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Domestic slavery: servitude, au pairs and mail-order brides

Report

Committee on Equal Opportunities for Women and Men

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Summary

Although, officially, slavery has been outlawed for over 150 years, thousands of persons are still held as slaves in Europe - treated as objects, humiliated and abused. Modern slaves, like their counterparts of old, are forced to work (through mental or physical threat) with no or little financial reward, are physically constrained or have other restrictions placed on their freedom of movement and are treated in a degrading and inhumane manner.

Today's slaves are predominantly female and usually work in private households, starting out as migrant domestic workers, au pairs or "mail-order brides". Most come willingly at first, seeking to improve themselves, escaping poverty and hardship, but some have been deceived by their employers, agencies or other intermediaries, have been debt-bonded, and even trafficked. They find it difficult to extract themselves from their situation. Many of them do not know where to turn for help and do not dare go to the police for fear of deportation.

The Council of Europe should have zero tolerance for slavery. Victims should receive help and support from our 45 member states – whether or not their papers are in order, were trafficked or came willingly at first. Member states should thus take a number of measures to combat domestic slavery, including a review of their immigration and deportation policies, the provision of an efficient support network for victims and the introduction of an "accreditation" system for agencies placing domestic workers, au pairs or "mail-order brides".

The Committee of Ministers should elaborate a charter of rights for domestic workers and issue guidelines to member states which would ensure that the distinctive status of au pairs (neither students nor workers) is recognised and safeguarded, their

working conditions and social cover are fixed and that the au pair industry is appropriately regulated on the national and international level.

I. Draft recommendation

1. The Parliamentary Assembly is appalled that slavery continues to exist in Europe in the 21st century. Although, officially, slavery has been outlawed for over 150 years, thousands of persons are still held as slaves in Europe - treated as objects, humiliated and abused. Modern slaves, like their counterparts of old, are forced to work (through mental or physical threat) with no or little financial reward, are physically constrained or have other restrictions placed on their freedom of movement and are treated in a degrading and inhumane manner.

2. Today's slaves are predominantly female and usually work in private households, starting out as migrant domestic workers, au pairs or "mail-order brides". Most come willingly at first, seeking to improve themselves, escaping poverty and hardship, but some have been deceived by their employers, agencies or other intermediaries, have been debt-bonded and even trafficked. Once on the job (or married to a "consumer husband"), however, they are vulnerable and isolated, creating ample opportunity for abusive employers or husbands to force them into domestic slavery.

3. Domestic slaves, exploited au pairs and abused "mail-order brides" find it difficult to extract themselves from their situation. In a foreign country, far from home, many of the victims do not even speak the language of the country they live in, let alone know the laws and customs of the land. Their employer or husband will usually have a hold over them, threatening them or their relatives with further abuse and reprisals should they dare to complain or leave. Many of them do not know where to turn for help and do not dare go to the police for fear of deportation. In addition, the police in host countries is often less than sympathetic to an escapee, especially if he or she has no papers or they are not in order.

4. The Council of Europe should have zero tolerance for slavery. As an international organisation defending human rights, it is the Council of Europe's duty to stand in the forefront of the fight against all forms of slavery and trafficking in human beings. The Council of Europe should take the side of the victim and ensure that the perpetrators of the crime of domestic slavery are brought to justice so that slavery can finally be eliminated in Europe.

5. The Assembly thus recommends that the Committee of Ministers:

i. In general:

a. bring the negotiations on the Council of Europe draft Convention on action against trafficking in human beings to a rapid conclusion;

b. encourage member states to combat domestic slavery in all its forms as a matter of urgency, ensuring that holding a person in any form of slavery is a criminal offence in every member state;

c. recommend to member states to review their immigration and deportation policies, granting victims of domestic slavery at least temporary residence permits (if possible, in conjunction with work permits) and allowing them to file complaints against their abusers if they wish to do so;

d. urge member states to provide an efficient support network for victims (including emergency accommodation, health care, psychological and legal counseling services) and attribute funds to non-governmental organisations working in the area;

ii. *As concerns domestic servitude:*

a. elaborate a charter of rights for domestic workers, as already recommended in [Recommendation 1523](#) (2001). Such a charter, which could take the form of a Committee of Ministers' Recommendation or even of a Convention, should guarantee at least the following rights to domestic workers:

A. the recognition of domestic work in private households as “proper work”, i.e. to which full employment rights and social protection apply, including the minimum wage (where it exists), sickness and maternity pay and pension rights;

B. the right to a legally enforceable contract of employment setting out minimum wages, maximum hours and responsibilities;

C. the right to health insurance;

D. the right to family life, including health, education and social rights for the children of domestic workers;

E. the right to personal and leisure time;

F. the right for migrant domestic workers to an immigration status independent of any employer, the right to change employer and to travel within the host country and between all countries of the European Union and to recognition of qualifications, training and experience obtained in the home country;

b. recommend the introduction of an “accreditation” system for agencies placing domestic workers, which would commit these agencies to certain minimum standards such as charging reasonable fees, tracking the employment of employees they have placed and providing emergency help in cases of difficulty. “Accredited” agencies could have visa applications put forward on their behalf validated automatically;

iii. *As concerns au pair placement:*

a. issue guidelines in the form of a Committee of Ministers' Recommendation to member states, which would ensure that the distinctive status of au pairs (neither students nor workers) is recognised and safeguarded, their working conditions and

social cover are fixed and that the au pair industry is appropriately regulated on the national and international level;

