

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



**Recommendation CP(2013)4
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Portugal**

*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 Portugal on 27 February 2008;

Having examined the Report concerning the implementation of the Convention by Portugal, 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 Portuguese Government on GRETA's report, submitted on 4 February 2013;

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

- the appointment of a National Rapporteur for Human Trafficking and the setting up of the Observatory of Trafficking in Human Beings and the Technical Committee monitoring the implementation of the national action plan;
- the development of the national legal framework related to action against trafficking in human beings and the adoption of a legislative provision criminalising the use of services of a person with the knowledge that the person is a victim of trafficking;
- the development of a comprehensive statistical system on trafficking in human beings;
- the efforts made to train relevant professionals and to address the vulnerability of certain groups to human trafficking;

- the possibility to grant residence permits to victims of trafficking both on the basis of their personal situation and when co-operating with the competent authorities;

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

- adapting anti-trafficking policy to the current trends, in particular by focusing more attention on trafficking for the purpose of labour exploitation and taking greater account of male and child victims;
- continuing to improve the identification of victims of trafficking by disconnecting it in practice from victims' participation in criminal proceedings, stepping up proactive investigations and strengthening the multi-disciplinary approach to victim identification;
- enhancing the assistance provided to victims of trafficking, in particular by providing appropriate and safe accommodation throughout the country's territory for such victims, including men and children;
- ensuring that victims of trafficking are informed of the possibility of being given a recovery and reflection period and are effectively granted such a period;
- ensuring that victims of trafficking can effectively obtain compensation, including by providing them with adequate information on the right to compensation and the procedures to follow, as well as with legal aid;
- taking measures to ensure that crimes related to human trafficking are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

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

2. Requests the Government of Portugal 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 Portugal 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 Portugal

Definition of trafficking in human beings

1. In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Portuguese authorities should explicitly include slavery and practices similar to slavery and servitude in the forms of exploitation resulting from human trafficking.
2. GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.

Comprehensive approach and co-ordination

3. GRETA considers that the Portuguese authorities should adapt their anti-trafficking policy to the current trends in THB, in particular by focusing more attention on trafficking for the purpose of labour exploitation and taking greater account of male and child victims who are not appropriately catered for under the current system.
4. GRETA encourages the Portuguese authorities to continue this good practice, in keeping with the spirit of the Convention, which entails that co-ordinating bodies should be given the necessary authority to ensure effective co-ordination between public agencies.
5. GRETA invites the Portuguese authorities to continue strengthening links with NGOs, to involve them as fully as possible in the design, implementation, co-ordination and evaluation of national action plans and policies, and to allocate an appropriate level of funding to them.

Training of relevant professionals

6. GRETA considers that there is need for further investment in continuous training and awareness raising, in particular of law enforcement officials, prosecutors, judges, labour inspectors, social workers and staff members of NGOs likely to come into contact with victims of THB.

Data collection and research

7. GRETA welcomes the development of what is intended to be a comprehensive and coherent statistical system on THB and invites the Portuguese authorities to ensure that statistical data are collected from all the main actors. GRETA recalls that this should be accompanied by all the necessary measures to ensure respect for the rights of data subjects to personal data protection, including when NGOs working with victims of human trafficking are asked to provide information to feed into the national database.
8. GRETA invites the Portuguese authorities to continue conducting and supporting research on THB issues, including when such studies are carried out by Portuguese civil society, 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 the problem of THB include trafficking within Portugal, trafficking for the purpose of labour exploitation and trafficking in children.

International co-operation

9. GRETA invites the Portuguese authorities to continue to explore possibilities for international co-operation, particularly as regards protecting and assisting victims of human trafficking and prosecuting traffickers.

Awareness raising and education

10. GRETA encourages the Portuguese authorities to continue their awareness-raising efforts and to launch new campaigns and/or support those organised by civil society. GRETA considers that future awareness-raising actions should be designed on the basis of an assessment of previous measures and should target identified needs.

Measures to discourage demand

11. GRETA considers that the Portuguese authorities should continue their efforts to discourage demand for services provided by victims of THB.

