



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

**Recommendation CP(2014)13
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by “the former Yugoslav Republic of Macedonia”**

*adopted at the 14th meeting of the Committee of the Parties
on 7 July 2014*

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 “the former Yugoslav Republic of Macedonia” on 27 May 2009;

Having examined the Report concerning the implementation of the Convention by “the former Yugoslav Republic of Macedonia”, adopted by GRETA at its 19th meeting (17-21 March 2014) in the framework of the first evaluation round;

Having examined the comments of the Government of “the former Yugoslav Republic of Macedonia” on GRETA’s report, submitted on 28 May 2014;

Welcoming the measures to combat trafficking in human beings taken by the authorities of “the former Yugoslav Republic of Macedonia”, and in particular:

- the setting up of the National Commission for the Fight against Trafficking in Human Beings and Illegal Migration, a National Co-ordinator and a National Rapporteur on Trafficking in Human Beings, as well as specialised anti-trafficking structures within the Ministry of the Interior and the Ministry of Labour and Social Policy;
- the adoption of comprehensive national anti-trafficking strategies and action plans and the involvement of non-governmental organisations in their planning and implementation;
- the adoption and periodic updating of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;

- the considerable efforts made to improve the prevention of human trafficking through awareness-raising measures, education in schools and training of relevant professionals;
- the adoption of a national referral mechanism and standard operating procedures for the identification and treatment of victims of trafficking;
- the provision in law of a recovery and reflection period longer than the minimum of 30 days envisaged under the Convention.

Taking note of the areas where further action is required in order to improve the implementation of the Convention by “the former Yugoslav Republic of Macedonia”, in particular:

- strengthening the aspect of prevention through social and economic empowerment measures for groups vulnerable to trafficking in human beings and securing the registration of all persons;
- taking further steps to ensure that victims of trafficking are properly identified, in particular by strengthening multi-agency involvement and paying more attention to the identification of victims of trafficking among irregular migrants, asylum seekers and unaccompanied foreign minors;
- ensuring that all assistance measures provided for in law are guaranteed in practice, in particular by securing adequate financing, suitable accommodation and assistance to child and male victims of trafficking, and facilitating the reintegration of victims into society;
- ensuring that victims of trafficking are systematically informed of and can fully benefit from the right to obtain a renewable residence permit;
- ensuring that victims of trafficking can effectively obtain compensation, including by setting up a State compensation scheme accessible to victims of trafficking;
- further developing the specialisation and training of prosecutors and judges with a view to ensuring that crimes related to trafficking are effectively prosecuted, leading to proportionate and dissuasive sanctions.

1. Recommends that the Government of “the former Yugoslav Republic of Macedonia” implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by “the former Yugoslav Republic of Macedonia” (see addendum);

2. Requests the Government of “the former Yugoslav Republic of Macedonia” to inform the Committee of the Parties of the measures taken to comply with this recommendation by 7 July 2016;

3. Invites the Government of “the former Yugoslav Republic of Macedonia” 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 “the former Yugoslav Republic of Macedonia”

Comprehensive approach and co-ordination

1. GRETA considers that the Macedonian authorities should continue to raise awareness among professionals and the general public as regards the scope of the definition of trafficking in human beings and the difference and links between human trafficking and migrant smuggling.
2. GRETA invites the Macedonian authorities to further strengthen co-ordination between public bodies and civil society actors engaged in anti-trafficking action and to ensure that the latter are provided with the financial resources necessary to carry out the relevant activities under the National Action Plan for 2013-2016.
3. GRETA considers that the Macedonian authorities should establish a fully-fledged post of National Co-ordinator supported by a dedicated office which is commensurate with the tasks at hand, to enable this body to effectively carry out its mandate. Further, GRETA invites the Macedonian authorities to establish the National Rapporteur as a de jure independent post with a mandate to monitor the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).
4. GRETA also considers that the Macedonian authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular:
 - strengthen action to combat THB for the purpose of labour exploitation by involving labour inspectors, civil society, businesses, trade unions and employment agencies in a joint platform and improving the identification of, and assistance, to victims of THB for the purpose of labour exploitation;
 - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups, and ensure that the best interests of the child are fully taken into account;
 - ensure that trafficking for the purpose of forced begging and internal trafficking are adequately addressed by the national anti-trafficking policy;
 - take measures to identify the scale of trafficking of foreign nationals and to provide such victims of THB with assistance in accordance with the Convention.