b. recommend government regulation of the au pair placement industry, through the creation of a type of “accreditation” system, by virtue of which agencies that commit themselves to certain minimum standards - such as charging reasonable fees, ensuring au pairs enter into a legally binding contract with their employers which clearly states rights, responsibilities and duties and providing emergency help in cases of difficulty - would have visa applications put forward on their behalf validated automatically. Agencies could also be committed to doing background checks on both the prospective au pair and the prospective host family to ensure that they do not have criminal convictions, for example for sexual or child abuse;

iv. As concerns “mail-order brides”:

a. consider including “mail-order brides” in the scope of the draft Convention on action against trafficking in human beings, in particular when the “bride” in question has become a victim of violence or other abuse, such as domestic slavery;

b. recommend the regulation of agencies active in this field through the introduction of an “accreditation” system, which would commit these agencies to certain minimum standards, such as charging reasonable fees, ensuring that the persons responsible for an Internet agency site are clearly identifiable and that users of the site are obliged to identify themselves, keeping track of marriages and providing an emergency contact number. Agencies should also be committed to carrying out a background check on the prospective bridegroom to ensure he does not have a criminal record (for example for domestic violence or procurement) when couples come close to marriage.

II. Explanatory memorandum by the Rapporteur, Mr Giuseppe Gaburro

A. Introduction

1. Nearly three years ago, on 26 June 2001, the Parliamentary Assembly held a debate on domestic slavery, on the basis of a report prepared by our former Irish colleague, Mr John Connor, for our Committee. At the end of the debate, the Assembly adopted two texts: [Recommendation 1523](#) (2001)¹ and Order 575 (2001). By virtue of the Order, our Committee was instructed to follow closely the progress on this subject and report back to it in two years.

2. I was appointed the new Rapporteur at our Committee’s meeting during the June 2003 part-session of the Assembly. In September 2003, I presented an outline report,² in which I informed you about the developments of the last two years, and drew up a sort of “action plan” for the Committee. At our meeting in Paris on 9 January 2004, I presented an introductory memorandum³ to the Committee, and it was decided to organise a colloquy on the subject. This colloquy took place in Paris on 11 and 12 March 2004 - in Appendix II, you will find the programme of the colloquy, the minutes of which are available from the Secretariat⁴.

3. You may wonder why our Committee has taken up this issue again so soon. The reason is simple: domestic slavery is a human rights violation of the first order, an appalling crime which needs to be paid more attention to. Yet, unfortunately, we are not much closer to solving the problem of domestic slavery now than we were three years ago. Domestic slavery exists in many forms and variations – not only in Africa or Asia, but right on our doorstep. It is intimately linked to trafficking in human beings, a subject which has captured the attention of our governments, who are currently negotiating a new Council of Europe Convention to combat it. It is our duty to ensure that the plight of Europe’s domestic slaves – be they migrant domestic workers, exploited au pairs or abused “mail-order brides” – not be forgotten, and that their problems, too, are tackled within a Council of Europe framework.

4. NGOs estimate that over 27 million people are enslaved in the world today, most of them women and girls⁵. Although, officially, slavery has been outlawed in most countries for over 150 years, it continues to exist, albeit in a different form. While “traditional” slavery, for example, involved a notion of people as property, who were “owned”, “modern” slavery rarely involves notion of ownership⁶. What is common to traditional and modern slavery is that the slaves are forced to work (through mental or physical threat) with no or little financial reward, are physically constrained or have restrictions placed on their freedom of movement, and are treated in a degrading and inhumane manner⁷.

5. Several different types of slavery exist today. Bonded labour is estimated to affect at least 20 million people around the world. People become bonded labourers by taking (or being tricked into taking) a loan – for as little as the cost of medicine for a sick child or as much as the cost of being trafficked into a wealthy Western country. They are then forced to work long hours to repay the debt, receiving basic food and shelter for their work, but often never paying off the loan (which can be passed down through several generations)⁸. Other forms of slavery involve the trafficking and sexual exploitation of women and children, marriage (both forced marriage against the will of the woman or girl, or “mail order” marriages with the woman’s formal consent), forced labour (especially child labour), and traditional or “chattel” slavery (where women and children are abducted from their homes, “inherited” or given as gifts)⁹.

B. Domestic slavery and servitude

6. As the Assembly already noted three years ago, the main form of slavery that is practiced in Europe today is that of domestic slavery or servitude (although certain victims of trafficking are also forced to work as bonded labourers, for example in underground sweatshops or in the sex-industry). Domestic work *per se* is, of course, not forced labour or slavery, as the International Labour Organisation (ILO) has pointed out. “But it can degenerate into forced labour when debt bondage or trafficking is involved – or when the worker is physically restrained from leaving the employer’s home or has his or her identity papers withheld (...). When the domestic workers are international migrants, the problems are compounded further (...). Once on the job, domestic workers tend to work in isolation, creating ample opportunity for disregarding labour legislation, if it applies to them in the first place (...). This combination makes it all the more difficult for them to extract themselves from situations involving forced or compulsory labour.”¹⁰

7. Domestic workers are usually employed in private households, generally living with their employer's family. This combined site of living and working makes the domestic worker particularly vulnerable to exploitation¹¹. The overwhelming majority of domestic workers are women, providing a wage substitute for the unwaged labour that has been traditionally considered women's work (household tasks such as cleaning and cooking, childcare, care of elderly relatives, etc.). Most domestic workers have had to leave their own families behind, migrating from rural or economically poorer areas to richer, urban centers in their own countries, or migrating across borders to other richer, more developed, countries where they can earn higher wages for the same work. Thus, even when domestic work involves no forced labour and servitude, it involves high (psychological and emotional) costs for the domestic worker and her family¹². Polly Toynbee, reviewing a new book¹³, calls this a most brutal example of the force of globalisation: "draining even love away from poor countries. It is the final depredation, exploiting the last resources the third world has left to sell – motherhood and sex"¹⁴.

