

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CP(2014)3

**Report submitted by the Croatian authorities
on measures taken to comply with
Committee of the Parties Recommendation CP(2012)3
on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

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VLADA REPUBLIKE HRVATSKE
Ured za ljudska prava i
prava nacionalnih manjina

Zagreb, 29 January 2014

Petya Nestorova
Executive Secretary
of the Council of Europe Convention on Action
against Trafficking in human beings

Dear Mrs. Nestorova,

Thank you very much for your letter dated 2 December 2013 on the follow up to the recommendation of the Committee of the Parties on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia.

It is my pleasure to transmit the information on the measures taken by Croatia to comply with the said recommendation.

This information focuses on the period since the adoption of the recommendation on 30 November 2011 and intends to complement but not to repeat information transmitted earlier during the 1st evaluation round by Croatia.

Yours sincerely,



DIRECTOR

Branko Sočanac, M.A.



**GOVERNMENT OF THE REPUBLIC OF
CROATIA
Office for Human Rights and Rights of
National Minorities**

**Report on the Implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

**Replies to recommendations from the Report – REPUBLIC
OF CROATIA**

January, 2014

Measures taken to comply with the Recommendation on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia

29 January 2014

Comprehensive approach and co-ordination

Recommendation 1

Croatia continuously strives to reinforce the comprehensive approach to the fight against all forms of THB and to strengthen coordination at the national and international levels.

This is particularly important for the first proposal regarding the participation of all public bodies and NGOs in the Operative team and their active participation.

Also, the participation of NGO's in the activities of the mobile teams is foreseen by the Protocol on Identification, Help and Assistance to Victims of Trafficking in Human Beings, which clearly defines that NGOs are involved as members of the mobile teams. The Government has already taken steps to further strengthen their role by providing additional training within the new National Plan for the Suppression of Trafficking in Human Beings 2012-2015. Also, members of the NGOs are continuously informed about all anti-trafficking activities and their results through their participation at every meeting of the Operational team. This can be seen by looking at the participants list of every meeting. Furthermore, the Office of the National Coordinator sends to all members of the Operational team as well as the members of the National Committee for the Suppression of Trafficking in Human Beings a written note from the meeting.

Regarding the recommendation to draw up clear selection criteria for membership of NGOs in the anti-trafficking bodies, this recommendation is also fulfilled because the development of the selection criteria for NGOs has been foreseen as one of the measures within the new proposal of the National Plan for the Suppression of Trafficking in Human Beings 2012-2015. The deadline set within this National plan for this measure is 31 December 2014.

As for the practical measures to improve co-operation and communication between the police and the NGOs at the local level, they include trainings for the relevant stakeholders at the local level, providing funding for the annual tender for NGOs and one of the priorities within this tender are the "Projects of raising awareness in the local community about the causes and forms of THB and the unacceptability of using the services provided by victims of THB". The Office for human rights and the rights of national minorities has also conducted an IPA 2010 project entitled "Enhancing the Identification of Victims of Trafficking in Human Beings". This project made it possible to conduct regional trainings throughout the year 2013 for police, state attorneys, NGOs and state (labour) inspectors.

Recommendation 2

The Republic of Croatia finds periodic evaluation of the National plan for suppression of trafficking in human beings to be a very useful tool in its monitoring. Thus, the Office for Human Rights and Rights of National Minorities drafts an annual report on the implementation of the national strategic documents. In the past two years two such Reports were adopted by the Government for years 2011 and 2012. This Report is also a basis for developing national strategies and plans, and it serves as a tool for assessing the success of the implementation of measures and objectives set by the national plan.

Data collection and research**Recommendation 3**

The Office for Human Rights and Rights of National Minorities conducted an IPA 2010 project entitled "Enhancing Identification of Victims of Trafficking in Human Beings". Within this project a draft of the new Protocol on Data Collection and Exchange was developed in 2013. This Protocol covers the following partners: Ministry of Interior, State Attorney's office, Ministry of Social Policy and Youth, Ministry of Foreign and European Affairs, Ministry of Science, Education and Sport, State Inspectorate, Ministry of Health, Croatian Employment Agency, Croatian Red Cross, and "PETRA" NGO network.

The purpose of the Protocol on Data Collection and Exchange in the field of fighting trafficking in human beings is to provide relevant data and information to the Office for Human Rights and Rights of National Minorities, in order to increase the quantity and quality of the relevant data and the efficiency of the victim identification system, and to provide a solid ground for future trafficking assessments, policy development and resources allocation.

This Protocol is ready to be forwarded to Governmental procedure for adoption.

Also, the State Attorney's Office of the Republic of Croatia has enhanced its data base in a way that the data for the criminal offence of slavery from Article 105 of the Criminal Act, the criminal offence of trafficking in human beings from Article 106 of the Criminal Act, the criminal offence of trafficking in body parts and human foetal tissue from Article 107 of the Criminal Act and the criminal offence of child pimping from Article 162 of the Criminal Act are collected in a way that the data base contains all the relevant data on the perpetration of these criminal offences in line with the EUROSTAT questionnaire on human trafficking. Also, the data base contains the number and the type of the State Attorney's decision regarding each individual criminal report for the criminal offences reported as the criminal offence of human trafficking or as any of the other above mentioned criminal offences, regardless if the legal qualifications changed in further proceedings, thus creating a good "track record". Finally, the data base contains the number and types of verdicts for the same criminal offences.

Recommendation 4

Regarding the recommendation on conducting research on issues related to human trafficking, we would like to emphasize that the Office for Human Right and Rights of National Minorities as the partner in the IPA 2010 entitled "Enhancing Identification of Victims of Trafficking in Human Beings" participated in implementing the assessment of the state of play with respect to trafficking in human beings in the Republic of Croatia. The mentioned research/situation assessment was completed in spring 2013 and it will be available on the web site of the Office after it is translated into Croatian.

International cooperation

Recommendation 5

Republic of Croatia and all relevant public institutions as well as NGOs continuously work on international co-operation in the field of suppression of trafficking in human beings. This means not only attending international and regional conferences and seminars but also practical international case-work if such need arises from the specific trafficking case.

Awareness raising

Recommendation 6

The Office has continuously been implementing a media campaign for combating trafficking in human beings by broadcasting clips dedicated to combating THB on TV, during times dedicated to humanitarian issues. Furthermore, at the occasion of the EU Anti-Trafficking Day against trafficking in human beings in 2013, the Office started with the implementation of a new public campaign targeted at potential users of services provided by victims of THB, under the motto: "If you are a true man, you will not buy a woman". The mentioned campaign will be implemented throughout one year, and so far we organised a visibility event launching the campaign on 18 October 2013 on one of the central squares in Zagreb (Cvjetni trg). This event is dedicated to citizens and to raising public awareness of this topic. Also, the campaign facebook page was established on the same day (the link to the facebook page is on the website of the Office for Human Rights and Rights of National Minorities). We also issued the brochures that you now have in front of you. We still plan to develop posters, ads for taxi vehicles and billboards, which will be set up along the motorways leading to coastal tourist destinations.

The campaign was based on the implemented assessment/research on the attitudes of the public and the knowledge of this phenomenon, which was also used to assess success of previous awareness raising campaigns concerning THB.

Also, trainings for all target groups are implemented continuously as a part of awareness raising activities. This includes trainings in schools, universities, at the Diplomatic Academy and Police Academy as well as during peacekeeping missions and mixed trainings for practitioners such as police officers, state inspectors, state attorneys, judges and NGOs.

It is important to state that all relevant institutions, apart from the Office for Human Rights and Rights of National Minorities, also provide special trainings to relevant professionals. We would like to emphasize regional trainings done for all police administrations (criminal police division and border police), based on train-the-trainer model as well as trainings provided by the Ministry of Social Policy and Youth, which provides trainings in cooperation with NGOs, targeted at members of mobile teams, social workers, county coordinators on behalf of social welfare centres and representatives of social welfare homes.

In addition, the Ministry of Interior has been implementing trainings for police officers from the criminal police and border police.

Also, in the light of the efforts to raise public awareness we would like to emphasize that in 2011, the Ministry of Science and Education developed a curriculum for civil education, which includes the topic of combating THB in the part dedicated to human and legal rights as dimension of Citizenship competence. This curriculum should become an integral part of the regular curriculum for pupils, starting from the first grade of the elementary school to the last grade of the secondary school.

Recommendation 7

The Office of the National Coordinator involves all the relevant stakeholders in all the efforts related to prevention, and particularly those who may help in the process of identifying victims of human trafficking, and these are – among others – labour inspectors from the State Inspectorate. The labour inspectors were involved in the implementation of the mentioned IPA project, and they are involved in the Protocol on the Exchange of Data related to Identified Victims of THB. Also, labour inspectors participated in joint trainings implemented within the IPA project. The labour inspectors were also familiarized with the list of indicators developed by the ICMPD, which help identify potential case of human trafficking, so that they are able to identify potential victims and report their suspicion to the Ministry of Interior in line with the national referral system.

Social, economic and other initiatives for groups vulnerable to THB

Recommendation 8 and 9

With respect to the re-integration of victims as one of the basic prerequisites to prevent a person from being re-victimized as victim of THB, we are implementing the provisions of the Protocol on Integration/Re-integration of Victims of THB. We find it particularly important to ensure adequate approach to adult education as a prerequisite for making it possible for them to have access to the labour market.

It is precisely for this reason that the provisions of the Protocol on Integration/Re-integration of Victims of THB dedicate special attention to measures targeted at economic empowerment and thus act against unemployment and poverty – which are among the basic prerequisites for the person to become a victim of THB. The Protocol envisages measures aimed at changing or improving professional qualifications in line with the demands on the labour market, which are assessed by the Croatian Employment Service. The Croatian Employment Service also has advisors that assist in mediating employment for special vulnerable groups, such as victims of human trafficking.

According to the provisions of this Protocol, the Croatian Employment Service is competent for employment mediation, vocational orientation and education adjusted to the needs of the labour market. An additional important stakeholder is the Ministry of Science, Education and Sport, which is competent for involving the victims in educational programmes at all levels, which is also one of the prerequisites for their social and economic empowerment.

Final activities regarding the adoption of the Strategy for Combating Poverty and Social Exclusion in Croatia (2014-2020) are in progress. They will be followed by the creation of a three-year Implementation program, that will include systematic ways of monitoring data on poverty and social exclusion “in the field”, as well as ways of encouraging and directing all the factors responsible for the implementation of the strategy.

In order to achieve the priorities and related main objectives, certain activities are foreseen within eight strategic areas:

- Education and Lifelong Learning
- Employment and Access to Employment
- Housing and Access to Energy
- Access to Social Benefits and Services
- Access to Health Care System and Long-Term Care
- Care for the Elderly
- Regional Approach to Combating Poverty and Social Exclusion
- Fight Against Debt and Financial Independence

The Ministry of Social Policy and Youth will combine annual reports that will be submitted to the Croatian Government regarding the implementation and impact of the measures and possible problems in the implementation of the Strategy for Combating Poverty and Social Exclusion in Croatia (2014-2020).

Border measures to prevent THB and measures to enable legal migration

Recommendation 10

Within its activities, FRONTEX developed a Trainers' Manual – Training for the Border Police Officers on Combating THB. Two border police officers have undergone the train-the-trainer course in 2013, organized by the FRONTEX. The manual was translated into Croatian, and it will be used in future trainings for the border police.

Also, within the project entitled "Victims of Human Trafficking among Illegal Migrants", there were trainings for 25 police officers of the border police. The Project was funded by the Office for Human Rights and Rights of National Minorities. The training included police officers from the Police Administration Zagreb (units Pleso – airport police, and border police stations Zagreb and Bregana), Police Administration of the Sisačko-Moslavačka County and the reception centre for aliens.

Identification of victims of trafficking in human beings**Recommendation 11**

Related to the proactive approach to identifying victims of human trafficking, we mentioned that this is one of the measures from the new National Plan for Combating Trafficking in Human Beings 2012-2015, which is primarily in the field of competence of the Ministry of Interior. We would also like to emphasize that the National Plan dedicates great attention to strengthening the proactive approach by the police in identifying victims of THB, particularly in relation to minor victims of THB. With the aim of identifying victims of THB and providing them with adequate assistance and protection, the Ministry of Interior of the Republic of Croatia has continued intense cooperation with other competent ministries involved in combating THB as well as with civil society organizations. Following the above mentioned, the Ministry of Interior has been applying the established procedure that defines how to act in cases of need, in line with the valid Protocol on the Identification, Assistance and Protection to Victims of THB.

In 2011, with the aim of enhancing cooperation with civil society organizations related to the activities in the field of combating human trafficking, the Ministry of Interior of the Republic of Croatia continued intense cooperation with civil society organisations who were operationally involved in receiving reports to the SOS help line, which was set up in order to fight human trafficking more effectively.

In relation to these recommendations, I would like to mention that the already mentioned IPA Project entitled "Strengthening Identification of Victims of Human Trafficking" also developed recommendations for the implementation of the so-called "outreach" programmes. The mentioned recommendations are particularly related to working with children as a particularly vulnerable group.

