

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



**Recommendation CP(2012)10
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by the United Kingdom**

*adopted at the 8th meeting of the Committee of the Parties
on 13 November 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 the United Kingdom on 17 December 2008;

Having examined the Report concerning the implementation of the Convention by the United Kingdom, adopted by GRETA at its 14th meeting (25-29 June 2012) in the framework of the first evaluation round;

Having examined the comments of the British Government on GRETA's report, submitted on 4 September 2012;

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

- the setting up of the UK Human Trafficking Centre as a point of co-ordination for the development of expertise and co-operation to combat trafficking in human beings, and the adoption of the UK Government's Strategy on Human Trafficking for 2011-2015;
- the introduction of a National Referral Mechanism which formalises the identification of victims of trafficking and facilitates their referral to support services;
- the efforts of the British authorities and the Devolved Administrations to co-ordinate anti-trafficking action and to ensure that civil society is effectively involved;
- the steps taken in the constituent countries of the UK to assist victims of trafficking, including through the funding of safe houses for adult victims of 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, which has resulted in a considerable number of victims of trafficking having received a temporary residence permit;

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

- taking measures to ensure that all persons who were subject to trafficking are identified as victims of trafficking, regardless of when the trafficking took place and what the person's needs for assistance are at the time of referral;
- improving the identification of child victims of trafficking and addressing the problem of children going missing from local authority care, by providing suitable safe accommodation and ensuring that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian;
- adopting a clear legal and policy framework for the return of victims of trafficking, having due regard for the rights, safety and dignity of the person and the status of legal proceedings, and in order to avoid re-trafficking and re-victimisation.
- making additional efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation and domestic servitude;
- taking steps to address the vulnerability to trafficking of adults and children from disadvantaged groups in the UK through targeted social, economic and other initiatives;
- strengthening the effectiveness of investigations and prosecutions of human trafficking-related offences with a view to securing more convictions.

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

2. Requests the British Government to inform the Committee of the Parties of the measures taken to comply with this recommendation by 13 November 2014;

3. Invites the British Government 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 the United Kingdom

Core concepts and definitions

1. GRETA considers that the competent authorities should address the consequences of having numerous pieces of legislation on THB and ensure that all types of THB are included and applied in full conformity with the Council of Europe Convention. In this context, GRETA considers that a dedicated legislation on human trafficking would provide legal status to victims of trafficking, including the right to a recovery and reflection period, as well as other provisions of the Convention which reflect the human rights-based approach to action against trafficking.
2. GRETA urges the competent authorities to ensure that all victims of trafficking for the purpose of sexual or any other type of exploitation who are under 18 years of age are to be considered as child victims of trafficking within the meaning of Article 4 of the Convention.
3. As regards Scotland, GRETA considers that the Scottish authorities should expand the scope of trafficking for the purpose of sexual exploitation to cover all the activities included in the Sexual Offences (Scotland) 2009 Act.
4. GRETA urges the British authorities to revisit the guidance given to Competent Authorities on so-called "distant in time/historic claims", with a view to ensuring that all persons subject to THB are identified as victims of trafficking and have access to the measures included in Articles 11, 12, 13, 14, 15, 16, 26 and 28 of the Convention regardless of what the immediate assistance needs of such victims may be.

Comprehensive approach and co-ordination

5. GRETA considers that the authorities should involve additional relevant bodies in the consultation on and assessment of anti-trafficking action, such as the Gangmasters Licensing Authority, the Children's Commissioners for England, Northern Ireland, Scotland and Wales, and the Anti-Trafficking Co-ordinator for Wales.
6. In addition, GRETA invites the British authorities to carry out an independent mid-term evaluation of the Human Trafficking Strategy in order to assess the implementation and impact of the actions planned, and consider whether any adjustments are necessary.
7. In order to ensure that action to combat THB is comprehensive, GRETA considers that the British authorities should:
 - increase efforts to prevent and detect THB within the UK and of British nationals abroad;
 - step up action to combat THB for the purpose of labour exploitation, in particular in domestic service, care, hospitality, agricultural, fisheries and construction sectors, including through extending the scope of action of the GLA;
 - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking;
 - consider the return of victims of trafficking as an integral part of anti-trafficking policy which is critical to achieve a comprehensive framework for the protection of victims and their rehabilitation.
8. Further, GRETA considers that the British authorities should keep under scrutiny, together with NGOs, the new overseas domestic worker system to ensure that it does not increase trafficking of overseas domestic workers.

Training of relevant professionals

9. GRETA invites the competent authorities to continue ensuring that all relevant staff, including those working in NGOs contracted to provide assistance to victims of trafficking, are trained periodically in order to improve the detection of potential victims of trafficking, the formal identification of victims and the provision of assistance to them. Such training should be provided to law enforcement officers, immigration officials, staff working in immigration removal centres, staff working in shelters for victims of trafficking, local authorities staff, diplomatic and consular staff, health professionals, social workers and labour inspectors.

10. Further, GRETA invites the competent authorities to step up the training provided to prosecutors and judges on the issue of THB and the applicable legislation and case-law, by stressing the importance of applying a human rights-based approach on the basis of the Council of Europe Convention and the case-law of the European Court on Human Rights.

Data collection and research

11. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking legislation and policy, the British authorities as well as the authorities of the constituent UK countries, should continue developing a comprehensive and coherent data collection system on trafficking in human beings by compiling 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.

12. In addition, GRETA invites the British authorities to continue conducting and supporting research on trafficking-related issues as an important source of information for future policy measures. Areas where additional research is needed include internal trafficking in the UK and trafficking for the purpose of labour exploitation and domestic servitude, including in diplomatic households. It is also important to study the reasons why potential victims of trafficking refuse to enter the NRM and what could be done to discourage demand for the services of trafficked people.

International co-operation

13. GRETA invites the British authorities to continue developing the aspect of international co-operation with a view to preventing THB, assisting victims of trafficking, ensuring victims' safe return, and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.

Measures to raise awareness

14. GRETA considers that the competent authorities should plan future information and awareness-raising campaigns with the involvement of civil society and on the basis of previous research and impact assessment. More should be done to raise awareness of internal trafficking and the risks of trafficking of British nationals abroad, with a special emphasis on trafficking in children. More attention should also be paid to raising awareness of the risks of trafficking in men.

15. Further, GRETA invites the British authorities to continue contributing to awareness-raising prevention activities in the main countries of origin of victims of trafficking in the UK.

Measures to discourage demand

16. In addition to continuing efforts to discourage demand for sexual services, GRETA considers that the British authorities should step up their efforts to discourage demand for the services of trafficked persons for the purpose of domestic servitude and for labour exploitation, including in the agriculture, fisheries, construction, hospitality and cleaning sectors, *inter alia*, through strengthening the role of labour inspections.

Social, economic and other initiatives for groups vulnerable to THB

17. GRETA considers that the British authorities should take steps to address the vulnerability to trafficking of adults and children from disadvantaged groups in the UK through targeted social, economic and other initiatives, and to secure funding for such initiatives.

Border measures to prevent THB and measures to enable legal migration

18. GRETA considers that the British authorities should step up their efforts to detect potential victims of trafficking at borders and provide written information to foreign nationals planning to travel to the UK in a language that they can understand, in order to alert them about the risks of THB for sexual and labour exploitation and domestic servitude, inform them of where they can go for help and advice, and provide them with information on their rights.

Identification of victims of trafficking

19. GRETA considers that the British authorities should take further steps to secure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures contained in the Convention. To this end, the British authorities should continue to review the identification procedure and decision making process under the NRM in the light of experience gathered since its inception, analysis of NRM data and research.

20. As part of the review of the NRM, GRETA considers that the British authorities should:

- expand the list of First Responders by including more civil society organisations as well as agencies responsible for employment standards inspections, regulating domestic work and making licensing decisions;
- entrust the identification of victims of trafficking who are illegally present in the UK to persons who are not involved in the asylum seeking procedure of the applicant, to avoid conflicts in the decision making;
- ensure that the guidance, toolkits and criteria used for the identification of victims of trafficking by frontline staff are harmonised and that application is rigorously monitored;
- review current practice as regards reconsidering identification decisions when new information is available;
- improve the identification of victims of trafficking in detention centres, by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to legal assistance;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in sectors most at risk;
- ensure that following a positive reasonable grounds decision, potential victims of trafficking are speedily removed from detention and offered assistance and protection as provided in the Convention.

21. Further, GRETA invites the British authorities to:

- further develop multi-agency training for frontline staff, First Responders and Competent Authorities on the identification of victims and their protection;
- ensure that there is a regular exchange of information to enhance anti-trafficking practice across partner agencies;
- commission an independent review of the NRM.