8. According to research conducted by the French NGO CCEM (Committee against modern slavery)¹⁵, three categories of domestic slaves can be distinguished in Europe. The first category comprises persons who were recruited in their home country by agencies to take up domestic work abroad. Most of these migrants who come to Europe originate from South-East Asia, in particular the Philippines, Sri Lanka, Indonesia and India. Many of these domestic workers find themselves in debt, having borrowed money to cover the agency fees. These agencies are favoured particularly by employers (living in Europe) who originate from the Gulf countries and the Middle-East.

9. The second category comprises persons who were not recruited for domestic work in Europe, but are victims of trafficking and are forced to work as domestic slaves. Many of these persons are children from West-Africa, aged 8 to 15 years upon their arrival in Europe. They usually work for their compatriots living in Europe.

10. The third category comprises persons who were already employed as domestic workers in a third country and who "follow" their employers to a European country for a fixed period of time. Most of these domestic workers are women from South-East Asia, working for employers – including diplomats – from the Gulf countries and the Middle-East.

11. In France alone, the CCEM has taken up the cases of over 400 victims of domestic slavery since its creation in 1994. In the United Kingdom, the NGO Kalayaan has helped over 4.000 domestic workers, most of them held in domestic slavery or servitude of some sort (84% having suffered psychological violence, 54% having been confined to their home, 38% having been beaten and 10% sexually abused)¹⁶. The problem also exists in other European countries, such as Belgium, Italy and Spain, and in the Council of Europe observer state of the United States of America.

12. In an article entitled "Just Another Job? The Commodification of Domestic Labour"¹⁷, Bridget Anderson recounts how the steadily rising demand for domestic workers in Europe has translated into long hours, low pay, and lack of privacy for most live-in domestic workers, and into terrible abuse for some. "Their work can be

singularly degrading”, she writes, “cleaning cats’ anuses, flushing employers’ toilets, scrubbing the floor with a toothbrush three times a day, or standing by the door in the same position for hours at a time.”¹⁸ In another article¹⁹, Joy M. Zarembka details the traumatic experiences (involving severe psychological and physical abuse) of some migrant maids in the USA.

13. The problems of domestic workers held in slavery in Europe are compounded by the fact that it is often very difficult for them to leave their employers and seek help. Not only do many abusive employers create physical and psychological obstacles (by, for example, instilling fear in the domestic slave by threatening them – or their relatives - with further abuse or deportation, or by withholding their passport), but the police in host countries is often less than sympathetic to an escaped slave, especially if he or she has no papers or they are not in order. In many cases, a person held in domestic slavery will be totally isolated, not knowing where to turn for help (often not even speaking the language of the host country, sometimes unable to read or write). And the threat of deportation is all too real, as we heard during the colloquy on 11/12 March 2004.

14. Thus, even those domestic workers who manage to escape an abusive employer may not be willing or able to lodge a complaint against him or her. Some clearly criminal cases (ranging from physical abuse to downright torture) which Mrs O’Dy, the President of the CCEM recounted to us during the colloquy, have thus not led to the guilty being brought to justice. In some cases, the fact that an employer enjoys diplomatic immunity also hinders the prosecution in the host country (although, of course, the host country can ask for the immunity to be waived, and expel the offender if such a waiver is not granted²⁰). It is also notable that a high proportion of abusive employers recruit themselves, not via an intermediary, and that many of the abused employees enter their host country willingly (and legally) at first. Measures which aim at combating the trafficking in human beings – while welcome - can thus only be partially effective.

15. I think it is clear from the above that the prevention and prosecution of domestic slavery and servitude requires several measures, many of which were already outlined in Mr Connor’s excellent report of 2001²¹. First of all, it seems necessary to revalue the worth of domestic work and care work – such work is proper work, of a demanding nature and of great value to the community and should be recognised, treated and paid as such. The potential for abuse is greater when the domestic worker lives in – and thus crosses the boundary into the private family sphere - , or is in a vulnerable situation – such as being a migrant worker (legal or illegal), or being dependent on the money earned. The elaboration of a charter of rights for domestic workers might help in this sphere²². Such a charter (which could take the form of a Committee of Ministers’ Recommendation, or even of a Convention) should guarantee at least the following rights to domestic workers:

- the recognition of domestic work in private households as “proper work”, i.e. to which full employment rights and social protection apply, including the minimum wage (where it exists), sickness and maternity pay, and pension rights;

- the right to a legally enforceable contract of employment setting out minimum wages, maximum hours and responsibilities;
- the right to health insurance;
- the right to family life, including health, education and social rights for the children of domestic workers;
- the right to personal and leisure time;
- the right for migrant domestic workers to an immigration status independent of any employer, the right to change employer, and to travel within the host country and between all countries of the European Union and to recognition of qualifications, training and experience obtained in the home country²³.

16. Obviously, the elaboration of such a charter will not be enough, but it could be a first step. In addition, it would be useful if migrant domestic workers were informed of their rights before they leave the country (for example, when applying for a visa), and were given contact details of NGOs or other organisations which can help if something goes wrong.