Social, economic and other measures for groups vulnerable to THB

12. GRETA considers that the authorities should step up the implementation of economic and social measures which address the underlying causes of THB (economic and social situation, lack of education, unemployment, etc.) and, as much as possible, make the necessary human and financial resources available to them.

Border measures and measures to enable legal immigration

13. GRETA considers that the authorities should continue their efforts to detect cases of THB when carrying out border checks.

14. GRETA also invites the authorities to provide training to consular staff on THB issues to make it easier for them to detect risks of THB during the visa application procedure.

Identification of victims of trafficking in human beings

15. GRETA urges the Portuguese authorities to:

- ensure that in practice the formal identification of victims is dissociated from their participation in the investigation and court proceedings;
- review the indicators used for the purposes of reporting and identification of victims, so that they cover every possible situation;
- ensure that all stakeholders in the identification of victims of trafficking adopt a more proactive approach and step up their outreach work so that victims are identified more efficiently;
- step up victim identification training for front-line professionals (particularly members of the police, labour inspectors, social workers, health professionals and NGO staff).

16. GRETA also considers that the Portuguese authorities should strengthen the multi-disciplinary approach to victim identification, by building on the experience of the multi-disciplinary team run by the Family Planning Association (APF) and by setting up similar multi-disciplinary teams in other parts of the country.

Assistance measures

17. GRETA considers that the Portuguese authorities should reassess trafficking trends in Portugal and provide appropriate and safe accommodation throughout the country's territory for victims of trafficking, including for men and children.

18. GRETA urges the Portuguese authorities to step up the assistance provided to trafficking victims, and in particular to:

- ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed when victims of trafficking are accommodated in structures not specifically designed for such victims;
- when assistance is delegated to NGOs as service providers, ensure that adequate human and financial resources are allocated to guarantee that the necessary assistance is provided to all victims;
- improve the assistance system for child victims of trafficking with regard to accommodation and the introduction of medium and long-term support programmes appropriate to children's needs.

19. GRETA also invites the authorities to continue providing regular training to all professionals responsible for implementing assistance measures for victims of trafficking.

Recovery and reflection period

20. GRETA welcomes the provision by the Portuguese authorities of a period longer than the minimum of 30 days envisaged in the Convention and urges the Portuguese authorities to ensure that victims of trafficking are systematically informed of the possibility of being given a recovery and reflection period and are effectively granted such a period.

Residence permit

21. GRETA invites the Portuguese authorities to ensure that victims of trafficking can fully benefit from their right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.

Compensation and legal redress

22. GRETA urges the Portuguese authorities to ensure that victims of trafficking are made aware of the right to compensation and of the procedures to follow, and can effectively enjoy this right in practice, particularly through access to legal assistance in this respect.

Repatriation and return of victims

23. GRETA considers that the Portuguese authorities should determine whether the existing assisted voluntary return provisions are appropriate for victims of trafficking, who constitute a specific group of candidates for return, and should take additional measures to:

- ensure that victims of trafficking effectively have access to return and repatriation procedures which take due account of the individual's rights, security and dignity and make it possible to prevent re-trafficking;
- develop co-operation with countries to which trafficking victims return, in order to conduct an appropriate assessment of the risks, ensure victims' safety on their return and improve their reintegration.

Substantive criminal law

24. In order to be fully consistent with the Convention, GRETA considers that the Portuguese authorities should include as aggravating circumstances all situations envisaged under Article 24 of the Convention.

Non-punishment of victims of human trafficking

25. GRETA invites the Portuguese authorities to clarify the situation through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so or, at the very least, by issuing guidance to public prosecutors advising them on the steps to be taken when prosecuting suspects who might be victims of trafficking.

Investigation, prosecution and procedural law

26. GRETA invites the Portuguese authorities to harmonise the legislation related to special investigation techniques.

27. GRETA considers that the Portuguese authorities should take steps to guarantee the effective application of the legal provisions concerning the confiscation of traffickers' assets.

28. GRETA urges the Portuguese authorities to take steps to identify gaps in the investigation procedure and the presentation to cases in courts, *inter alia* with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

29. Furthermore, GRETA considers that there is need for improvement of the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about THB and victims' rights. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, and to secure convictions of traffickers.