

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



**Recommendation CP(2012)5
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Georgia**

*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 Georgia on 14 March 2007;

Having examined the Report concerning the implementation of the Convention by Georgia, adopted by GRETA at its 12th meeting (6-9 December 2011) in the framework of the first evaluation round;

Having examined the comments of the Georgian Government on GRETA's report, submitted on 27 January 2012;

Bearing in mind the ongoing conflict over the Tskhinvali and Abkhazia regions of Georgia, which prevents the Georgian authorities from implementing the provisions of the Convention, and GRETA from covering the situation concerning human trafficking in these parts of Georgia's sovereign territory;

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

- the adoption of a specific law to combat trafficking in human beings, the establishment as criminal offence to knowingly use the services of a victim of trafficking, and the introduction of criminal liability of legal persons for trafficking in human beings;
- the setting up of an Interagency Co-ordination Council for Carrying out Measures against Trafficking in Human Beings, which brings together all relevant governmental and non-governmental actors, and a State Fund for the Protection and Assistance of Victims of Trafficking;
- the efforts to raise general awareness about human trafficking and to train relevant professionals;

- the establishment of a National Victim Referral and Assistance Mechanism and the increased financial resources allocated to the protection and assistance of victims of trafficking;
- the adoption of legal provisions exempting victims of trafficking from criminal and/or administrative responsibility for their involvement in certain unlawful activities, to the extent that they were compelled to do so;

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

- paying increased attention to prevention and protection measures among vulnerable groups;
- stepping up the proactive identification of victims of trafficking, in particular for the purpose of labour exploitation, including through the provision of more advanced training to relevant professionals;
- taking additional measures aimed at ensuring that trafficked persons are systematically informed of the possibility to use a reflection period and are effectively granted such a period if they so wish;
- taking further measures to protect and safeguard the best interest of child victims of trafficking, including through legal guardianship, appropriate accommodation, education and support programmes tailored to the needs of the child;
- enabling trafficking victims to effectively exercise their right to claim compensation from traffickers, in either civil or criminal proceedings;
- examining the significant reduction in the number of prosecutions and convictions for trafficking in human beings since 2010;
- exploring the reasons for the non-application of the measure for confiscation of assets in cases of human trafficking;
- continuing to search for pragmatic solutions in the interest of combating trafficking in human beings in the Tskhinvali and Abkhazia regions of Georgia.

1. Recommends that the Government of Georgia implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Georgia (see addendum);
2. Requests the Government of Georgia to inform the Committee of the Parties of the measures taken to comply with this recommendation by 13 November 2014;
3. Invites the Government of Georgia 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 Georgia

Core concepts and definitions

1. GRETA considers that the Georgian authorities must ensure that no additional conditions of damage or loss and in particular no evidence of such damage or loss are required from a person who has been subjected to trafficking in human beings (THB) in order to qualify as a victim of trafficking under the Anti-Trafficking Law and to benefit from the protection measures provided for in this law.

Comprehensive approach, co-ordination and international co-operation

2. GRETA urges the Georgian authorities to step up their efforts aimed at ensuring that national action to combat THB is comprehensive, in particular by:

- paying increased attention to prevention and protection measures among vulnerable groups, such as internally displaced persons (IDPs);
- paying increased attention to prevention and protection measures addressing the particular vulnerability to trafficking of children, in particular those without parents and IDPs;
- increasing efforts to prevent and detect THB taking place within Georgia;
- stepping up action to combat THB for the purpose of labour exploitation;
- ensuring that gender issues are addressed in a gender-sensitive way, and that gender mainstreaming is reflected in all elements of Georgia's anti-trafficking policy.

3. Further, GRETA considers that the Georgian authorities should step up their efforts to ensure that national action to combat THB is comprehensive, in particular by:

- taking measures to detect and address the trafficking of foreign nationals to or through Georgia;
- ensuring that anti-trafficking measures extend beyond big towns.

4. While welcoming the efforts made by the Georgian authorities in the area of international co-operation against THB, GRETA considers that efforts should be intensified outside the criminal field. GRETA invites the Georgian authorities to pursue and strengthen co-operation with Turkey and other countries of destination, as well as continue exploring possibilities for international co-operation with a view to preventing and combating THB and assisting the victims of trafficking.

Training of relevant officials

5. GRETA considers that the Georgian authorities should improve the system of proactive identification of victims through more advanced training of relevant professionals.
6. Further, GRETA invites the Georgian authorities to take full account of gender and child-specific aspects when designing future trainings on THB.

Data collection and research

7. GRETA considers that, for the purpose of preparing, monitoring and evaluating its anti-trafficking policies, the Georgian 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.
8. GRETA invites the Georgian authorities to make operational the databases under construction as a matter of priority.
9. Further, GRETA invites the Georgian authorities to conduct and support research on THB-related issues, in particular in areas which have received little attention, such as trafficking among IDPs, national trafficking, and trafficking for the purpose of labour exploitation. More attention should also be paid to research on trafficking routes in and out of Georgia by sea, given that the scope of this phenomenon is still little known. The results of the research should be used as a source of information for future policy measures in the field of action against THB.