17. As agencies are often involved in the placement of domestic workers, there should be some sort of regulation of the industry in both home and host countries. For example, agencies which charge exorbitant fees (especially from the prospective employee) should be blacklisted, and visa applications put forward on their behalf refused. Another possibility would be the creation of a type of “accreditation” system, by virtue of which agencies that commit themselves to certain minimum standards (such as charging reasonable fees, tracking the employment of employees they have placed, and providing emergency help in cases of difficulty) would have visa applications put forward on their behalf validated automatically.

18. As we have often pointed out in this Committee, immigration/deportation policies might also need adjusting in many member states. Basically, it should be in the interest of the authorities of the host country to help the victim and prosecute the perpetrator of abuse, instead of worrying more about the immigration status of the victim. Belgium and Italy could serve as models in this sphere, as these countries recognise the victim status of people who have been subjected to trafficking in human beings (which includes many victims of domestic slavery), and issue them with temporary residence permits so as to enable them to file and pursue a complaint against those who have exploited them²⁴.

19 Finally, NGOs such as the CCEM and Kalayaan which do such valuable work picking up the pieces when everything else has failed need to receive more government funds to enable them to do their work properly. The general public also needs to be informed and asked to be vigilant, and to denounce abusive employers. As Mrs O’Dy said at the colloquy, public vigilance in this field can literally save lives.

C. The exploitation of au pairs

20. “Au pair” placement is the temporary reception by families, in exchange for certain services, of young foreigners who come to improve their linguistic and possibly professional knowledge as well as their general culture by acquiring a better knowledge of the country where they are received²⁵. Au pairs stay in their host family usually for one, sometimes two years, and receive board and lodging and pocket money in exchange for some help with household chores and baby-sitting – chores which are meant to be light, occupying typically no more than five hours a day. In other words, au pairs are not meant to work as replacement housekeepers or nannies, but some of them end up being exploited in this way, or – even worse – violently treated or sexually abused.²¹

21. The Council of Europe worked out a European Agreement on Au Pair Placement already in the Sixties. This treaty came into force on 30 May 1971, but currently binds only five countries: Denmark, France, Italy, Norway and Spain (Luxembourg recently denounced the treaty)²⁶. The treaty defines and standardises the conditions governing au pair placement in the countries bound by it, and aspires to ensure au pairs are given adequate social protection. As Mrs Vadeau-Ducher, Chairperson of the European Committee for Social Cohesion of the Council of Europe (CDCS), pointed out during the colloquy, however, the treaty is no longer considered adequate by many Council of Europe member

states. For example, Germany deems the working conditions to harsh and the social cover insufficient, and Luxembourg found that young girls who applied for visas as au pairs in accordance with the treaty’s provision were forced into prostitution. The CDCS is therefore currently considering the future of this treaty: whether to amend, abrogate or replace it.

22. In 1994, the “International Au Pair Association” (IAPA) was set up to “self-regulate” the ever-growing au pair industry. The association currently represents 146 organisations in 43 countries, with another 20 soon to join. It has called for a greater regulation of the sector in Europe to avoid exploitation of au pairs, and warns against the growing practice of recruiting au pairs from the Internet. The United States of America has an extremely well-regulated au pair sector, with detailed security checks, references and interviews before placements – regulations the IAPA would like to see emulated in Europe. However, even the US programme has been plagued with problems – from au pairs crashing family cars to alleged child abuse (at least three children have died while in the care of au pairs in the USA since the start of the programme in 1986). In fact, in the USA, au pairs are expected to work up to 45 hours per week, and are thus at risk of being exploited as a “cheap childcare option”: emulating the USA in this sector might thus not be the answer.

23. The situation of exploited au pairs differs in some aspects from that of migrant domestic workers held in slavery. Usually, au pairs work only for a maximum of one to two years in an employer’s household, and enter the host country legally, so that the employer has less opportunity to isolate the au pair²⁷. In contrast to migrant domestic workers, a majority of au pairs also come from Europe, and usually already have some knowledge of the host country’s language. Nevertheless, in view of their young age (mostly late teens and early twenties), au pairs are still vulnerable to abuse. Cases mentioned by Ms Gauthier, President of the French Au Pair Union (UFAAP), included a girl from Romania who committed suicide after having been forced to

work like a slave for 1 Euro a day, a Russian girl forced to sleep on a mattress in the attic, and a Slovakian girl left with huge debts after having been hospitalised without health insurance. Sexual abuse has also been documented.

24. The use of agencies is quite common in au pair placement. Although the industry is self-regulating, the number of less serious agencies, particularly those operating from the Internet, has boomed in recent years. Many of the “black sheep” charge exorbitant fees (especially of the prospective au pair), leading their clients into debt bondage slavery. I think there is a valid case for government regulation of the industry, as proposed above for agencies placing domestic workers. The creation of a type of “accreditation” system could be envisaged, by virtue of which agencies that commit themselves to certain minimum standards (such as charging reasonable fees, ensuring au pairs enter into a legally binding contract with their employers which clearly states rights, responsibilities and duties, and providing emergency help in cases of difficulty) would have visa applications put forward on their behalf validated automatically. Agencies could also be committed to doing background checks on both the prospective au pair and the prospective host family, to ensure that they do not have criminal convictions for sexual or child abuse, for example.

25. As in the case of escaped domestic slaves, exploited or abused au pairs should be encouraged to come forward and file a complaint against the offender. It is not sufficient for agencies (or the police) to simply send a victim home and/or find her a different host family.

