



**Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings**

**Recommendation CP(2015)3
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Hungary**

*adopted at the 16th meeting of the Committee of the Parties
on 15 June 2015*

The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter referred to as 'the Convention'), acting under the terms of Article 38(7) of the Convention;

Having regard to the purposes of the Convention to prevent and combat trafficking in human beings, while guaranteeing gender equality, protect the human rights of victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, ensure the effective investigation and prosecution of the offences related to trafficking in human beings, and promote international co-operation;

Bearing in mind the provisions of Article 36(1) of the Convention concerning the monitoring role of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the implementation of the Convention;

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Hungary on 4 April 2013;

Having examined the Report concerning the implementation of the Convention by Hungary, adopted by GRETA at its 22nd meeting (16-20 March 2015) in the framework of the first evaluation round;

Having examined the comments of the Hungarian Government on GRETA's report, submitted on 12 May 2015;

Welcoming the measures to combat trafficking in human beings taken by the Hungarian authorities, and in particular:

- the adoption of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;
- the appointment of a National Anti-Trafficking Co-ordinator and the setting up of the National Co-ordination Mechanism on Human Trafficking and the NGO Roundtable on Human Trafficking;
- the establishment of a framework for the identification and referral to assistance of victims of human trafficking;
- the efforts to promote international co-operation against trafficking in human beings in the framework of police and judicial co-operation;
- the framework for state compensation of victims of crime;

Taking note of the areas where further action is required in order to improve the implementation of the Convention by Hungary, in particular:

- strengthening the aspect of prevention through social and economic empowerment measures for groups vulnerable to human trafficking;
- paying increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from at-risk groups and unaccompanied foreign minors;
- taking further steps to ensure that all victims of trafficking are properly identified, in particular by strengthening the identification of victims of internal trafficking as well as amongst asylum seekers and irregular migrants;
- ensuring that all victims of trafficking have effective access to assistance and protection;
- ensuring that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law;
- adopting measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking;
- strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive sanctions.

1. Recommends that the Government of Hungary implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Hungary (see addendum);

2. Requests the Government of Hungary to inform the Committee of the Parties of the measures taken to comply with this recommendation by 15 June 2017;

3. Invites the Government of Hungary to continue the ongoing dialogue and co-operation with GRETA and to keep GRETA informed of the measures taken in response to its proposals.

Addendum

List of GRETA's proposals concerning the implementation of the Convention by Hungary

Core concepts and definitions

1. In order to be fully consistent with the definition of THB in the Convention, GRETA urges the Hungarian authorities to include at a minimum the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, in relation to the definition of trafficking in human beings of the Criminal Code.

Comprehensive approach and co-ordination

2. GRETA urges the Hungarian authorities to allocate sufficient financial and human resources to ensure that the National Co-ordination Mechanism can achieve the objectives set out in the National Strategy and that the NGO Roundtable can function effectively, and to ensure full participation of civil society, including trade unions, in the implementation of the National Strategy.

3. GRETA also considers that the Hungarian authorities should take further steps to ensure that national action to combat THB is comprehensive and that action is taken to:

- research, identify and address effectively internal trafficking, in particular in the poorest areas of the country and among disadvantaged communities, such as Roma;
- strengthen action to combat THB for the purpose of labour exploitation by involving civil society, the labour inspectorate, businesses, trade unions and employment agencies;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups and unaccompanied foreign minors, and ensure that the best interests of the child are fully taken into account.

4. Further, GRETA invites the Hungarian authorities to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

Training of relevant professionals

5. GRETA considers that the Hungarian authorities should seek to implement regular practical training on human trafficking for police officers across the country, in particular on identifying victims, supporting them during criminal proceedings and protecting them.

6. Further, GRETA considers that the Hungarian authorities should ensure that other professionals who are likely to come into contact with victims of trafficking, in particular prosecutors, judges, labour inspectors, border guards, victim assistance staff, officials dealing with asylum seekers and irregular migrants, child welfare staff, including those in centres for unaccompanied minors, consular staff, education staff and medical professionals receive periodic training on human trafficking. Training programmes should be designed with a view to improving the knowledge and skills of relevant professionals to enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

7. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Hungarian authorities should intensify their efforts to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination). This should be accompanied by all the necessary measures required to respect the right of data subjects to personal data protection, including in situations where NGOs working with victims of trafficking are asked to provide information for the national database.

8. GRETA considers that the Hungarian authorities should conduct and support further research on THB in Hungary as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in Hungary include internal trafficking, trafficking for the purpose of labour exploitation, child trafficking, trafficking for the purpose of forced marriage, trafficking among asylum seekers and irregular migrants.

International co-operation

9. GRETA welcomes the efforts made by the Hungarian authorities in the area of international co-operation and invites them to continue to strengthen international co-operation with a view to preventing human trafficking, identifying and referring to assistance victims of trafficking, as well as investigating and prosecuting human trafficking offences.

Measures to raise awareness and discourage demand

10. GRETA considers that the Hungarian authorities should:

- continue their efforts to raise awareness among groups vulnerable to trafficking abroad;
- design and implement preventive and awareness-raising activities concerning internal trafficking within Hungary;
- raise awareness of diverse forms of THB among the general public, for example through a national campaign.

11. GRETA considers that the Hungarian authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector.

Social, economic and other initiatives for groups vulnerable to THB

12. GRETA urges the Hungarian authorities to strengthen their efforts to prevent THB in:

- adopting social and economic empowerment measures to promote the integration of Roma, in particular through improved access to education, housing, public health services and the labour market, and combating discrimination against Roma communities;
- addressing the root causes of THB for sexual exploitation, such as stereotypes and prejudice against women, especially of Roma women, domestic violence and violence against women;
- ensuring that National Social Inclusion Strategy addresses root causes of THB.

