

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



**Recommendation CP(2013)7
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Poland**

*adopted at the 11th meeting of the Committee of the Parties
on 7 June 2013*

The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter referred to as 'the Convention'), acting under the terms of Article 38(7) of the Convention;

Having regard to the purposes of the Convention to prevent and combat trafficking in human beings, while guaranteeing gender equality, protect the human rights of victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, ensure the effective investigation and prosecution of the offences related to trafficking in human beings, and promote international co-operation;

Bearing in mind the provisions of Article 36(1) of the Convention concerning the monitoring role of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the implementation of the Convention;

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Poland on 17 November 2008;

Having examined the Report concerning the implementation of the Convention by Poland, adopted by GRETA at its 16th meeting (11-15 March 2013) in the framework of the first evaluation round;

Having examined the comments of the Polish Government on GRETA's report, submitted on 18 February 2013;

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

- the setting up of the Inter-Ministerial Committee for Combating Trafficking in Human Beings, the Unit against Trafficking in Human Beings in the Ministry of the Interior and specialised anti-trafficking structures within the Police, the Border Guard and the General Prosecutor's Office;
- the adoption of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;
- the adoption of a comprehensive national action plan against trafficking in human beings and the involvement of non-governmental organisations in its planning and implementation;
- the efforts to raise general awareness of human trafficking through information campaigns, school education and training of relevant professionals;

- the establishment of the National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking and the provision of public funding for victim support;
- the adoption of a multi-disciplinary approach to the identification of victims of trafficking;

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

- strengthening action to combat human trafficking for the purpose of labour exploitation in Poland;
- paying increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and adopting nation-wide procedures for the identification of child victims of trafficking;
- further improving the identification of victims of trafficking, in particular by strengthening multi-agency involvement and ensuring that relevant professionals adopt a proactive approach and increase their outreach work to identify potential victims of trafficking;
- ensuring that all possible victims of trafficking, including European Economic Area nationals, are systematically informed of the possibility to have a recovery and reflection period and are effectively granted such a period regardless of whether or not they co-operate with the investigation;
- ensuring the victims of trafficking can take full advantage of the right to be granted a residence permit;
- adopting further measures to facilitate access to compensation for victims of trafficking;
- strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive sanctions.

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

2. Requests the Government of Poland to inform the Committee of the Parties of the measures taken to comply with this recommendation by 7 June 2015;

3. Invites the Government of Poland 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 Poland

Definition of "trafficking in human beings"

1. GRETA urges the Polish authorities to enact a specific legislative prohibition of servitude so as to ensure greater certainty and clarity as to the scope of its domestic law.

Comprehensive approach and co-ordination

2. GRETA considers that the Polish authorities should take further steps to ensure that the national action to combat THB is comprehensive, and in particular to:

- increase co-ordination at the regional level of the activities of public bodies and NGOs involved in the implementation of anti-trafficking measures;
- step up action to combat THB for the purpose of labour exploitation, in particular in the sectors of agriculture, construction, food processing, agriculture and domestic help;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking.

3. GRETA also invites the Polish authorities to ensure that the Unit against THB is put in a position to fulfil its mandate effectively by further investing in its human resources.

4. Further, GRETA invites the Polish authorities to introduce an independent evaluation of the implementation of the NAP as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB, and to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

Training of relevant professionals

5. GRETA considers that the Polish authorities should take further steps to improve the knowledge and sensitivity of relevant professionals, in particular prosecutors and judges, about THB and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

6. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Polish authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable 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, including when NGOs working with victims of trafficking are asked to provide information for the national database.

7. GRETA invites the Polish authorities to continue conducting and supporting research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where research may shed more light on the extent of the problem of THB include trafficking for the purpose of labour exploitation, trafficking in children and internal trafficking (i.e. within Poland).

International co-operation

8. GRETA invites the Polish authorities to continue developing the aspect of international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders.

Measures to raise awareness and discourage demand

9. GRETA considers that future actions in the area of awareness raising should be designed in the light of impact assessment of previous measures and research, and be focused on the needs identified. Awareness-raising campaigns, education in schools and training of relevant professionals should aim at promoting gender equality and eradicating gender-based violence and the stigmatisation of victims of trafficking.

10. Further, GRETA encourages the Polish authorities to strengthen their efforts to discourage demand for services from trafficked persons as regards all forms of exploitation.

11. GRETA also invites the Polish authorities to contribute to awareness-raising prevention activities in the main countries of origin of victims trafficked to Poland, in co-operation with these countries, in order to alert potential victims of THB-related risks.

Social, economic and other initiatives for groups vulnerable to THB

12. GRETA considers that the Polish authorities should take further steps to identify persons and groups vulnerable to THB, and to address them through targeted social, economic and other initiatives.

Border measures to prevent THB and measures to enable legal migration

13. GRETA considers that the Polish authorities should continue their efforts to provide written information to foreign nationals planning to travel to Poland, in a language that they can understand, in order to alert them to the risks of THB, inform them of where they can go for help and advice, and provide them with information on their rights.

Identification of victims of trafficking in human beings

14. GRETA urges the Polish authorities to take further steps to secure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. To this end, the Polish authorities should:

- strengthen multi-agency involvement in victim identification by introducing a national referral mechanism which defines the roles and procedures of all authorities competent to perform identification and frontline staff who may come into contact with victims of trafficking;

- provide frontline staff with operational indicators, guidance and toolkits to be used in the identification process; these indicators should be regularly updated in order to reflect the changing nature of human trafficking;
- ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking;
- adopt nation-wide procedures for the identification of child victims of trafficking;
- pay more attention to the identification of persons detained as irregular migrants and provide additional training to staff who come in contact with such persons.

Assistance to victims

15. GRETA considers that the Polish authorities should take further steps to provide assistance to victims of trafficking, and in particular to:

- ensure that there is a sufficient number of places across the country offering adequate conditions and adapted to the victims' needs; when assistance is delegated to NGOs, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- improve the system for providing assistance to child victims of trafficking, both in terms of accommodation and as regards medium and long-term support programmes tailored to the needs of the children;
- ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in law;
- guarantee access to public health care for victims of trafficking.

Recovery and reflection period

16. GRETA urges the Polish authorities to ensure, in compliance with their obligations under Article 13 of the Convention, that all possible victims of trafficking, including European Economic Area nationals, are systematically informed of the possibility to have a recovery and reflection period and are effectively granted such a period regardless of whether or not they co-operate with the investigation.

17. Further, GRETA considers that the relevant legislation should be amended in order to reflect the Convention and the fact that Council Framework Decision of 19 July 2002 on combating trafficking in human beings had been replaced by Directive 2011/36/EU.

Residence permits

18. GRETA urges the Polish authorities to ensure that victims of THB can take full advantage of the right to be granted a residence permit.

Compensation and legal redress

19. GRETA urges the Polish authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular:

- 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;
- enable 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;
- encourage prosecutors to request compensation orders to the largest possible extent;
- include all victims of trafficking in the scope of the Act on State Compensation for Victims of Crimes, irrespective of their nationality and residence status or the type of injury sustained;
- enable victims of trafficking who have left Poland to benefit from the possibilities to claim compensation.

20. Further, GRETA invites the Polish authorities to further develop the system for recording compensation claims of and awards to victims of trafficking.

Non-punishment of victims of trafficking in human beings

21. GRETA stresses the importance of ensuring that the Methodological guidelines for prosecutors are fully applied in order to prevent imposing penalties on victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

22. GRETA encourages the Polish authorities to take measures to identify gaps in the investigation procedure and the presentation of cases in court, *inter alia*, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

23. Further, GRETA considers that there is a need for improvement of the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about THB and the human rights of victims. During the training, particular attention should be paid to overcoming potential entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

Protection of victims and witnesses

24. GRETA considers that the Polish authorities should extend all special protection procedures to cover child victims of THB up to the age of 18. GRETA also invites the Polish authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation in the course of the investigation and during and after the court proceedings.