26. I think that it would be a waste of time and money to renegotiate a new Au Pair Placement Treaty to replace the outdated 1971 one (which is anyway falling into disuse). However, some guidance from the Council of Europe in this area is nevertheless essential, to avoid a dichotomy of treatment of au pairs (especially of those originating from within or without the European Union). The Assembly should thus recommend that the Committee of Ministers issue guidelines in the form of a Recommendation to member states, which would ensure that the distinctive status of au pairs (neither students nor workers) is recognised and safeguarded, their working conditions and social cover are fixed, and that the au pair industry is appropriately regulated on the national level.

D. The “mail-order bride”-business

27. “Mail-order brides” find themselves in a similar situation to exploited migrant domestic workers, chosen to live and work in the home of men who like the submissive “old-fashioned” values from the east, and often forced into domestic servitude or worse. Such wives and live-in domestic workers in general are both vulnerable to the violence of the domestic sphere, which can include physical violence, sexual harassment, rape and even forced motherhood. In addition, both domestic workers and “mail-order brides” are vulnerable to the exploitation of recruitment agencies, who can charge exorbitant fees and even inflict debt bondage on workers in order to maximise their profits.²⁸

28. Unfortunately, I am not aware of any recent research undertaken in Europe on the subject of “mail-order brides”. However, in the United States of America and in Canada, such research exists. In both countries, concern over the issue of “mail-order

brides” has centered on the lack of regulations governing the way in which international matchmaking organisations (agencies) conduct their business, and on the lack of power the “imported” foreign-born woman has compared to the US/Canadian citizen or lawful permanent resident, which makes her vulnerable to domestic slavery, violence and other abuse²⁸.

29. As one report of the US Immigration and Naturalization Service to Congress put it²⁹, polarised views exist of the relationships and marriages that result from the use of international matchmaking organisations. At the one end of the spectrum is the view that the “mail-order bride” business is an international personal ad service used by consenting adults, and is thus neither unethical nor unlawful³⁰. The other end of the spectrum challenges the inequities of these transactions and identifies the “mail-order bride” phenomenon as an international industry that often traffics women from developing countries to industrialised Western countries. Unlike dating services of personal ads, the “mail-order bride” transaction is “one where the consumer-husband holds all the cards. In using these services, the male customer has access to and chooses from a pool of women about whom personal details and information are provided, while the women are told virtually nothing about the male customer – or only what he chooses to reveal about himself.”³¹ The fact that the potential husbands are not screened (for example, for criminal records, especially those involving domestic violence) makes “mail-order brides” particularly vulnerable to abuse.

30. However, it must also be pointed out that many foreign women who advertise for husbands in Western countries seem to be more interested in gaining residence permits in those countries than in a good marriage³². This is actually understandable to a certain extent, as many women see becoming a “mail-order bride” as the best option to escape dire poverty, the only other options being domestic service abroad or commercial sex work. While statistics are very rare on the “success” rates of “mail-order marriages”, anecdotal evidence suggests that some “mail-order brides” leave their husbands once they obtain a permanent residence permit. The same evidence suggests as well, though, that some husbands divorce their “mail-order brides” before they can obtain a permanent residence permit, making it possible for them to find a fresh “replacement mail-order bride” – while having their former bride deported home.

31. As Professor Belleau of the University Laval (Québec, Canada) pointed out during the colloquy, the magnitude of the “mail-order bride” business is often underestimated. There are more than 800.000 such sites on the Internet, with, in America, two “mother” sites: goodwife.com (regrouping 353 sites), which describes itself as “The Mail-Order Bride Warehouse” and receives 12 million visits per year, and planetlove.com (regrouping 318 sites), which totals 10 million visits per year. The use of agencies is, especially Internet ones, is the usual operating mode in the “mail-order bride”-business. Unlike the au pair placement industry, there seems to be no self-regulation, much less government regulation. Many Internet agencies encourage their male clients to view their brides as a commodity to be bought and sold rather than as a human being; a recent “auction” of three Vietnamese girls on the Taiwanese site of the company “ebay” (which immediately took the auction of the Internet when it found out the nature of the “items” for sale) shows where this attitude can lead.

32. Mr Teissier du Cros, Manager of the French private Internet agency “French Romance”, testified during the colloquy that he had “mothered” 1.300 marriages

during the five-and-a-half years of his agency's existence, and knew of no couple who had divorced in the meantime. It is fair to ask why these mail-order bride marriages should have such a high success rate when the divorce rate for "ordinary" marriages lies between a third and a half, depending on the country. Is it really because these women have found their soul-mate in Western Europe? Or is it the higher standard of living which attracts these women, or the financial and general stability the "consumer husbands" can offer³³? Or is it the fact that, in many cases, the women cannot leave these relationships as their residence permits depend on them? Thus, even in cases of openly abusive relationships (be it physical, psychological or sexual abuse, or being forced to work in the home like a slave) "mail-order brides" might not be willing or able to divorce their husbands.

33. In comparison to the other two varieties of domestic slavery, this is the most difficult area to regulate. Nevertheless, as in the other two cases, it would be important for governments to ensure that "mail-order brides" are not forced to stay in abusive relationships solely because they are dependent on that relationship for a visa. Thus, residence permits (not dependent on the stability of the relationship) should be issued to these women as soon as possible. The French situation, where women apparently have to wait 10 years or longer to "earn" such an independent residence permit, is clearly unacceptable. As in the case of escaped domestic slaves and exploited au pairs, abused "mail-order brides" should be encouraged to come forward and file a complaint against the offender, without having to fear to be sent home on the next plane.

34. Some type of regulation of the "mail-order bride" agencies, especially the Internet ones, is also necessary. Whether this regulation should be governmental, or whether the industry should start self-regulating itself, is a difficult question to answer. Professor Belleau pointed out during the colloquy that when this type of agency was outlawed in the Philippines, the "mail-order bride"-sites simply relabelled themselves as "pen-pal clubs". However, it is in the interest of the more serious agencies to accept some type of regulation. For example, fees should be reasonable, the persons responsible for a site should be clearly identifiable, users of the site should be forced to identify themselves, marriages should be kept track of, and an emergency contact number should be provided for when things go wrong. Agencies should also do a background check on the prospective bridegroom to check for a criminal record (e.g. for domestic violence or procurement) when couples come close to marriage.

E. Combating all forms of domestic slavery: conclusions and recommendations

35. To counter the problem of domestic slavery, the Assembly made a number of recommendations to member states of the Council of Europe via the Committee of Ministers in [Recommendation 1523](#) (2001). In particular, the Assembly recommended making slavery and trafficking in human beings, and also forced marriage, offences in member states' criminal codes, ensuring that police officers are adequately trained to deal with victims of slavery, and protecting the rights of victims of domestic slavery. To my knowledge, the Council of Europe has not yet, however, dealt with the problem of "mail-order brides", although our Committee has just been seized to report on forced marriages and child marriages.

36. Some member states have already taken effective measures in the direction suggested by the Assembly in [Recommendation 1523](#) (2001). Thus, for example, Belgium boasts relatively new repressive legislation³⁴, and my country, Italy, not only directly applies the UN Anti-Slavery Conventions of 1926 and 1956, but also applies a slavery conception to traffic in human beings³⁵. Needless to say, more measures could be taken across Europe in this vein.

37. In its [Recommendation 1523](#) (2001), the Assembly also made some innovative legal recommendations, such as amending the Vienna Convention on Diplomatic Relations in order to waive diplomatic immunity for all offences committed in private life, and drawing up a domestic workers' charter of rights. In its reply of 27 February 2003, the Committee of Ministers considered that amending the Vienna Convention was not a realistic solution as a means of tackling the problem of domestic slavery and was not advisable on policy grounds. While the amendment of the Vienna Convention would, of course,

not solve the problem of domestic slavery, it could at least ensure that the Convention does not aid and abet the slave-holders. However, as the Convention is not a Council of Europe Convention, it would indeed be difficult to amend. Therefore, sending states should be encouraged to exercise jurisdiction to prosecute offences connected with domestic slavery.

38. The Committee of Ministers also did not consider making the drafting of a domestic workers' charter of rights one of the Council of Europe's immediate priorities. On this point I beg to disagree: due to the specific vulnerability of domestic workers as outlined above, and the amplitude of the problem in Europe, I consider that the Council of Europe should make the drafting of such an instrument a foremost priority. Europe needs an international instrument devoted to domestic workers, detailing their specific needs and rights, especially those of migrant domestic workers.

39. Regarding au pairs, who also risk exploitation, I do not think it would be useful to renegotiate a new Au Pair Placement Treaty to replace the outdated 1971 one. However, some guidance from the Council of Europe in this area is nevertheless essential, to avoid a dichotomy of treatment of au pairs (especially of those originating from within or without the European Union). The Assembly should thus recommend that the Committee of Ministers issue guidelines in the form of a Recommendation to member states, which would ensure that the distinctive status of au pairs (neither students nor workers) is recognised and safeguarded, their working conditions and social cover are fixed, and that the au pair industry is appropriately regulated on the national level.

40. As far as "mail-order brides" are concerned, I think that some regulation of the industry is necessary. At the very least, agencies should be obliged to screen their customers for criminal records, to avoid "delivering" a "mail-order bride" into the hands of a known wife batterer, a procurer, etc. The US and Canadian attitude of considering the "mail-order bride" industry as a type of trafficking in women might also merit some consideration, in particular when the "bride" in question has become a victim of violence or other abuse.

41. As we have often pointed out in this Committee, immigration/deportation policies might also need adjusting in many member states. It should be in the interest of the authorities of the host country to help the victim – be it a victim of domestic slavery, an exploited au pair or an abused “mail-order bride” - and prosecute the perpetrator of abuse, instead of worrying more about the immigration status of the victim.

42. As the Deputy Secretary-General of the Council of Europe, Mrs de Boer-Buquicchio pointed out during the colloquy, we should have zero tolerance for slavery. We should no longer accept the existence of supermarkets which sell people like objects, where you can help yourself from the selection of “cleaners”, “sex objects”, “children and disabled persons ready for anything”, “sundry organs”, etc. The persons who are the object of these transactions, vulnerable people trying to survive or to improve themselves, far from their countries and their families, deceived by intermediaries, trapped by their “users”, should finally be recognised as victims, and should receive help and support from our 45 member states – whether or not their papers are in order, they were trafficked or came willingly at first. And the perpetrators of the crime of domestic slavery should be persecuted, so that slavery finally ceases to exist in the Europe of the 21st century.

APPENDIX I

Recommendation 1523 (2001) on domestic slavery

1. In the last few years a new form of slavery has appeared in Europe, namely domestic slavery. It has been established that over 4 million women are sold each year in the world.
2. In this connection the Assembly recalls and reaffirms Article 4, paragraph 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which prohibits slavery and servitude, and also the definition of slavery derived from the opinions and judgments of the European Commission of Human Rights and the European Court of Human Rights.
3. The Assembly also recalls Article 3 of the ECHR, which provides that no one shall be subjected to torture or to inhuman or degrading treatment or punishment, and Article 6, which proclaims the right of access to a court in civil and criminal matters, including cases where the employer enjoys immunity from jurisdiction.
4. The Assembly also refers to the European Convention on Mutual Assistance in Criminal Matters (1959) (ETS No. 30), the European Convention on Extradition (1957) (ETS No. 24) and the European Agreement on “au pair” Placement (1969) (ETS No. 68).
5. It notes that the victims’ passports are systematically confiscated, leaving them in a situation of total vulnerability with regard to their employers, and sometimes in a situation bordering on imprisonment, where they are subjected to physical and/or sexual violence.

6. Most of the victims of this new form of slavery are in an illegal situation, having been recruited by agencies and having borrowed money to pay for their journey.
7. The physical and emotional isolation in which the victims find themselves, coupled with fear of the outside world, causes psychological problems which persist after their release and leave them completely disoriented.
8. The Assembly also deplores the fact that a considerable number of victims work in embassies or in the homes of international civil servants who, under the Vienna Convention on Diplomatic Relations of 1961, enjoy immunity from jurisdiction and enforcement and are covered by the principle of inviolability of persons and property.
9. It regrets that none of the Council of Europe member states expressly make domestic slavery an offence in their criminal codes.
10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:
 - i. make slavery and trafficking in human beings, and also forced marriage, offences in their criminal codes;
 - ii. strengthen border controls and harmonise policies for police co-operation, especially with respect to minors;
 - iii. ensure that police officers are adequately trained to deal with victims of slavery and increase the number of women officers;
 - iv. amend the Vienna Convention in order to waive diplomatic immunity for all offences committed in private life;
 - v. sign and ratify the Convention against Transnational Organised Crime and its additional protocols (December 2000);
 - vi. protect the rights of victims of domestic slavery by:
 - a. generalising the issuing of temporary and renewable residence permits on humanitarian grounds;
 - b. taking steps to provide them with protection and with social, administrative and legal assistance;
 - c. taking steps for their rehabilitation and their reintegration, including the creation of centres to assist, among others, victims of domestic slavery;
 - d. developing specific programmes for their protection;
 - e. increasing victims' time limits for bringing proceedings for offences of slavery;
 - f. establishing compensation funds for the victims of slavery;

- vii. give accurate information about the risks of working abroad to domestic workers and others when permits are requested, for instance at embassies;
- viii. avoid all gender discrimination in the issuing of work permits to domestic workers.

11. The Assembly also recommends that the Committee of Ministers ask the relevant expert committee(s) to draw up a domestic workers' charter of rights.

^{36[1]}. *Assembly debate* on 26 June 2001 (18th Sitting) (see [Doc. 9102](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Connor; and [Doc. 9136](#), opinion of the Social, Health and Family Affairs Committee, rapporteur: Mrs Belohorská).

Text adopted by the Assembly on 26 June 2001 (18th Sitting).

APPENDIX II

Programme of the Colloquy held in Paris on 11 and 12 March 2004

Thursday, 11 March 2004

[Morning: Meeting of the Committee on Equal Opportunities and Human Rights]

Opening session

3 pm Opening of the Colloquy by Ms Minodora Cliveti, Chairperson of the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly of the Council of Europe, and Senator Giuseppe Gaburro, Rapporteur of the Committee

3.15 pm Introductory statement by Ms Maud de Boer-Buquicchio, Deputy Secretary General of the Council of Europe

The abuse of au pairs

3.25 pm Speech by Ms Birte Domenge, President of the International Au Pair Association (IAPA)

3.45 pm Speech by Mrs Marie-Cécile Vadeau-Ducher, Chairperson of the European Committee for Social Cohesion (Council of Europe)

4.05 pm Speech by Ms Nicole Gauthier, President of the French Au Pair Union (UFAAP)

4.25 pm *Coffee break*

4.45 pm Questions and debate

6 pm End of sitting

Friday, 12 March 2004 at 9 am

Domestic slavery: servitude (maids and nannies)

- 9.00 am Speech by Dr Bridget Anderson, expert, Oxford University (United Kingdom)
- 9.15 am Speech by Mrs Alba Dini Martino, expert, Pontifical Gregorian University (Italy)
- 9.30 am Speech by Ms Sylvie O'Dy, President of the NGO "CCEM" (Committee against Modern Slavery) (France)
- 9.45 am Speech by Professor Louise Langevin, Faculty of Law, University Laval, Québec, Canada
- 10.00 am *Coffee break*
- 10.20 am Questions and debate

Mail-order brides

- 11.10 am Speech by Professor Marie-Claire Belleau, Faculty of Law, University Laval, Québec, Canada
- 11.30 am Speech by Mr Patrick Teissier du Cros, Manager of the private Internet agency "French Romance"
- 11.50 pm Questions and debate

Closing session

- 12.45 pm Closing remarks by Senator Giuseppe Gaburro, Rapporteur of the Committee on Equal Opportunities for Women and Men of the Parliamentary Assembly of the Council of Europe
- 1 pm End of the Colloquy

Reporting committee: Committee on Equal Opportunities for Women and Men

Reference to Committee: Order 575 (2001) of 26 June 2001

Draft recommendation unanimously adopted by the Committee on 5 April 2004.

