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2013. évi XVIII. törvény

az Európa Tanács Emberkereskedelem Elleni Fellépésről szóló Egyezményének kihirdetéséről¹

1. § Az Országgyűlés e törvénnyel felhatalmazást ad az Európa Tanács Emberkereskedelem Elleni Fellépésről szóló, Varsóban, 2005. május 16-án kelt Egyezménye (a továbbiakban: Egyezmény) kötelező hatályának elismerésére.

2. § Az Országgyűlés az Egyezményt e törvénnyel kihirdeti.

3. § Az Egyezmény hiteles angol nyelvű szövege, valamint annak hivatalos magyar nyelvű fordítása a következő:

„COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS

PREAMBLE

The member States of the Council of Europe and the other Signatories hereto;

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being;

Considering that trafficking in human beings may result in slavery for victims;

Considering that respect for victims' rights, protection of victims and action to combat trafficking in human beings must be the paramount objectives;

Considering that all actions or initiatives against trafficking in human beings must be non-discriminatory, take gender equality into account as well as a child-rights approach;

Recalling the declarations by the Ministers for Foreign Affairs of the Member States at the 112th (14-15 May 2003) and the 114th (12-13 May 2004) Sessions of the Committee of Ministers calling for reinforced action by the Council of Europe on trafficking in human beings;

Bearing in mind the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols;

Bearing in mind the following recommendations of the Committee of Ministers to member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence; Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation and Recommendation Rec (2001) 16 on the protection of children against sexual exploitation;

Recommendation Rec (2002) 5 on the protection of women against violence;

Bearing in mind the following recommendations of the Parliamentary Assembly of the Council of

Europe: Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member states; Recommendation 1450 (2000) on violence against women in Europe; Recommendation 1545 (2002) on a campaign against trafficking in women; Recommendation 1610 (2003) on migration connected with trafficking in women and prostitution; Recommendation 1611 (2003) on trafficking in organs in Europe; Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and mail-order brides;

Bearing in mind the European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings, the European Union Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and the European Union Council Directive of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

Taking due account of the United Nations Convention against Transnational Organized Crime and the Protocol thereto to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children with a view to improving the protection which they afford and developing the standards established by them;

Taking due account of the other international legal instruments relevant in the field of action against trafficking in human beings;

Taking into account the need to prepare a comprehensive international legal instrument focusing on the human rights of victims of trafficking and setting up a specific monitoring mechanism,

Have agreed as follows:

CHAPTER I

PURPOSES, SCOPE, NON-DISCRIMINATION PRINCIPLE AND DEFINITIONS

Article 1

Purposes of the Convention

1. The purposes of this Convention are:

a) to prevent and combat trafficking in human beings, while guaranteeing gender equality;

b) to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;

c) to promote international cooperation on action against trafficking in human beings.

2. In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

Article 2

Scope

This Convention shall apply to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime.

Article 3

Non-discrimination principle

The implementation of the provisions of this Convention by Parties, in particular the enjoyment of measures to protect and promote the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 4

Definitions

For the purposes of this Convention:

- a) „Trafficking in human beings” shall mean the recruitment, transportation, transfer, 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;
- b) The consent of a victim of „trafficking in human beings” to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered „trafficking in human beings” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) „Child” shall mean any person under eighteen years of age;
- e) „Victim” shall mean any natural person who is subject to trafficking in human beings as defined in this article.

CHAPTER II

PREVENTION, CO-OPERATION AND OTHER MEASURES

Article 5

Prevention of trafficking in human beings

1. Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.
2. Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.
3. Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2.
4. Each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, on the conditions

enabling the legal entry in and stay on its territory.

5. Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them.

6. Measures established in accordance with this article shall involve, where appropriate, non-governmental organisations, other relevant organisations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance.

Article 6

Measures to discourage the demand

To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures including:

a) research on best practices, methods and strategies;

b) raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings;

c) target information campaigns involving, as appropriate, inter alia, public authorities and policy makers;

d) preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.

Article 7

Border measures

1. Without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.

2. Each Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with this Convention.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each Party shall take the necessary measures, in accordance with its internal law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each Party shall adopt such legislative or other measures as may be necessary to permit, in accordance with its internal law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Convention.

6. Parties shall strengthen co-operation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 8

Security and control of documents

Each Party shall adopt such measures as may be necessary:

- a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the Party and to prevent their unlawful creation and issuance.

Article 9

Legitimacy and validity of documents

At the request of another Party, a Party shall, in accordance with its internal law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in human beings.

CHAPTER III

MEASURES TO PROTECT AND PROMOTE THE RIGHTS OF VICTIMS, GUARANTEEING GENDER EQUALITY

Article 10

Identification of the victims

1. Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.
2. Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations. Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2.
3. When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.
4. As soon as an unaccompanied child is identified as a victim, each Party shall:
 - a) provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;
 - b) take the necessary steps to establish his/her identity and nationality;
 - c) make every effort to locate his/her family when this is in the best interests of the child.

Article 11

Protection of private life

1. Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).
2. Each Party shall adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.
3. Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

Article 12

Assistance to victims

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:
 - a) standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;

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