Prevention of THB

10. GRETA urges the Georgian authorities to step up their efforts to address the socio-economic vulnerability of IDPs, potential migrants and children (including those held in special schools and institutions for persons with disabilities). In this context, GRETA invites the Georgian authorities to consider including specific references to the prevention of THB in the National Strategy for IDPs.
11. GRETA considers that the Georgian authorities should continue their efforts to discourage demand for services from trafficked persons, paying particular attention to the sectors with a higher risk of THB.
12. Further, GRETA considers that the Georgian authorities should continue developing awareness raising and information campaigns to prevent THB for the purpose of labour exploitation, both within Georgia and abroad, targeting the most vulnerable groups (IDPs, children, potential migrants).
13. GRETA welcomes the efforts of the Georgian authorities to strengthen the prevention of THB through information and education measures. That said, GRETA considers that future actions in this area should be designed in the light of the assessment of previous measures and be focused on the needs identified.

14. In addition, GRETA considers that further efforts should be made to:

- detect cases of THB through proactive screening during border control;
- address the role and involvement of private employment agencies in cases of THB for the purpose of labour exploitation;
- introduce a checklist to identify potential THB-related risks during the visa application system.

15. Further, GRETA invites the Georgian authorities to consider carrying out information campaigns to alert potential foreign victims of trafficking of THB-related risks and how to get help, in co-operation with countries of origin.

16. GRETA invites the Georgian authorities to monitor and evaluate the effectiveness of the new travel and identity documents in the prevention and detection of cases of THB.

Identification of victims of THB

17. GRETA considers that the Georgian authorities should step up their efforts to improve the proactive detection and identification of victims of trafficking.

18. GRETA invites the Georgian authorities to evaluate the implementation of the mandatory referral mechanism for cases of violence against children and to explore the possibility of expanding it to THB, as an additional tool to improve the identification of child victims of trafficking.

Assistance measures

19. GRETA considers that the Georgian authorities should address the low number of victims of trafficking who agree to take part in individual rehabilitation and reintegration plans.

20. Further, GRETA considers that the Georgian authorities should step up their efforts to protect and safeguard the best interest of child victims of trafficking, including legal guardianship, appropriate accommodation, education and support programmes tailored to the needs of the child.

21. GRETA invites the Georgian authorities to:

- continue offering vocational training to victims of trafficking and providing them with access to the labour market in order to facilitate the reintegration of victims of trafficking into society and to avoid re-trafficking;
- consider developing further the system of shelters for victims of trafficking, in particular by providing appropriate accommodation for children;
- address the need for sufficient and well-trained social workers so that victims of trafficking can receive appropriate assistance.

Recovery and reflection period

22. GRETA urges the Georgian authorities to ensure that trafficked persons are systematically informed of the possibility to use a reflection period and that they are effectively granted such a period if they so wish.

23. GRETA considers that the Georgian authorities should expand the aims of the 30-day reflection period to include the recovery of victims of trafficking from the trafficking experience, in line with the Convention.

Residence permits

24. GRETA considers that the Georgian authorities should take steps to ensure that foreign victims of trafficking can take full advantage of the right to be granted a temporary residence permit by systematically providing them with information concerning their right to apply for such a permit, the procedure to be followed and the conditions to be met.

25. GRETA invites the Georgian authorities to consider granting temporary residence permits to victims of trafficking on the basis of their personal situation and not only to those victims who agree to co-operate with the law enforcement authorities.

Compensation and legal redress

26. GRETA urges the Georgian authorities to provide information to all victims of trafficking concerning possibilities to obtain compensation and to ensure that they have effective access to legal aid in order to enable them to exercise their right to compensation from the State Fund and/or from the traffickers.

27. In order to facilitate access to compensation by victims of trafficking, GRETA urges the Georgian authorities to ensure that they have an effective possibility of claiming compensation from traffickers, in either civil or criminal proceedings.

Repatriation and return of victims

28. GRETA invites the Georgian authorities to consider conducting a review of the institutional and procedural framework for the return of victims of trafficking to ensure that due regard is taken to their safety, dignity and protection and to avoid their re-victimisation. In the case of children, a specific risk-assessment and process to determine the best interest of the child should be carried out.

29. Further, GRETA invites the Georgian authorities to continue their co-operation with the national authorities, NGOs and international organisations in countries from which Georgian nationals victims of THB are repatriated, as well as in countries of return of victims of trafficking identified in Georgia.

Investigation, prosecution and procedural law

30. GRETA urges the Georgian authorities to review the legislation in order to fully reflect the aggravating circumstances included in the Convention, in particular when the crime of THB is committed by a public official in the performance of his/her duties.

31. Further, GRETA urges the Georgian authorities to explore the reasons for the non-application of the measure for confiscation of assets in cases of THB.

32. GRETA considers that the Georgian authorities should:

- step up the proactive investigation of cases of THB for the purpose of sexual and labour exploitation;
- continue to ensure that the life and safety of victims of trafficking and of those assisting them are adequately protected during court proceedings;
- address the lack of application of the special protection measures to victims of trafficking;
- address the significant reduction of prosecutions and convictions since 2010.