Members of the Committee: Mrs Cliveti (Chairperson), *Mrs Zapfl-Helbling (1st Vice-Chairperson)*, Mr Dalgaard (2nd Vice-Chairperson), *Mrs Curdova (3rd Vice-Chairperson)*, *Mrs Aguiar*, *Mr Baburin*, *Mrs Bauer*, Mrs Biga-Friganovic, *Mrs Bilgehan*, *Mrs Bousakla*, Mrs Castro, Mrs Doktorowicz, *Mrs Err*, *Mr Foulkes*, *Mr Gaburro*, Mr Goldberg, Ms Hadjiyeva, *Mrs Hägg*, Mrs Katseli, Mrs Konglevoll, Mrs Kosa-Kovacs, Mrs Kryemadhi, Mrs Labucka, Mrs Lintonen, Ms Lucic, Mr Mahmood,

Mrs Mikutiene, Mr Mooney, Mrs Morganti, Mr Neimarlija, Mrs Paoletti Tangheroni (*alternate: Mr Scherini*), Mrs Patarkalishvili, Ms Patereu, Mr Pavlov, Mrs Pericleous-Papadopoulos, Mrs Petrova-Mitevaska, Mr Pintat (*alternate: Mr Branger*), Mr Platvoet, Mr Pullicino Orlando, Mrs Roth, Mrs Rupprecht, Mrs Schicker, Mr Skarphédinsson.

N.B. The names of the members who took part in the meeting are printed in italics.

Secretaries of the Committee: Mrs Kleinsorge, Mrs Entzminger

¹ Appendix I to this report.

² AS/Ega (2003) 36.

³ AS/Ega (2004) 05.

⁴ AS/Ega (2004) PV 4 Appendix I.

⁵ NGO Anti-slavery (UK), Free the slaves (USA) and Satya (USA) websites.

⁶ NGO « Free the slaves » website.

⁷ NGO « Anti-slavery » website.

⁸ Ibid.

⁹ Ibid.

¹⁰ ILO, Stopping Forced Labour (second Global Report), June 2001, par. 83-85.

¹¹ Lin Chew, Discussion Paper for the Programme Consultation Meeting on the Protection of Domestic Workers Against the Threat of Forced Labour and Trafficking, prepared for Anti-Slavery International in co-operation with the ILO's Special Action Programme to Combat Forced Labour, January 2003, p. 3.

¹² Ibid, p. 3.

¹³ Barbara Ehrenreich and Arlie Russell Hochschild (ed.), Global Woman: Nannies, Maids and Sex Workers in the New Economy, July 2003.

¹⁴ Polly Toynbee, Mothers for sale, The Guardian, 19 July 2003.

¹⁵ Georgina Vaz Cabral, Les formes contemporaines d'esclavage dans six pays de l'Union Européenne, available on the organisation's website.

¹⁶ Ibid, p. 35.

¹⁷ In: Barbara Ehrenreich and Arlie Russell Hochschild (ed.), Global Woman, p. 104-114.

¹⁸ Ibid, p. 107-108.

¹⁹ Joy M. Zarembka: America's Dirty Work: Migrant Maids and Modern-Day Slavery, in: Barbara Ehrenreich and Arlie Russell Hochschild (ed.), *Global Woman*, p. 142-153.

²⁰ Indeed, the immunity of a diplomat from the jurisdiction of the host country does not exempt him or her from the jurisdiction of his or her home country. Therefore, states should be encouraged to exercise such jurisdiction to prosecute offences connected with domestic slavery.

²¹ Assembly Document 9102.

²² The Assembly already suggested the drafting of such a Charter in [Recommendation 1523](#) (2001).

²³ The NGO "RESPECT" (working under the "Solidar" network) has proposed a migrant domestic workers charter of rights, which has inspired my list. See: www.solidar.org.

²⁴ The legislation of Italy is more flexible and generous than that of Belgium in this area, even providing work permits to victims.

²⁵ Definition of the European Agreement on Au Pair Placement of 1969, Article 2 (Council of Europe treaty).

²⁶ Seven other countries have signed, but not ratified the treaty: Belgium, Bulgaria, Finland, Germany, Greece, Moldova and Switzerland.

²⁷ Mrs Anderson pointed out during the colloquy that this does not apply to the situation in the UK, where the status of the childcare worker is determined by the level of his or her pay.

²⁸ Louise Langevin and Marie-Claire Belleau: *Trafficking in Women in Canada: A Critical Analysis of the Legal Framework Governing Immigrant Live-in Caregivers and Mail-Order Brides*, October 2000.

²⁹ US Department of Justice, Immigration and Naturalization Service (INS): *International Matchmaking Organizations*, 4 March 1999.

³⁰ The INS report cites the conclusions of a specially appointed Swedish Ombudsman Against Ethnic Discrimination in 1989: *"Even if a woman who comes to Sweden is treated like a slave and the man uses, abuses and violates her rights, it is not easy to cast the blame on the marriage broker.... Some people simply prefer meeting their partners through an agency. Just because the agencies make money is not enough cause for condemnation. Neither is the fact that some may choose partners on the basis of nationality. It would be too difficult to decide on where to draw the line in a free society."* Ibid, p. 2.

³¹ Ibid, p. 3.

³² Robert J. Scholes: The “Mail-Order Bride” Industry and its impact on US Immigration, 1998, p. 5.

³³ During the colloquy, Mr Teissier du Cros made much of the fact that many such husbands were older than their brides, and thus able to offer a more stable relationship (and that they did not drink...).

³⁴ Law of 13 April 1995 on the repression of the traffic in human beings and child pornography.

³⁵ Article 600 of the Penal Code (reduction to slavery), the « Merlin law » on the exploitation of third party prostitution, and Articles 609 and 630 of the Penal Code (on confinement of a person).

³⁶