



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

Recommendation CP(2016)5 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia

*adopted at the 18th meeting of the Committee of the Parties
on 23 May 2016*

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 Georgia on 14 March 2007;

Recalling Committee of the Parties’ Recommendation CP(2012)5 of 13 November 2012 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia and the report of the Georgian authorities on measures taken to comply with this recommendation, submitted on 17 November 2014;

Having examined the second report concerning the implementation of the Convention by Georgia, adopted by GRETA at its 25th meeting (7-11 March 2016), as well as the comments of the Georgian Government received on 17 May 2016;

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, through defining “exploitation”, “slavery or modern conditions of slavery” and “dependence on a person” in the human trafficking provisions of the Criminal Code and including a new chapter concerning the social and legal assistance to child victims of trafficking in the Law on Combating Human Trafficking;
 - the introduction of provisions in the new Law on the Legal Status on Aliens and Stateless Persons on granting temporary residence permits to victims of trafficking, both on the grounds of their co-operation in criminal proceedings and for humanitarian reasons;
 - the progress made in co-ordinating anti-trafficking action and involving non-governmental organisations in the planning and implementation of anti-trafficking policy;
 - the efforts made to provide training to relevant professionals, expand the categories of staff targeted and adopt a multi-stakeholder approach to training;

- the adoption of policy documents in the area of gender equality and on assisting internally displaced persons (IDPs), socially vulnerable people and “eco-migrant” families, which have the potential of tackling the root causes of human trafficking;
- the setting up of mobile groups under the Ministry of Labour, Health and Social Affairs in charge of detecting and assisting children in street situations, as a measure to prevent trafficking in children, and the inclusion of awareness raising on human trafficking in the national school curricula;
- the steps taken to address trafficking for labour exploitation, including through awareness-raising initiatives and pilot projects on temporary labour migration, and the recent reintroduction of the Labour Inspectorate;
- the setting up of a unified database containing information on victims of human trafficking, as well as offenders, which is disaggregated by nationality, sex, age, type of exploitation and country of exploitation.

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

- take further steps to ensure the timely identification of victims of trafficking in human beings, and in particular to:
 - effectively disseminate the existing guidelines, indicators and Standard Operative Procedures and ensuring their application in practice;
 - increase the outreach work of the special mobile groups of the State Fund;
 - improve co-ordination between the different bodies performing victim identification, the police mobile inspection groups and other relevant entities;
 - increase efforts to proactively identify victims of trafficking for the purpose of sexual exploitation;
 - provide interpretation during police interviews of possible victims of trafficking, where necessary;
 - reconsider the current practice of interviewing possible victims of human trafficking at their place of exploitation;
 - increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by providing the Labour Inspectorate with the resources required and training;
 - pay increased attention to detecting victims of trafficking among foreign workers, asylum seekers and persons placed in immigration detention centres, including by providing additional training to relevant staff.
- improve the identification of and assistance to child victims of trafficking, in particular by:
 - adopting as a matter of priority a referral mechanism for the identification and assistance of child victims of human trafficking, taking account of the special circumstances and needs of child victims, involving child specialists and ensuring that the principle of the best interests of the child is respected;
 - ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of human trafficking by paying particular attention to children in care institutions, children living and working in the street, and unaccompanied minors;
 - ensuring that child victims of trafficking fully benefit from the assistance measures provided for under the Convention, including appropriate accommodation and effective access to education;

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- providing further training to stakeholders (police, service providers, NGOs, child protection authorities, social workers) as well as guidance for the identification of child victims of human trafficking for the purposes of exploitation of begging and exploitation of criminal activities;
 - ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;
 - ensuring long-term monitoring of the reintegration of child victims of trafficking.
- review the legislation in order to ensure that the recovery and reflection period is specifically defined in law as provided for in Article 13 of the Convention and that all possible victims of trafficking are offered a recovery and reflection period and all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. The procedure for granting a recovery and reflection period should be spelled out and the authorities 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 facilitate and guarantee access to compensation for victims of trafficking from the offenders, including by:
 - reviewing current criminal and civil procedures regarding compensation with a view to improving their effectiveness;
 - ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation in criminal and civil proceedings, and the procedures to be followed;
 - enabling victims of human trafficking to exercise their right to compensation by guaranteeing them effective access to legal assistance;
 - enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;
 - encouraging prosecutors and judicial authorities to make full use of the legislation on the freezing and forfeiture of offenders' assets to secure compensation to victims of human trafficking.
 - bring the interpretation of the abuse of a position of vulnerability in full conformity with the Convention.
 - take measures to ensure that THB cases are investigated proactively, prosecuted successfully and result in effective, proportionate and dissuasive convictions, including by:
 - further developing the specialisation of investigators, prosecutors and judges;
 - providing further training to police officers and prosecutors to investigate and prosecute cases of THB for different purposes of exploitation, including through co-operation with other relevant actors (the State Fund, child protection services and labour inspectors);
 - making greater use of special investigation techniques in suspected cases of THB with a view to ensuring that evidence is obtained at as early a stage of the investigation as possible;
 - ensuring, where possible, that THB charges are not re-qualified into other offences, which carry lighter penalties;
 - excluding THB from the plea bargaining procedure.

3. Requests the Government of Georgia 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 **23 May 2017**.
4. Recommends that the Government of Georgia takes measures to implement the further conclusions of GRETA's second evaluation report.
5. Invites the Government of Georgia to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.