

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



CP(2016)7

Report submitted by the authorities of Luxembourg
on measures taken to comply with
Committee of the Parties Recommendation
CP(2014)5 on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings

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LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de la Justice

Luxembourg, le 3 février 2016

Madame Petya NESTOROVA
Secrétaire Exécutive de la Convention du Conseil
de l'Europe sur la lutte contre la traite des êtres
humains
Conseil de l'Europe
F – 67075 STRASBOURG

Concerne : *Suivi de la Recommandation du Comité des Parties concernant la mise en œuvre de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains par le Luxembourg*

Madame,

J'ai l'honneur de me référer à votre courrier du 30 novembre 2015 et vous prie de trouver en annexe le rapport du Gouvernement luxembourgeois sur la mise en œuvre de la recommandation du Comité des Parties.

Je reste à votre disposition pour toutes questions éventuelles et vous prie d'agréer, Madame, l'expression de ma considération distinguée.

Pour le Ministre de la Justice

Claudine KONSBRUCK
Conseiller de Gouvernement 1^{ère} classe

Annexe

Re: List of GRETA's proposals set out in the report of 30 July 2013: Luxembourg's follow-up measures:**Comprehensive approach and co-ordination (paragraphs 1 to 3)**

The composition, organisation and functioning of the Committee for monitoring action against trafficking in human beings were established by the Grand-ducal regulation of 10 March 2014 published in the Mémorial A official bulletin no. 37 of 18 March 2014 ([appendix 1](#)).

The Ministerial decree of 18 July 2014 appointing the members of the Monitoring committee was published in the Mémorial B official bullet no. 81 of 4 August 2014 ([appendix 2](#)). It must be noted that the Committee brings together representatives of the state bodies concerned, representatives of the judicial and police authorities and representatives of the charities tasked with reception of and assistance to trafficking victims. The national rapporteur for THB affairs is also invited on a regular basis to attend the proceedings of the Committee, which meets every two to three months.¹

The Committee has held a first reading of the draft action plan. A second reading of the text is in progress, and the action plan will be submitted to the Government Council during the first half of 2016. This draft action plan is based on a number of proposals made by GRETA.

Regarding the issue of trafficking for the purpose of labour exploitation (paragraph 1), Luxembourg, together with Malta and Slovakia, has been invited by the Netherlands to join a project geared to multidisciplinary co-operation in action against trafficking in human beings for the purpose of labour exploitation.

The project will “culminate” in a conference to be held on 18 and 19 January 2016 in Amsterdam. Luxembourg will be represented by a delegation of 5 individuals involved in action against THB and is actively participating in the conference's organisation.

The reason for the involvement of these countries in particular is that the preparations and any subsequent work will be carried out under the EU presidencies of the NL-MT-SK trio.

The objective for the Netherlands is to be able to present a manual² at the conference, setting out all the outcomes of this co-operation, and propose the Council's conclusions in the month of June 2016.

Training of relevant professionals (paragraph 4):

Special efforts have been made to train the different professionals, with recent training sessions attended by relevant professionals as follows:

2013:

16-18 April: “A conference on strengthening multidisciplinary operational co-operation to fight trafficking in human beings”, Amsterdam,

¹<http://www.ccdh.public.lu/fr/publications/rapports-activite/Rapport-2014.pdf>

²<https://www.government.nl/documents/publications/2016/01/18/manual-for-experts-on-multidisciplinary-cooperation-against-trafficking-in-human-beings-for-labour-exploitation>

25 October: “Identifikation und Betreuung/Begleitung von Betroffenen des Menschenhandels” (identification and referral/support of victims of THB), organised by the “Femmes en détresse” (Women in distress) non-profit NGO, Luxembourg. Training run by KOK, Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess e.V (Nationwide co-ordination circle against trafficking in women and violence against women in the migration process, registered association).

2014:

Training at the ENM (national college for the judiciary) in Paris: “La Traite des êtres humains” (“Trafficking in human beings”) for 6 members of the judiciary, including 2 judges,

26-27 November: THB training for Judicial police,

2015:

9 February: “Identifying and caring for THB victims”, organised by the “Femmes en détresse ASBL” NGO. Session run by the ALC association / Co-ordination of the National Secure reception system

23-25 November: Training at the ENM in Paris: “La Traite des êtres humains” (trafficking in human beings),

26.11.2015: CEPOL training, Presidency Conference – Law enforcement challenges in fighting African organised crime groups active in trafficking in human beings, Luxembourg.

It is planned to lay on a course at the National Institute of Public Administration on the subject of THB for the entire civil service.

Data collection and research (paragraphs 5 and 6):

Work on setting up a comprehensive and coherent system of statistics is being finalised. A problem has been identified regarding concordance between the statistics collected by NGOs, the police or the national rapporteur, for example. Consultation on this point within the Monitoring Committee will make it possible to have single and consistent data collection.

