

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



**Recommendation CP(2012)2
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Bulgaria**

*adopted at the 7th meeting of the Committee of the Parties
on 30 January 2012*

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 Bulgaria on 17 April 2007;

Having examined the Report concerning the implementation of the Convention by Bulgaria, adopted by GRETA at its 11th meeting (20-23 September 2011) in the framework of the first evaluation round;

Having examined the comments of the Bulgarian Government on GRETA's report, submitted on 14 November 2011;

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

- the adoption of a specific law to combat human trafficking, the criminalisation of the use of services of victims of trafficking, and increasing the penalties for trafficking offenses;
- the setting up of the National Commission for Combating Trafficking in Human Beings, which co-ordinates the efforts of relevant actors in the implementation of the annual national programmes, and the establishment of seven local commissions for combating human trafficking;
- the adoption of a national mechanism for referral and support of trafficked persons;
- the considerable efforts to develop the aspect of prevention of human trafficking, through awareness raising campaigns, education in schools, and training of relevant professionals;

- the progress made in investigating and prosecuting cases of trafficking in human beings, including through international co-operation, as well as in securing convictions;

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

- strengthening the aspect of prevention through social and economic empowerment measures for groups vulnerable to human trafficking;
- further improving the identification of victims of trafficking;
- ensuring that trafficked persons are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period;
- ensuring that all assistance measures provided for in law are guaranteed in practice, in particular by setting up a sufficient number of shelters for adult victims of trafficking, securing adequate financing to ensure the quality of services provided by the State and non-governmental organisations, and facilitating the reintegration of victims into society;
- facilitating access to compensation for victims of trafficking, including by providing them systematically with information on the right to compensation and ensuring their effective access to legal aid;
- taking measures allowing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so;
- stepping up proactive investigations of potential cases of trafficking and ensuring that victims are adequately protected and assisted during pre-trial and court proceedings.

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

2. Requests the Government of Bulgaria to inform the Committee of the Parties of the measures taken to comply with this recommendation by 30 January 2014;

3. Invites the Government of Bulgaria 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 Bulgaria

Core concepts and definitions

1. GRETA notes the difference between the two definitions of trafficking in human beings under Bulgarian law as regards the use of means and invites the Bulgarian authorities to ensure that the national anti-trafficking provisions are interpreted in a manner fully conforming to the Convention.

Comprehensive approach to THB

2. GRETA considers that the Bulgarian authorities should take further steps to ensure that the national action to combat THB is comprehensive, and in particular:

- pay increased attention to preventive measures among vulnerable groups, such as the Roma community, children and disabled persons;
- include in the national policy measures to identify the scale of trafficking of foreign nationals and to provide such victims of THB with assistance in accordance with the Convention;
- ensure that gender mainstreaming is reflected in the national anti-trafficking policy;
- include in the national action measures to address THB for the purpose of removal of organs;
- provide in the national policy for increased measures to assist the reintegration of victims of THB and prevent re-trafficking;
- allocate the necessary resources to the NCCTHB to enable it to fulfil its mandate;
- include action against THB as a priority issue in the programmes and projects proposed for financing through EU Structural Funds.

3. Further, GRETA invites the Bulgarian authorities to introduce an independent evaluation of the annual National Programme as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.

Co-ordination

4. GRETA invites the Bulgarian authorities to invest in the human resources of the NCCTHB and the local commissions for combating THB so that they can effectively carry out the full range of tasks within their mandate.

5. GRETA also invites the Bulgarian authorities to further strengthen co-ordination between national and municipal authorities and NGOs active in the field of action against THB and to ensure that NGOs are involved in the planning of the national policy. This could involve the conclusion of formal agreements between state authorities and NGOs setting out the specific framework for co-operation. Particular attention should also be paid to involving Roma NGOs in the fight against THB.

Training of relevant professionals

6. GRETA invites the Bulgarian authorities to design future training programmes with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking and to assist and protect them. Training on THB-related issues should also be provided to staff working in homes for children without parental care and the local commissions for combating juvenile delinquency. During the training, particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking. As regards in particular training for law enforcement officials, it should aim also at developing skills for proactive prevention work.

Data collection and research

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

8. GRETA invites the Bulgarian authorities to continue conducting and supporting research on THB-related issues as an important source of information for future policy measures in the field of action against THB. Areas where research is needed in order to shed more light on the extent of the problem of THB include trafficking of foreign nationals and trafficking for the purpose of labour exploitation in Bulgaria.

International co-operation

9. GRETA invites the Bulgarian authorities to continue exploring possibilities for international co-operation in the fields of protecting and assisting victims of THB, and the investigation and prosecution of trafficking cases.

Awareness raising and education

10. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. GRETA urges the Bulgarian authorities to develop the aspect of prevention in the Roma community through specific campaigns which are not based on written materials. Increased emphasis should also be placed on changing social attitudes towards victims. The success of the efforts will depend on efficient data collection, adequate funding and regular evaluation.

Social, economic and other initiatives for groups vulnerable to THB

11. GRETA urges the Bulgarian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. GRETA concludes that there is a need for a comprehensive, co-ordinated and adapted approach towards the problems in the Roma community, involving all relevant institutions and aiming at improving their integration and access to education, health care and social assistance as an ultimate prevention measure against THB. In this context, GRETA encourages the Bulgarian authorities to include in the national strategy for the integration of Roma in society measures to prevent the trafficking of Roma and to provide victims with assistance and protection.

12. Further, GRETA urges the Bulgarian authorities to take steps to secure the registration of all persons from socially vulnerable groups at birth and for social services, both as a prevention measure and in order to avoid re-trafficking.

Measures to discourage demand

13. GRETA invites the Bulgarian authorities to continue their efforts to discourage demand for services from trafficked persons, targeting in particular the most common forms of THB in the country.

Border measures to prevent THB and measures to enable legal migration

14. GRETA considers that the authorities should make further efforts to:

- detect cases of THB in the context of border controls;
- introduce a checklist to identify potential THB-related risks during the visa application procedure.

15. GRETA invites the Bulgarian authorities to consider carrying out information campaigns to alert potential foreign national victims of THB-related risks, in co-operation with countries of origin.

Identification of victims of THB

16. GRETA encourages the Bulgarian authorities to ensure that the legal and institutional changes introduced by the new State policy in the area of juvenile justice lead to improved prevention, identification and assistance of child victims of trafficking.

17. GRETA concludes that the current identification system of trafficking victims is not sufficiently effective as it risks to leave out those who do not want to co-operate with the authorities and take part in judicial proceedings against the alleged traffickers. GRETA urges the Bulgarian authorities to address this issue.

18. GRETA considers that the Bulgarian authorities should pay more attention to the identification of persons detained as irregular migrants and provide additional training of staff. In this context, GRETA stresses the importance of good quality and independent interpreters for potential victims of THB from the early stages of the investigation about their possible condition as victims.

Assistance to victims

19. GRETA urges the Bulgarian authorities to step up their efforts to provide assistance to victims of trafficking, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice; when 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 access to public health care for victims of trafficking;
- improve the system for providing assistance to child victims of trafficking, both in terms of accommodation in crisis centres and as regards medium and long-term support programmes tailored to the needs of the children;
- set up a sufficient number of shelters for victims of trafficking to meet the needs for accommodating such victims, and ensure that the conditions provided in the shelters are adequate;
- ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in law;

- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with vocational training and access to the labour market.

20. GRETA invites the Bulgarian authorities to continue spreading knowledge of the NRM and to ensure that all relevant professionals are trained to apply it.

Recovery and reflection period

21. GRETA invites the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in Bulgarian law.

22. Further, GRETA urges the Bulgarian authorities to ensure that trafficked persons are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.

Residence permits

23. GRETA considers that the Bulgarian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit. GRETA also invites the Bulgarian authorities to consider granting temporary residence permits to victims who for various reasons do not co-operate with the competent authorities.

Compensation and legal redress

24. GRETA urges the Bulgarian authorities to increase their efforts to provide information to victims of THB about their right to compensation and the ways to access it, and to ensure that victims have effective access to legal aid in this respect.

25. Further, GRETA urges the Bulgarian authorities to make State compensation accessible to all victims of THB, irrespective of their nationality and residence status.

Repatriation and return of victims

26. GRETA considers that the Bulgarian authorities should take additional steps to develop the institutional and procedural framework for the repatriation and return of victims of THB, with due regard to their safety, dignity and protection. Particular attention should be paid to ensuring financial means for the travel of victims of THB.

Substantive criminal law

27. GRETA urges the Bulgarian authorities to include the aggravating circumstance of “deliberately or by gross negligence endangering the life of the victim” in the CC.

28. GRETA considers that the Bulgarian authorities should review the legislation in order to fully reflect the substantive provisions under Article 20 of the Convention regarding the criminalisation of acts relating to travel or identity documents.

29. GRETA invites the Bulgarian authorities to assess the implementation of the legal provisions concerning liability of legal persons for criminal offences related to THB, in the light of the provisions on corporate liability in Article 22 of the Convention.

Non-punishment of victims of THB

30. GRETA urges the Bulgarian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so.

Investigation, prosecution and procedural law

31. GRETA urges the Bulgarian authorities to step up the proactive investigation of potential cases of THB in sectors such as entertainment, tourism and construction.

32. Further, GRETA considers that the Bulgarian authorities should prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, *inter alia* with a view to ensuring an expeditious trial. In this context, GRETA wishes to stress the importance of making use of investigation techniques such as phone tapping and informants so that crimes related to THB can be investigated and prosecuted effectively.

33. GRETA also considers that the Bulgarian authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings. In this context, the Bulgarian authorities should take additional measures to ensure that victims of THB are adequately informed and assisted during the pre-trial and court proceedings.