Special provisions in the context of the identification of child victims of trafficking

22. GRETA urges the British authorities to take further steps to improve the identification of child victims of trafficking, and in particular to:

- enhance the involvement of local authorities in the decision making process in order to ensure that the special needs and circumstances of children are taken into account during identification; in this context, it would be appropriate that Local Children Safeguarding Boards (Health and Social Care Trusts in Northern Ireland) act as the Competent Authority in child cases;
- ensure that unaccompanied children are not returned from entry points before being fully assessed by local authority children's services;
- conduct interviews with child victims of trafficking in a child-friendly setting;
- train all professionals working with child victims of trafficking to recognise and respond appropriately to their needs;
- ensure that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian.

23. Further, GRETA urges the British authorities to take steps to address the problem of children going missing from local authority care, by providing suitable safe accommodation and adequately trained supervisors or foster parents.

24. GRETA also invites the British authorities to uphold their commitment to end child detention for immigration purposes and seek alternatives to detention, in line with the best interest of the child.

25. In addition, GRETA invites the British authorities to ensure full compliance with Article 10(3) of the Convention concerning age verification.

Assistance to victims of trafficking

26. GRETA considers that the authorities of the UK and the constituent countries should make further efforts to ensure that all potential and actual victims of trafficking are provided with adequate support and assistance from their identification through to their recovery. This should involve, in particular:

- adopting clear support service minimum standards for victims of trafficking and the provision of adequate funding to maintain them;
- ensuring that all children victims of trafficking benefit from the assistance measures provided for under the Convention, including appropriate accommodation and access to education (as regards accommodation for children, see paragraph 248);
- enabling victims of trafficking to have access to the labour market, vocational training and education as a form of rehabilitation;
- ensuring that victims of trafficking who need it can benefit from translation and interpretation services;
- improving the provision of legal advice or assistance to victims on various matters (NRM, asylum criminal proceedings, compensation).

27. GRETA invites the British authorities to enshrine in law the right to a recovery and reflection period and to emphasise to Competent Authorities officials the need to respect this period as defined in the Convention. Potential victims of trafficking should be systematically informed of the implications of this period, in line with Article 13 of the Convention.

Residence permits

28. GRETA invites the British authorities to further sensitise law enforcement agencies of the possibility to request temporary residence permits for victims of trafficking who co-operate in the investigation or criminal proceedings.

Compensation and legal redress

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

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- ensure that all victims of trafficking are eligible for compensation under the existing compensation scheme;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- encourage prosecutors to request compensation orders to the largest possible extent;
- enable victims of trafficking who have left the UK to benefit from the possibilities to claim compensation.

30. Further, GRETA invites the British authorities to introduce a system for registration of compensation claims and awards to victims of trafficking regarding all forms of compensation.

Repatriation and return of victims of trafficking

31. GRETA urges the British authorities to review the appropriateness of existing assisted voluntary return programmes for victims of trafficking as a specific category and to adopt a clear legal and policy framework for the return of trafficked persons. In this context, the British authorities should take steps to:

- ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking;
- encourage Refugee Action to co-operate closely with support providers with a view to ensuring end-to-end services for victims of trafficking;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.

Non-punishment of victims of trafficking

32. GRETA urges the British authorities to step up their efforts to adopt a victim-centred approach when implementing Article 26 of the Convention by:

- encouraging prosecution services to consider THB as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking;
- ensuring that CPS, COPFS and ACPO guidance are fully applied in order to prevent imposing penalties on identified victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so;
- ensuring that, while the identification procedure is ongoing, potential victims of trafficking are not punished for immigration-related offences;
- conducting age assessments promptly and applying the benefit of the doubt as regards the age of child victims of trafficking who were compelled to be involved in unlawful activities.

Investigation, prosecution and procedural law

33. GRETA calls on the Public Prosecution Service to promptly issue guidance on THB offences in Northern Ireland.

34. GRETA considers that the competent authorities should:

- continue efforts to train law enforcement officials to detect cases of THB and to step up proactive investigations, including through co-operation between the police, UKBA and other relevant actors and the setting up of more units of specialised investigators;
- review the enforcement system for labour regulations and standards in the UK and address training and other relevant needs to increase detection and investigation of THB for labour exploitation, forced labour and domestic servitude across the UK;
- encourage the prosecution services in each UK country to develop their specialism in THB with a view to improving the collection of sufficient evidence to successfully prosecute more traffickers.

Protection of victims and witnesses

35. GRETA urges the competent authorities to:

- step up efforts to protect victims and to prevent intimidation during the investigation and during and after the court proceedings, including measures to protect their private life and safety. In this context, the British authorities should take additional measures to ensure that victims of trafficking are adequately informed and assisted during the pre-trial and court proceedings;
- address the gap in victim protection at Employment Tribunals for victims of trafficking for the purpose of labour exploitation.