Republic of Croatia wishes to emphasize that measures to detect THB for the purpose of labour exploitation have already been implemented. The Office for Human Rights in partnership with the ICMPD has carried out a project „Targeting Niches in the Anti-Trafficking Efforts: Customized Support for Croatia" with special emphasis on trafficking for the purpose of labour exploitation. The main target group was labour inspectors from the Labour Inspectorate of Republic of Croatia. Within this project a research on the current trends in the Republic of Croatia with the special focus on labour exploitation has been conducted. In this research the list of indicators to detect cases of trafficking in human beings was included. This research as well as the indicators was distributed to all relevant institutions, and the research itself is available on the web pages of both Office for Human Rights and the ICMPD.

Regarding the members of the NGOs who are also members of the mobile teams, they are also included in the identification of victims of trafficking in human beings. NGOs can also provide the Ministry of Interior with tips regarding potential victims of trafficking received through the SOS help line. They are also given all the necessary information about the identified victims at the meetings of the Operational team.

Assistance to victims

Recommendation 12

An individual assistance and protection programme shall be made for each victim of human trafficking, based on information gathered from the victim, evaluation of the psycho-physical condition as well as based on wishes and interests expressed by the victim, with the aim of fast recovery, re-socialization and rendering the victim capable of independent life.

In accordance with the standard operative procedures, upon coming to the shelter, a human trafficking victim shall fill in a questionnaire stating:

Name and surname;

Nationality;

Date and place of birth;

Whether he/she has a passport,

Whether he/she has a visa (legal residence);

Last place of residence;

Educational background;

Whether he/she is a craftsman;

Marital status;

Whether he/she has children;

Whether he/she needs medical treatment;

Whether he/she needs medications;

Allergies;

Whether he/she wants to return home and whether he/she has housing there;

Whether he/she wants assistance;

Whether he/she wants safe accommodation at the shelter for human trafficking victims.

During the stay at the shelter, the evaluation of the victim's condition is made and based on the evaluation the individual programme and support plan tailored to the victim's needs is developed. The evaluation of the victim's condition is made by a member of a mobile team of an organization providing for the victim or by a case manager at the shelter where the victim is provided accommodation in cooperation with the regional coordinator, who is also a member of a mobile team and a special guardian if the human trafficking victim is a child. The evaluation is made in accordance with the enclosed form and includes gathering all the available information about the victim, including information regarding education, work experience, how the person became a human trafficking victim, conditions of life and work when the person was sold/exploited, health condition and need for medical treatment (in some cases a medical examination is made before coming to the shelter).

Based on the stated evaluation, an Individual Programme and Support Plan is made, tailored to the specific needs of the victim, by a member of a mobile team of an organization providing for the victim or a case manager, in cooperation with the regional coordinator, who is also a member of a mobile team, and special guardian if the human trafficking victim is a child.

Regarding this proposal the Republic of Croatia also wishes to emphasize that the victims who are placed in the shelters are there because of their personal safety and the need for all the special attention the shelter staff can provide, specially access to education, vocational training and employment. Also, the staff of the shelter is fully aware and they respect the absolute need to protect the victim's privacy and confidentiality of victim's personal data. The location of the shelters and the name of the NGOs who run them are kept a secret from general population thus ensuring the protection of victim's safety. There have not been any documented cases where any of the shelter staff made public the location of the shelter or personal data of any victim. The Ministry of

Social Policy and Youth has continued to ensure funds in its budget to finance the operations of two national shelters for victims of THB.

Recommendation 13

Since each human trafficking victim is treated individually, the measures contained in the individual programme are planned taking into consideration the person's wishes, needs and characteristics, including gender so in that way special needs of male victims are met.

Recommendation 14

Regarding this proposal at the first interview the identified victim is informed about all of her/his rights under the national referral system and among others about the right to apply for residence permits. According to the Protocol on Identification, Help and Assistance to Victims of Trafficking in Human beings, the victim is informed on his/her rights by the Ministry of Interior and the mobile team members. He/She is also informed about the right to free legal aid.

Furthermore, the temporary residence permits are not conditional upon the victim's willingness to cooperate in the framework of criminal proceedings. The residence permits are issued in accordance with the Aliens Act for the period of six months and they can also be extended until the victim submits a request for Croatian citizenship.

Compensation and legal redress

Recommendation 15

The Criminal Procedure Act (Act on Amendments and Supplements to the Criminal Procedure Act, Official Gazette, No. 56/13, 145/13) has transposed the Directive 2011/36/EU of the European Parliament and Council of 5 April 2011 on the preventing and combating trafficking in human beings and protection of victims of human trafficking into the Croatian legal system.

Furthermore, the Criminal Procedure Act, Article 45 (OG 56/13) stipulates the following:

The victim of a criminal offense against sexual freedom and sexual morality, and the victim of the criminal offense of trafficking in human beings is entitled to – along with the rights from Articles 43 and 44 of this Act (the right to effective psychological and other professional assistance and support to the body, organization or institution to help victims of crime in accordance with the law; the right to participate in criminal proceedings as the injured party; the right to a representative at the expense of budget funds; to be accompanied by a person of trust during proceedings; the confidentiality of personal data, the exclusion of the public) – the right to talk to a counsellor at the expense of budget funds, the right to be investigated by the person of the same sex in the police and the State Attorney's Office; the right to be questioned with the presence of a person of trust; the right to refuse to answer questions that relate to strictly personal life of the victim, the right to require to be interrogated through an audio-video device (under Article 292 paragraph 4 of the Criminal Procedure Act).

Prior to the first interrogation, the court, prosecutor, investigator and police must warn the victim of their rights.

Victims of human trafficking may be interrogated in their apartment or other area where they live. They can be interrogated by using an audio-video device, handled by a professional. If the state of the witness requires it, the interrogation will be implemented in a way that the parties may ask questions without being present in the room where the witness is located. Such a witness may be interrogated again only in exceptional circumstances, if the court should deem it necessary.

Furthermore, in relation to the recommendations in this area, and particularly those relating to the need to make it possible to victims of THB to claim damages in line with the Act on Pecuniary Compensation to Victims of Criminal Offenses (Official Gazette, No. 80/08 and 27/11), we would

like to highlight that the mentioned Act regulates this subject matter, and it came into force on the day of Croatia's accession to the EU.

The provision of Article 5 paragraph 2 of the Act on Pecuniary Compensation to Victims of Criminal Offenses stipulates that a person who suffered severe physical injuries or severe health impairment as a consequence of a violent crime is considered a direct victim of the criminal offense. The mentioned provision means that the Act on Pecuniary Compensation to Victims of Criminal Offenses makes it possible to claim damages in cases when the victim of THB has suffered severe physical injuries or psychological trauma as the consequence of the criminal offense. In that sense, this Act covers all types of severe injuries as the basis for claiming the damages.

Furthermore, provisions of Article 7 stipulate that the right to such compensation of damages pertains to victims who are citizens of the Republic of Croatia or who have residence in the Republic of Croatia, or to citizens of any EU member state or persons who have residence in an EU member state.

In relation to the recommendation that all victims of THB should be granted the rights that result from the Act on Pecuniary Compensation to Victims of Criminal Offenses, irrespective of their nationality or residence, we would like to emphasize that this recommendation would require further amendments to this Act, which would go further than the provisions of the European Convention on the Compensation of Victims of Violent Crimes with respect to the persons authorized to request the right to compensation. The Convention regulates the right to the compensation of damages to victims, who are citizens of the states that are parties to this Convention and to the citizens of all Council of Europe member states, who have residence in the country, on whose territory the criminal offense was committed.

Also, in relation to the recommended possible amendments to the Act on Pecuniary Compensation to Victims of Criminal Offenses, these amendments were planned for the end of 2014.

Repatriation and return of victims

Recommendation 16

Regarding this recommendation, Croatia has continued to ensure that the provisions of the Protocol on procedures during voluntary return of victims of human trafficking are systematically applied. Special attention is always dedicated to the safety, dignity and protection of victims and the best interest of the child.

All returns of victims of human trafficking since 2008 – since they are implemented by the Ministry of Interior – have been on voluntary basis, and in case of minor victims, the ministry competent for social welfare was also involved in the procedure for safe return.

Recommendation 17

In relation to this recommendation that relates to the cooperation with the states of return for reasons of performing the analysis of risk upon return, the Illegal Migrations Division of the Ministry of Interior is using a contact list (particularly for victims from Bosnia-Herzegovina and Serbia). This list has been developed through the project entitled "Strengthening Trans-National Cooperation in Cases of Victims of THB in SE Europe – TRM – II" to help assess the risk and safety upon return, which is the obligation that results from the Protocol on Voluntary Return of Victims of THB. In cases where there is no contact list, the victim's safe return is organized in cooperation with the diplomatic and consular representation of the victim's country of origin.

Substantive criminal law

Recommendation 18

Since 2011 there have been amendments to the criminal legislation of the Republic of Croatia, particularly to the substantive criminal law.

The Croatian Parliament adopted the new Criminal Code on 21 October 2011, which was published in the "Official Gazette" No. 125/11 of 7 November 2011, and which came into force on 1 January 2013.

The previous Article 175 CC/97 (trafficking in human beings and slavery) was divided into two articles – “Slavery”, which is now covered by Article 105, and “Trafficking in Human Beings”, which is covered by Article 106.

Article 106 - „Trafficking in Human Beings“ reads as follows:

„(1) Whoever uses force or threatens to use force or by deceit, fraud, kidnapping, abuse of position or authority or a position of hardship or dependence, by giving or receiving pecuniary or other benefits in order to obtain consent of the person who has control over another person or in any other way recruits, transports, transfers, conceals or receives a person or exchanges or transfers control of a person with the aim of abusing his/her work through forced labour or servitude, or the establishment of slavery or a similar relationship, person’s abuse for prostitution or other forms of sexual exploitation, including pornography or for concluding an illegal or forced marriage or for taking any parts of a human body, or for using them in armed conflicts or for the perpetration of a criminal offense

shall be punished by imprisonment for one to ten years.

(2) The punishment from paragraph 1 of this Article shall apply to whoever recruits, transports, transfers, conceals or receives a child or exchanges or transfers control of a child with the aim of abusing its work through forced labour or servitude, or the establishment of slavery or a similar relationship, child’s abuse for prostitution or other forms of sexual exploitation, including pornography or for concluding an illegal or forced marriage or for illegal adoption, and for taking any parts of the child’s body, or for using them in armed conflicts.

(3) If the criminal offense from paragraph 1 of this Article was committed against a child or if the criminal offense from paragraphs 1 and 2 of this Article was committed by an official person in performing his/her office or if it was perpetrated in relation to a larger number of persons or if life of one or several persons was intentionally threatened,

the perpetrator shall be punished by imprisonment from three to fifteen years.

(4) The punishment from paragraph 1 of this Article shall apply to whoever knowingly uses the services of a victim of human trafficking, which are a result of one form of the victim’s abuse as described in paragraphs 1 and 2 of this Article.

(5) Whoever withholds, takes away, conceals, damages or destroys a travel or identity document of another person with the aim of enabling the perpetration of the criminal offense from paragraphs 1, 2, and 3 of this Article,

shall be punished by imprisonment of up to three years.

(6) The perpetrator shall be punished for the attempted criminal offense from paragraph 5 of this Article.

(7) Consent to abuse given by the person who is a victim of human trafficking shall be irrelevant to the existence of the criminal offense.“

The above amendments fully implemented the recommendation to establish withholding, taking away, concealing, damaging or destroying a travel or identity document as a criminal offense when the act was committed intentionally, with the aim of enabling human trafficking, in a way as it is prescribed in the above Article 106 „Trafficking in Human Beings“. Paragraph 5 prescribes that whoever withholds, takes away, conceals, damages or destroys a travel or identity document of another person with the aim of enabling the perpetration of the criminal offense of human trafficking (described in paragraphs 1, 2, and 3) shall be punished.

Investigation, prosecution and procedural law

Recommendation 19

Republic of Croatia has increased the trainings provided to judges, prosecutors and other relevant professionals on the issue of THB in the new proposal of the National plan for suppression of trafficking in human beings 2012-2015. We find this to be of great importance, not just for the efficiency in prosecuting the perpetrators but also in order to ensure that all legal mechanisms for providing full assistance and protection to the victim are applied.

The Office for Human Rights has also provided special trainings for both judges and state attorneys in the form of case studies, where the speakers included experienced judges and state attorneys who prosecute THB cases.

Recommendation 20

The Criminal Procedure Act (Act on Amendments and Supplements to the Criminal Procedure Act, Official Gazette, No. 56/13, 145/13) has transposed the Directive 2011/36/EU of the European Parliament and Council of 5 April 2011 on the preventing and combating trafficking in human beings and protection of victims of human trafficking into the Croatian legal system.

Furthermore, the Criminal Procedure Act, Article 45 (OG 56/13) stipulates the following:

The victim of a criminal offense against sexual freedom and sexual morality, and the victim of the criminal offense of trafficking in human beings is entitled to – along with the rights from Articles 43 and 44 of this Act (the right to effective psychological and other professional assistance and support to the body, organization or institution to help victims of crime in accordance with the law; the right to participate in criminal proceedings as the injured party; the right to a representative at the expense of budget funds; to be accompanied by a person of trust during proceedings; the confidentiality of personal data, the exclusion of the public) – the right to talk to a counsellor at the expense of budget funds, the right to be investigated by the person of the same sex in the police and the State Attorney's Office; the right to be questioned with the presence of a person of trust; the right to refuse to answer questions that relate to strictly personal life of the victim, the right to require to be interrogated through an audio-video device (under Article 292 paragraph 4 of the Criminal Procedure Act).

Prior to the first interrogation, the court, prosecutor, investigator and police must warn the victim of their rights.

Victims of human trafficking may be interrogated in their apartment or other area where they live. They can be interrogated by using an audio-video device, handled by a professional. If the state of the witness requires it, the interrogation will be implemented in a way that the parties may ask questions without being present in the room where the witness is located. Such a witness may be interrogated again only in exceptional circumstances, if the court should deem it necessary.

Appendix

Recommendation CP(2012)3 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Croatia

*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 Croatia on 5 September 2007;

Having examined the Report concerning the implementation of the Convention by Croatia, 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 Croatian Government on GRETA's report, submitted on 14 November 2011.

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

- the establishment of a National Committee for Combating Trafficking in Human Beings, which brings together relevant governmental and non-governmental actors, and the appointment of a National Co-ordinator for Combating Trafficking in Human Beings;
- the implementation of multiannual national action plans on combating trafficking in human beings;
- the setting up multi-disciplinary mobile teams which participate in the identification of victims of trafficking and in the provision of assistance;
- the adoption of protocols for the identification, assistance and protection of victims of trafficking and for their reintegration;
- the efforts to raise public awareness and discourage demand.

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

- continuing to raise public awareness with a view to overcoming the existing prejudice against victims of trafficking;
- taking specific economic and social measures in respect of persons and groups vulnerable to trafficking in human beings.
- ensuring a proactive approach of the part of law enforcement agencies and other relevant actors in the identification of victims of trafficking;
- implementing targeted policy measures, including outreach work, for the identification of trafficked children and persons trafficked for the purpose of labour exploitation;
- facilitating access to compensation for victims of trafficking by providing them systematically with information, ensuring their access to legal aid and enforcing legislation on compensation from the State;
- stepping up the training provided to judges, prosecutors and other relevant professionals on trafficking and the relevant criminal law provisions to ensure that traffickers are prosecuted and receive sentences commensurate with the seriousness of this offence.

1. Recommends the Government of Croatia to implement the proposals of GRETA which have not yet been implemented. GRETA's proposals are listed in Appendix I to the Report concerning the implementation of the Convention by Croatia (see addendum);

2. Requests the Government of Croatia 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 Croatia 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 Croatia

Comprehensive approach and co-ordination

1. GRETA invites the Croatian authorities to:
 - ensure that the representatives of all public bodies included in the Operative Team actively participate in its work;
 - draw up clear selection criteria for membership of NGOs in the anti-THB bodies and make these criteria available to all interested NGOs;
 - encourage the participation of NGOs in the activities of the mobile teams by keeping them informed of the anti-THB activities and their results;
 - take practical measures to improve co-operation and communication between the police at local level and NGOs, especially as regards the identification of victims of THB.
2. Further, in addition to the internal reports on the implementation of the National Plan, GRETA invites the Croatian authorities to introduce a periodic independent evaluation of the National Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.

Data collection and research

3. GRETA welcomes the setting up of a data collection mechanism on THB by the Croatian authorities, which enables the compiling of statistical information and allows its disaggregation (concerning gender, age, type of exploitation, country of origin and/or destination, etc.). GRETA considers that the Croatian authorities should enhance exchanges of statistical information among the agencies responsible for the supervision of migration, employment and combating THB. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. In addition, the Croatian authorities should also collect statistical information as regards arrests, prosecutions and convictions for the offence of THB.
4. Further, GRETA considers that the Croatian authorities should conduct and support research on THB-related issues, with particular emphasis on the gender dimension and trafficking in children, as an important source of information for future policy measures in the field of action against THB.

International co-operation

5. GRETA encourages the Croatian authorities to continue international co-operation in the criminal field with a view to combating THB and to enhance international co-operation in the non-criminal field with all relevant countries.

Awareness raising

6. GRETA considers that the Croatian authorities should continue to raise public awareness with a view to achieving a better understanding of THB and the situation of victims of trafficking. Awareness-raising campaigns, education in schools and specialised training of relevant professionals should aim at overcoming the existing prejudice against victims of THB and increasing public awareness about the importance of reporting suspected THB cases. The prevention efforts should be based on research and evaluation of the impact of campaigns and education measures taken in the past.

7. GRETA invites the Croatian authorities to continue raising awareness on trafficking for the purpose of labour exploitation, including among labour inspectorates, trade unions, social workers and recruitment agencies. The list of indicators drawn up by the ICMPD to detect cases of THB for the purpose of labour exploitation should be used by relevant officials.

Social, economic and other initiatives to groups vulnerable to THB

8. GRETA urges the Croatian authorities to enable the application of the Protocol on integration and reintegration of victims of trafficking in human beings to all victims of THB, regardless their nationality and residence status.

9. GRETA considers that specific economic and social measures should be taken by the Croatian authorities for the benefit of persons and groups vulnerable to THB. Such measures should be based on the identified causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, gender-based violence, etc.) and should consist of actions aiming to decrease and ultimately eliminate these causes.

Border measures to prevent THB and measures to enable legal migration

10. GRETA considers that the Croatian authorities should inform the general public, especially persons in socially and economically disadvantaged situation, about the importance of legal and safe migration.

Identification of victims of trafficking in human beings

11. GRETA considers that the Croatian authorities should take further measures to:

- ensure that law enforcement agencies and other relevant actors adopt a proactive approach and increase their outreach work to identify victims of THB;
- implement targeted policy measures, including outreach work, for the identification of trafficked children;
- develop and implement measures necessary to detect THB for the purpose of labour exploitation, including through the provisions of training to staff of labour inspectorates, and carrying out regular inspections in areas where THB for the purpose of labour exploitation may occur;
- strengthen partnerships with NGOs to enhance their involvement in the identification of victims of THB.

Assistance to victims

12. GRETA considers that a better balance should be struck between the need to place victims of THB who have obtained residence permits in a shelter, which has a special regime, and the need to achieve their recovery and rehabilitation through access to education, vocational training and employment. Greater awareness is necessary among staff working with victims of trafficking as regards the need to respect the confidentiality of victims' personal data and victims' privacy. Any limitation of the personal liberty of victims of THB should always be proportionate to the objectives aimed at by such limitation.

13. GRETA encourages the Croatian authorities to assess whether the measures available are adapted to the needs of male victims of trafficking.

Residence permits

14. GRETA encourages the Croatian authorities to ensure that victims of THB are systematically provided with information concerning the right to apply for a temporary stay permit, including the procedure to follow and the conditions to be met.

Compensation and legal redress

15. GRETA considers that the Croatian authorities should adopt legislative and practical measures to facilitate access to compensation for all victims of THB, and in particular:

- ensure that victims of THB are systematically informed of the right to obtain compensation and the procedure to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- include all victims of THB into the scope of the Act on Pecuniary Compensation of Damage to Crime Victims, irrespective of their nationality and residence status, or the type of injury sustained;
- consider amending the Act on Pecuniary Compensation of Damage to Crime Victims to allow its entry into force at the earliest convenience.

Repatriation and return of victims

16. GRETA encourages the Croatian authorities to continue ensuring that the existing framework for the voluntary return of victims of THB is applied, with due regard to the safety, dignity and protection of victims and, in the case of children, by fully respecting the principle of the best interest of the child.

17. Further, GRETA encourages the Croatian authorities to develop co-operation arrangements with States of return with a view to ensuring effective and comprehensive risk assessment relating to the possible return of victims of THB and enable their safe return.

Substantive criminal law

18. GRETA considers that the Croatian authorities should take necessary measures to establish as criminal offences the acts of retaining, removing, concealing, damaging or destroying a travel or identity document of another person when committed intentionally and for the purpose of enabling THB.

Investigation, prosecution and procedural law

19. GRETA urges the Croatian authorities to step up the training provided to judges, prosecutors and other relevant professionals on the issue of THB and the relevant criminal law provisions with a view to ensuring practical application of these provisions so that traffickers are prosecuted and receive sentences commensurate with the seriousness of this offence.

20. Further, GRETA encourages the Croatian authorities to make full use of the protection measures envisaged in law in respect of witnesses who are victims of THB and/or their families where necessary.