Training of relevant professionals

5. GRETA invites the Macedonian authorities to continue improving the knowledge, awareness and sensitivity of relevant professionals (including police officers, social workers, labour inspectors, professionals working with children, medical staff, prosecutors, judges, trade unions staff, journalists) 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 invites the Macedonian authorities to continue developing the aspect of data collection on THB by compiling reliable statistical information from all main actors which allows 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 considers that the Macedonian authorities should conduct and support 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 more research is needed in order to shed light on the extent and trends of human trafficking in the country and inform policy makers include trafficking for the purpose of labour exploitation, trafficking for the purpose of forced begging and internal trafficking.

International co-operation

8. GRETA welcomes the efforts of the Macedonian authorities in the area of international co-operation and invites them to continue developing international co-operation with a view to combating THB and providing assistance to victims.

Measures to raise awareness

9. GRETA considers that future awareness-raising measures should be designed in the light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within the country.

Measures to discourage demand

10. GRETA invites the Macedonian authorities to continue their efforts to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.

Social, economic and other initiatives for groups vulnerable to THB

11. GRETA welcomes the measures taken by the Macedonian authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures.

12. Further, GRETA urges the Macedonian authorities to take steps to secure the registration of all persons, both as a prevention measure and in order to avoid re-trafficking. If necessary, the relevant legislation should be amended to facilitate the process of registration.

Border measures to prevent THB and measures to enable legal migration

13. GRETA welcomes the measures taken by the Macedonian authorities and considers that the authorities should make further efforts to:

- detect cases of THB in the context of border control;
- introduce a checklist to identify potential THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

14. GRETA urges the Macedonian authorities to take further steps to ensure 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 authorities should:

- promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors;
- strengthen the capacity of the existing network of social workers to proactively identify victims of trafficking;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by expanding the powers of labour inspectors to also cover non-registered businesses and private homes and encouraging labour inspections in sectors most at risk (e.g. agriculture, entertainment, service sector, construction, domestic work);
- pay more attention to the identification of victims of trafficking among irregular migrants, asylum seekers and unaccompanied foreign minors and provide additional training to staff who come in contact with such persons.

Assistance to victims

15. GRETA welcomes the inclusion of victims of THB among the categories of persons entitled to health protection and encourages the Macedonian authorities to guarantee access to health care for victims of trafficking.

16. GRETA urges the Macedonian authorities to strengthen their efforts to provide assistance to victims of trafficking, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- provide suitable accommodation to child and male victims of trafficking and make sure that they can fully benefit from the assistance measures provided for in law;
- ensure that presumed foreign victims of trafficking are moved to the State shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking, without waiting for a residence permit to be issued;
- facilitate the reintegration of victims of THB into society and avoid re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market.

Recovery and reflection period

17. GRETA urges the Macedonian authorities to ensure that the decision-making period is not conditional on the victim's co-operation with the law enforcement authorities. Further, the authorities should ensure that no termination of the decision-making period is carried out on the grounds of the victim having "voluntarily, actively or upon his/her own initiative renewed contacts with the suspected traffickers" without due regard to the person's individual situation, which involves an examination of his/her case.

Residence permits

18. GRETA urges the Macedonian authorities to ensure that victims of trafficking are systematically informed of and can fully benefit from the right to obtain a renewable residence permit. GRETA also invites the Macedonian authorities to consider granting temporary residence permits to victims who do not co-operate with the competent authorities.

Compensation and legal redress

19. GRETA urges the Macedonian authorities to adopt measures to enable victims of trafficking to exercise their right to compensation, in particular by:

- ensuring 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;
- enabling victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- 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.

20. Further, bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Macedonian authorities to set up a State compensation scheme accessible to victims of THB.

Repatriation and return of victims

21. GRETA considers that the Macedonian authorities should take further steps to ensure that the return of victims of trafficking to another state is conducted with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim, and is preferably voluntary.

Substantive criminal law

22. GRETA invites the Macedonian authorities to ensure that all the aggravating circumstances included in the Convention are appropriately taken into account.

23. GRETA invites the Macedonian authorities to examine the relationship between Articles 418-a and 418-b of the CC with a view to clarifying the scope of application of these two provisions.

24. GRETA considers that the Macedonian authorities should adopt measures to establish as criminal offences all the actions listed under Article 20 of the Convention.

Non-punishment of victims of trafficking in human beings

25. GRETA urges the Macedonian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. In order to ensure that victims of THB are not punished for offences committed while being trafficked, the authorities should consider issuing guidance to the prosecutorial and judicial authorities advising them on the steps to be taken when a person might be a victim of trafficking. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

26. GRETA considers that the authorities should further develop the specialisation and training of prosecutors and judges with a view to ensuring that crimes related to THB are effectively prosecuted, leading to proportionate and dissuasive sanctions.

Protection of victims and witnesses

27. GRETA considers that the Macedonian authorities should make full use of the measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.