Border measures to prevent THB

13. GRETA considers that the Hungarian authorities should increase efforts to detect cases of THB in the context of border controls, including through further training of border guards on the identification of victims of THB.

14. GRETA invites the Hungarian authorities to pursue co-operation on border controls with neighbouring countries as a means to combat trans-border trafficking.

Identification of victims of trafficking in human beings

15. GRETA urges the Hungarian authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- not requiring written consent from trafficked persons for them to be identified as victims;
- strengthening the identification of victims of internal trafficking, including for forced labour, servitude and slavery, in particular by reinforcing the role of labour inspectors through adequate resources and training and ensuring that domestic work in private homes are covered by labour inspections;
- adopting a framework for the identification of victims of THB among third-country nationals without legal residence;
- improving the identification of victims of THB among asylum seekers and irregular migrants, in particular by increasing efforts to train staff of the Office of Immigration and Nationality on identification and the use of common indicators for identification;
- increasing efforts to identify child victims of THB, including amongst unaccompanied minors, and setting up child-specific identification procedures, which take into account the special circumstances and needs of child victims of trafficking, involves child specialists, child protection services, trained police and prosecutors, and ensures that the best interests of the child are the primary consideration;
- developing age assessment tools and effectively implementing the presumption and the measures foreseen in Article 10, paragraph 3, of the Convention when the age of the victim is uncertain and the measures foreseen in Article 10, paragraph 4, of the Convention if an unaccompanied child is identified as a victim of trafficking.

Assistance to victims

16. GRETA urges the Hungarian authorities to take further measures to provide victims of THB with adequate assistance, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB; when the provision of assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- guarantee effective access to public health care for victims of trafficking;
- provide specialised assistance and shelters for child victims of THB that take into account their special needs and the best interests of the child;
- take effective measures to address the problem of disappearance of unaccompanied minors by providing safe accommodation, and assigning adequately trained legal guardians promptly after the arrival of an unaccompanied minor;
- ensure that male victims of THB are provided with adequate assistance and shelters;
- ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking.

17. Furthermore, GRETA considers that the Hungarian authorities should review domestic legislation so that the lawfulness of victims' residence in the country where they were exploited is not a prerequisite to the provision of assistance.

18. GRETA also considers that the Hungarian authorities should actively support initiatives from civil society aiming at the reintegration of victims of trafficking, in particular by adopting measures promoting effective access to education, training, employment and housing of victims of trafficking, including children.

Recovery and reflection period

19. GRETA urges the Hungarian authorities to ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe are victims of THB. In order to ensure that trafficked persons are effectively granted such a period, the Hungarian authorities should take further steps to ensure that all relevant stakeholders are familiar with the recovery and reflection period, in particular officials from the Office of Immigration and Nationality, the police, prosecutors, judges, lawyers, labour inspectors, staff of the Victim Assistance Services and staff of reception centres and detention centres for asylum seekers and irregular migrants.

Residence permits

20. GRETA considers that the Hungarian authorities should ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit when they co-operate with the authorities or when their personal situation justifies it, and to systematically inform them of this possibility in a language that they understand.

Compensation and legal redress

21. GRETA urges the Hungarian authorities to adopt measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking, including by:

- ensuring that victims of trafficking are systematically informed of the right to seek compensation and the procedures to be followed;
- enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary.

22. Whilst welcoming the framework for state compensation of victims in Hungary, GRETA considers that the Hungarian authorities should review the legislation so that all victims of trafficking are able to benefit from it regardless of their nationality or the regularity of their stay in Hungary or in any other country.

23. Furthermore, GRETA invites the Hungarian authorities to ensure that victims of THB are systematically informed of the possibility of seeking compensation and are ensured effective access to legal aid.

Repatriation and return of victims

24. GRETA urges the Hungarian authorities to establish effective institutional and procedural mechanisms for the return of victims of trafficking to their country of origin in order to ensure that any return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the best interests of the child where child victims are concerned.

Substantive criminal law

25. GRETA invites the Hungarian authorities to keep under review the effectiveness and dissuasiveness of the penalties provided for in section 192, paragraphs 2 and 3, of the Criminal Code, taking into account the fact that THB constitutes a serious violation of human rights.

Non-punishment of victims of trafficking in human beings

26. GRETA considers that the Hungarian authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, or by issuing guidance to public prosecutors and migration officials on this issue. While the identification procedure is ongoing, possible victims of THB should not be punished for immigration-related violations.

Investigation, prosecution and procedural law

27. GRETA welcomes the possibility of using special investigation techniques in trafficking cases, in line with the Committee of Ministers' Recommendation Rec(2005)10 on "special investigation techniques" in relation to serious crimes including acts of terrorism", and invites the Hungarian authorities to ensure that full use is made of special investigation techniques in trafficking cases.

28. GRETA invites the Hungarian authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking.

29. GRETA considers that the Hungarian authorities should identify gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions. For this purpose, training on THB for members of the judiciary (prosecutors and judges) and lawyers should be strengthened and cover diverse types of exploitation and different aspects such as the non-punishment provision.

30. GRETA considers nevertheless that the Hungarian authorities should explicitly exclude trafficking in human beings from the scope of section 29 of Act C on Active Repentance.

Protection of victims and witnesses

31. GRETA urges the Hungarian authorities to evaluate whether measures available to protect victims and witnesses of THB, including children, are used in practice and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings.