

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



**Recommendation CP(2013)1
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by France**

*adopted at the 10th meeting of the Committee of the Parties
on 15 February 2013*

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 France on 9 January 2008;

Having examined the Report concerning the implementation of the Convention by France, adopted by GRETA at its 15th meeting (26-30 November 2012) in the framework of the first evaluation round;

Having examined the comments of the French Government on GRETA's report, submitted on 18 January 2013;

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

- the efforts made to put in place a legal framework to combat human trafficking;
- the efforts made to provide vocational training on trafficking for judges and prosecutors;
- the steps taken to prevent human trafficking among vulnerable groups in countries of origin;
- the good international co-operation of French law enforcement bodies in the framework of investigations and prosecution of traffickers;
- the existence of a system of seizure and confiscation, as well as a coherent set of special investigation techniques that can be used in cases of human trafficking.

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

- to strengthen co-ordination of policies and action against trafficking amongst all public actors, in particular by ensuring that the recently created inter-ministerial structure has the authority and means to effectively coordinate action against trafficking;
- to strengthen the comprehensive nature of action against trafficking by paying more attention to trafficking for the purposes of labour exploitation and child trafficking, including by setting up a comprehensive and coherent statistical system and by supporting research on trafficking with a view to drawing up, monitoring and assessing measures against human trafficking;
- to raise awareness among the public at large of the different types of trafficking and victims, in particular through information campaign, and to step up efforts aiming at discouraging the demand of services provided by victims of trafficking;
- to ensure that victims of trafficking effectively enjoy a recovery and reflection period, and that they can obtain a renewable residence permit;
- to improve the process of detection and identification of victims of trafficking by setting up a national referral framework which defines the role of each actor, and by ensuring that all relevant staff are trained periodically to detect and identify better victims;
- to improve access to assistance measures by all victims of trafficking, and to ensure that services provided in shelters are adequate and adapted to the specific needs of victims, with special attention for child victims;
- to set up an effective, comprehensive and coherent protection framework allowing the law enforcement authorities to effectively protect victims and witnesses against intimidation and reprisals from traffickers.

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

2. Requests the Government of France to inform the Committee of the Parties of the measures taken to comply with this recommendation by 15 February 2015;

3. Invites the Government of France 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 France

Core concepts and definitions

1. GRETA considers that stating explicitly the irrelevance of the consent of the victims to the intended exploitation could improve the implementation of anti-trafficking provisions.
2. GRETA urges the French authorities to:
 - amend the definition of trafficking so that the aims provided for expressly include exploitation for the purposes of forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs;
 - incorporate the means of "giving or receiving [...] payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation", as provided for under Article 4 of the Convention
 - remove the general element, constituent of the offence, which reads "in exchange for payment or any other benefit or a promise of payment or a benefit" and is not provided for in the Convention.

Comprehensive approach and co-ordination

3. In order to guarantee comprehensive and coherent action against trafficking and the involvement of civil society, GRETA urges the French authorities to:
 - ensure that the newly established inter-ministerial co-ordination network has adequate authority, mandate and resources for fulfilling its role of co-ordination of the policies and action against THB of the government's departments and other public agencies, and can involve, to a certain extent, NGOs specialised in action against THB and assisting victims;
 - ensure co-ordination both among local authorities and between them and the State, with regard to protection of trafficking victims, particularly children;
 - ensure that civil society is fully involved in devising, implementing and, ultimately, evaluating the national action plan to combat trafficking;
 - maintain a high level of co-operation with NGOs assisting victims and ensure not only that funding is adequate but also that it is specifically earmarked for trafficking in all its forms;
 - adopt measures to combat all forms of trafficking in human beings, including for the purpose of labour exploitation, and mainstream efforts to combat child trafficking.

Training of relevant professionals

4. GRETA invites the French authorities to ensure that the different aspects of action against trafficking, and particularly the offence of trafficking provided for in the Criminal Code, are also included in the initial training for judges and prosecutors.

5. GRETA considers that the French authorities should ensure that all personnel concerned periodically attend training courses, in order to improve the detection of potential trafficking victims, the official identification of victims and the assistance provided to them. These courses should be aimed at members of law enforcement agencies, personnel involved in social welfare for children, staff working in reception centres for refugees and holding centres for irregular migrants, staff working in accommodation centres for trafficking victims, diplomatic and consular staff, healthcare professionals, social workers, particularly those involved in outreach work, and labour inspectors.

Data collection and research

6. GRETA invites the French authorities to take due account of the CNCDH's work on human trafficking.

7. GRETA urges the French authorities to develop and maintain, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, a comprehensive and coherent statistical 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, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

8. GRETA invites the French authorities to carry out and support research on THB issues, so that public authorities can draw on the research findings in order to devise future anti-trafficking measures. The fields requiring more in-depth research include child victims, particularly Roma, trafficking for the purposes of labour exploitation, domestic servitude, and national human trafficking.

International co-operation

9. GRETA encourages the authorities to continue developing international co-operation and the initiatives carried out to prevent trafficking and assist the victims in the countries of origin, including beyond Europe.

Measures to raise awareness

10. GRETA urges the authorities to build greater public awareness of the different types of trafficking and victims. It considers it important in this connection that the authorities organise information and awareness-raising campaigns, involving civil society and using the findings of research and impact assessments

11. GRETA encourages the authorities to include expressly the topic of trafficking in human beings in the civic education programme.

12. GRETA urges the authorities to step up their efforts to discourage the demand for services provided by persons subjected to trafficking not only for the purposes of sexual exploitation but also for the purposes of domestic servitude or labour exploitation, for example in the sectors of agriculture, construction, catering and hotel sector, and cleaning, *inter alia*, through awareness-raising campaigns.

Social, economic and other initiatives for groups vulnerable to THB

13. GRETA considers that the French authorities should take social, economic and other measures for vulnerable groups who are already in France in respect of the different types of human trafficking, be it for the purposes of sexual or labour exploitation, such as foreign unaccompanied children - in particular of Roma origin or placed in waiting zones - irregular migrants or domestic employees.

Border measures to prevent THB

14. GRETA considers that the French authorities should ensure that trafficking, as distinct from irregular immigration, should be fully taken into account in the framework of action taken by the border police. GRETA considers that the French authorities should ensure that all staff of the law enforcement agencies concerned receive training on trafficking and the detection of trafficking victims, at regular intervals in order to keep up with trends in THB.

15. GRETA considers that the French authorities should ensure that the staff of the UCOLTEM are also specifically trained on trafficking, as distinct from illegal immigration, at regular intervals in order to keep up with trends in THB.

16. GRETA encourages the French authorities to ensure that all the information on the requirements governing entry to and stay in France is available in several languages not only on consulate websites but also in the information sheet inserts supplied with the visa so that the target persons can understand it.

17. GRETA considers that the French authorities should ensure that written information is provided to foreigners planning to come to France in a language that they can understand, in order to warn them of the risks of trafficking for the purposes of sexual exploitation, labour exploitation and domestic servitude, to inform them of the bodies which they may approach for assistance and advice, and to provide them with information on their rights, for instance through the setting up of a hotline.

Measures to ensure the quality, security and integrity of travel and identity documents

18. GRETA invites the authorities to continue their efforts to reinforce security of the different phases of passport issue.

Identification of victims of trafficking in human beings

19. GRETA urges the French authorities to:

- strengthen the multidisciplinary approach to the identification of victims by introducing a national referral framework defining the role to be played and the procedure to be followed by all the authorities and professionals who may come into direct contact with trafficking victims, including NGOs;
- develop tools for common use by all the actors concerned (guides, indicators, etc.) for identifying trafficking victims, so that steps for the detection and identification of trafficking victims are formalised and co-ordinated;
- not make the identification of trafficking victims from the outset conditional upon their co-operation with law enforcement agencies;

- place special emphasis on the identification of child victims and, to that end, adopt tools and a procedure geared to their particular situation;
- ensure the identification of foreign victims held in detention centres prior to deportation;
- develop training on the detection and identification of victims for institutional actors, particularly the police and gendarmerie forces and also labour inspectors, in order to avoid confusion between trafficking victims - particularly those belonging to vulnerable groups such as the Roma or unaccompanied foreign children - and offenders or irregular migrants.

Assistance to victims

20. GRETA urges the French authorities to step up measures of assistance to trafficking victims and, in particular, to:

- provide all trafficking victims with the same level of assistance regardless of their nationality, their willingness to co-operate with law enforcement agencies or their situation as regards the right to stay;
- ensure that the services provided in shelters are adequate and suited to the special needs of trafficking victims;
- strengthen the system for assisting child victims of trafficking, with respect to both accommodation and the setting up of medium- and long-term support programmes, geared towards the children's needs;
- provide sufficient human and financial resources to guarantee that all victims are effectively provided with the assistance they need, even where the provision of that assistance is delegated to NGOs;
- train all professionals tasked with implementing measures to assist and protect trafficking victims.

Recovery and reflection period

21. GRETA urges the French authorities:

- to ensure that trafficking victims are systematically informed of the possibility of a recovery and reflection period and are effectively granted one;
- to better inform, to that end, the services competent for requesting and granting the recovery and reflection period that such a possibility exists for victims, and the need for these services to systematically make use of it;
- to ensure that no termination of the recovery and reflection period is carried out on the ground that victims or potential victims have "on their own initiative renewed contact with the perpetrators" without due regard to the individual situation of the victim or potential victim of trafficking.

Residence permits

22. GRETA urges the French authorities:

- to ensure that victims of trafficking enjoy the right to obtain a renewable residence permit in line with internal law and in compliance with Article 14 of the Convention;
- to ensure that legislation is homogeneously applied throughout France, in particular, by appointing a contact person in each French préfecture who is trained on trafficking in human beings.

23. GRETA considers that the French authorities should ensure that permits issued are of sufficient duration and allow access to the labour market, thus promoting the reintegration of trafficking victims.

Compensation and legal redress

24. GRETA considers that the French authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking and, in particular:

- ensure that trafficking victims are systematically informed, in a language they understand, of their right to claim compensation and the procedures to follow;
- enable victims to exercise their right to compensation by guaranteeing them effective access to legal aid and to Commissions for the compensation of victims of offences;
- include all victims within the scope of compensation of victims of offences, regardless of their nationality and whether they are legally in France.

25. In addition, GRETA invites the French authorities to introduce a system for recording the compensation claimed and obtained by trafficking victims, regardless of the type of compensation.

Repatriation and return of victims

26. GRETA urges the French authorities to determine whether current arrangements for return and repatriation are suited to trafficking victims, who form a special category of candidates for return. In this respect, GRETA considers that the French authorities should:

- create a specific system of repatriation support for all victims of trafficking, ensuring in particular that they can travel in complete safety and reintegrate upon their return, in order to avoid re-trafficking;
- assess the risks of re-trafficking specific to child victims and systematically take the best interests of the child into account;
- strive to develop co-operation with the countries to which trafficking victims are returned, in order to improve their reintegration and rehabilitation.

Substantive criminal law

27. GRETA considers that a degree of confusion remains as a result of the application of offences relating to exploitation in trafficking situations, which is not without consequences for the rights of victims, for international co-operation - particularly regarding trafficking for the purpose of sexual exploitation - and for sanctions and protection, in particular for victims of trafficking for the purposes of labour exploitation and begging. Accordingly, it invites the authorities to make further efforts to clarify the situation, in particular through a general criminal policy circular devoted to trafficking.

28. GRETA invites the French authorities to explore the possibility of criminalising the use of the services of a victim in the knowledge that that person is a victim of trafficking, not only in cases of sexual exploitation but also for the purposes of labour exploitation.

29. GRETA urges the French authorities to incorporate a specific offence in the Criminal Code to punish the act of retaining, removing, altering, damaging or destroying a travel or identity document of another person, intentionally and for the purpose of enabling trafficking in human beings.

Non-punishment of victims of trafficking in human beings

30. GRETA urges the French authorities to take all appropriate measures to ensure that the possibility provided for in internal law of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so, be fully upheld, having regard to the serious human rights violation victims have suffered.

Investigation, prosecution and procedural law

31. GRETA encourages the French authorities to exclude the offence of trafficking from the plea bargaining procedure.

32. GRETA encourages the French authorities to make full use of the existing system of seizure and confiscation in the context of THB cases.

33. GRETA encourages the French authorities to consider the possibility of including the offence of trafficking among those expressly listed in the Code of Criminal Procedure for which authorised NGOs may launch a civil action on behalf of victims or intervene to assist them.

34. GRETA encourages the French authorities to step up their efforts to ensure that the offence of trafficking is prosecuted whenever justified by the circumstances of the case, including through specific training for or specialisation of the competent actors.

Protection of victims and witnesses

35. GRETA urges the French authorities:

- to strengthen the procedural measures available for protecting victims and avoid them being subjected to intimidation and reprisals during and after the criminal proceedings;
- to provide for protection specific to child victims of trafficking, regardless of the resulting type of exploitation;
- to ensure that victims are duly informed and assisted, that the law enforcement authorities are trained in assessing the risks faced by victims, and that international co-operation tools are reinforced and effectively implemented in the case of persons living in danger outside France;
- to provide the police and gendarmerie with adequate human resources and procedural means to ensure the protection of victims and witnesses who are threatened in the framework of the investigations they are leading.