- Perm Center Against Violence and Trafficking in Human Beings, Russia
- Refugee Arrivals Project, UK
- Save the Children Alliance
- TAMPEP International Foundation (European Network), the Netherlands
- TENAGANITA, Malaysia
- The Catholic Commission on Migration, Thailand
- UMCOR Bosnia Herzegovina
- UMCOR Kosovo
- UMCOR Serbia
- UMCOR USA
- UMCOR, Austria
- VOICE (European Network), Belgium
- Vzw Payoke, Belgium
- World Vision, the Netherlands
- Zoa Refugee Care, the Netherlands

Bruxelles, 14 septembre 2001