



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

Recommendation CP(2017)29 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland

*adopted at the 21st meeting of the Committee of the Parties
on 13 October 2017*

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 Ireland on 13 July 2010;

Recalling Committee of the Parties' Recommendation CP(2013)9 of 7 October 2013 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland and the report of the authorities of Ireland on measures taken to comply with this recommendation, submitted on 7 November 2015;

Having examined the second report concerning the implementation of the Convention by Ireland, adopted by GRETA at its 29th meeting (3-7 July 2017), as well as the comments of the Government received on 12 September 2017;

1. Welcomes the progress made since the first round of evaluation in the following areas:
 - the further development of the legal framework for combating trafficking in human beings, including broadening the scope of the definition of trafficking in human beings, criminalising the purchase of sexual services from trafficked persons and reforming the system for examining applications for international protection;
 - the setting up of the Garda National Protective Services Bureau and the inclusion in it of the Human Trafficking Investigation and Co-ordination Unit, thereby separating the identification of victims of trafficking from immigration control;
 - the adoption of a comprehensive and far-reaching new National Action Plan to Prevent and Combat Human Trafficking and the increased funding for projects run by civil society;
 - the efforts made to provide training to relevant professionals, expand the categories of staff targeted and adopt a multi-stakeholder approach to training;

- the measures taken to raise public awareness of human trafficking, discourage demand and assess the impact of public campaigns and other measures;
- the steps taken to prevent trafficking for the purpose of labour exploitation, including through adopting new legislation, reforming the labour inspection process and introducing schemes for regulating the employment of non-EEA nationals;
- the efforts made in the area of international co-operation, both when it comes to police co-operation and supporting international development projects.

2. Recommends that the Irish authorities take measures to address the following issues for immediate action identified in GRETA's report:

- ensure that victims of trafficking are identified proactively and without delay, including by:
 - reviewing as a matter of priority the victim identification procedure and decision-making process, in the light of the case *P. v. The Chief Superintendent of the Garda National Immigration Bureau & Ors.* and the recommendations made in GRETA's first report. The aim of the reviewed procedure should be to cover all victims, including EEA and Irish citizens, as well as asylum seekers, and to formalise the decision-making process by specifying the requirements for a "reasonable grounds" decision and the rights which flow from it;
 - promoting multi-agency involvement in the identification of victims of trafficking by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers, health-care staff and other bodies which may come into contact with victims of trafficking;
 - ensuring that whenever there are reasonable grounds to believe that a person is a victim of trafficking on the basis of operational indicators, he/she is provided with all the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened and whether the person co-operates in the investigation;
 - ensuring that frontline staff are provided with regular training, guidance, toolkits and criteria for the identification and referral of victims of trafficking;
 - pursuing 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 in sectors most at risk;
 - ensuring that victims of trafficking have early access to legal practitioners with specialised knowledge of human trafficking who can represent them;
 - monitoring closely the relationship between asylum and human trafficking with a view to ensuring that the right to seek and enjoy asylum does not impede identification as a victim of trafficking;
 - improving the identification of victims of trafficking in detention centres, by giving access to such centres to specialised NGOs and lawyers, and ensuring that following a positive reasonable grounds decision, presumed victims of trafficking are speedily removed from detention and offered assistance and protection as provided in the Convention;

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- improve the provision of assistance to victims of trafficking, and in particular:
 - review as a matter of priority the policy of accommodating presumed victims of trafficking in accommodation centres for asylum seekers, with a view to ensuring that the accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services. As a first step, the authorities should set up as a pilot a specialised shelter, with dedicated, trained personnel. In addition to better support and protection of the victims, this would also be in the interest of the investigation;
 - enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victims' nationality or immigration status;
 - ensure that all possible foreign victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Officers performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators;
 - take measures to ensure that avenues for compensation are easily accessible to trafficked people, and in particular:
 - encourage prosecutors to request compensation orders in all relevant cases;
 - make the State compensation scheme effectively accessible to victims of trafficking, which would require a review of the current conditions for eligibility;
 - enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;
 - include victim compensation into training programmes for law enforcement officials, prosecutors and judges;
 - make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking;
 - take further measures to ensure compliance with Article 26 of the Convention, including by:
 - adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or developing detailed, updated guidance for police officers and prosecutors on the aims and scope of the non-punishment provision;
 - encouraging prosecutors to consider trafficking in human beings as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking;
 - including the non-punishment provision in the training of police officers, prosecutors, judges and lawyers;
 - take measures to ensure that human trafficking offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, in particular by:
 - encouraging the Office of the Director of Public Prosecutions to further develop their specialism in human trafficking with a view to successfully prosecuting more traffickers;
 - ensuring that units investigating human trafficking offences are properly resourced;
 - continuing to improve the knowledge of investigators, prosecutors and judges about the seriousness of trafficking in human beings, the severe impact of exploitation on the victims and the need to respect their human rights;

- reviewing the legislation and the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to trafficking for the purpose of labour exploitation/forced labour and the setting up Joint Investigation Teams);
- strengthening efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation.

3. Requests the Government of Ireland to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by 15 October 2018.

4. Recommends that the Government of Ireland takes measures to implement the further conclusions of GRETA's second evaluation report.

5. Invites the Government of Ireland to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.