In the area of research, Luxembourg has always actively contributed to research carried out by organisations. Examples are the European Migration Network Study on the identification of THB victims during international protection and return procedures ([appendix 3](#)) and the TrafStat Project “Counting what counts; Tools for the validation and utilization of EU statistics on human trafficking”.

International co-operation (paragraph 7):

Third country, region, organisation at international level	Form or structure of actions and activities	Description of actions and activities	Partner Organisation	Duration (start/end date)	Funding in EUR
1) Nepal, Mali, Benin, Burkina Faso, Niger, India, Senegal	Funds allocated to ECPAT	Prevention of sex tourism, support or conception of programmes focusing on children in order to avoid them becoming victims or on support for victims (education, training, psychological help)	ECPAT Luxembourg		1 M Euro per year approx.
2)	Funds allocated to those organisations	Everything related to child victims of prostitution, sex tourism, trafficking	UNICEF, UNFPA, ONUSIDA and The GLOBAL FUND		General contribution, not possible to fix the exact funding for the programmes focusing on sex tourism and THB
3) Lebanon, Bangladesh, Nepal, Philippines, Sri Lanka, Ethiopia	Funds allocated to those organisations	Humanitarian Aid focusing on refugees, women	UNHCR and other NGO's e.g. Caritas Luxembourg	2013-2016	637.500.- Euros
4) United Nations Voluntary Trust Fund on Contemporary Forms of Slavery	Voluntary contribution	Support to individuals whose human rights have been severely violated as a result of modern slavery	Office of the High Commissioner for Human Rights	Multi-annual	15.000 EUR in 2016

Measures to raise awareness and discourage demand (paragraphs 8 - 10):

It is to be noted that the Grand-ducal regulation in question, namely the Grand-ducal regulation of 11 September 2014 implementing Article 2 paragraphs 1.a and 2 and 4 of the amended Law of 8 May 2009 on assistance, protection and safety of victims of trafficking in human beings was published in the Mémorial A official bulletin no. 186 of 7 October 2014 ([appendix 4](#)).

Luxembourg also prepared an information brochure on the issue of trafficking in human beings ([appendix 5](#)) in 2014. This brochure describes the different forms of trafficking, indicates the criminal sanctions applicable and informs the public of the potential and detectable signs of THB offences.

The brochure also contains information on the authorities to contact if trafficking is suspected.

The brochure is very broadly distributed via the public offices of state administrations, the airport, stations, police departments, charities etc. The Luxembourg Government also intends to organise an audio-visual information campaign to raise public awareness of the phenomenon of THB during 2016.

The SAVTEH (Service providing assistance to victims of THB), a service run by the FEMMES EN DETRESSE non-profit association, produced an information leaflet in 2014 for professionals in the social sector ([appendix 6](#)).

In 2014 this service also collaborated with the MASKÉNADA theatre group, which put on Lucy Kirkwood's play "It felt so empty when the heart went at first but it is alright now". In this connection, the Ministry of Justice and the Ministry of Equal Opportunities provided contributions for a brochure ([appendix 7](#)) distributed to the theatre audience. A conference was organised at the Women's Information and Documentation Centre in connection with the play, with representatives of the Police, the Ministry of Justice and the NGOs answering questions on the subject.

An information brochure on Benelux co-operation for the reception of THB victims was published at the end of 2015³ and will be distributed to the Police, the NGOs, the Prosecutor's office and the members of the Monitoring committee ([appendix 8](#)).

The Luxembourg national contact point for the European Migration Network also published a brochure on its study focusing on the identification of THB victims during international protection and forced return procedures (see [appendix 3](#)).

Finally, on International Human Rights Day 2013, the Advisory Committee on Human Rights organised a conference "Presenting the EU Strategy towards the Eradication of Trafficking in Human Beings" in the presence of Ms Myria Vassiliadou, European co-ordinator for action against THB.

³ <http://www.benelux.int/fr/publications/publications/cooperation-benelux-en-vue-de-laccueil-des-victimes-de-la-traite-des-etres-humains>

Border measures to prevent THB and measures to enable legal migration (paragraph 11):

Under Luxembourg's legislation, it is the task of the Organised Crime Unit of the Judicial Police service to carry out identification of victims on the basis of a confidential list of indicators for deciding whether an investigation for THB must be launched.

The list of indicators is set out in a roadmap established by the Grand-Ducal Police.

This roadmap, informal and confidential in nature, describes the procedures to be followed when a victim has been identified by the Police and will be put on a formal footing and approved by the Monitoring Committee in the first half of 2016.

It is intended to enable the different public operatives involved in victims' identification, stay arrangements, care, assistance, supervision and protection to establish their respective fields of competence and action.

As already pointed out, a training course for all public authority operatives is currently being organised. Those operatives, including representatives of the Immigration Department of the Foreign Affairs Ministry and representatives of the Retention Centre have already attended a whole host of training courses.

Border measures to prevent THB and measures to enable legal migration (paragraph 12):

It must be pointed out that there is no link whatsoever between identification of a presumed victim and the lodging of criminal proceedings. Possible victims may be detected by any individual or service. If trafficking is suspected, the person is referred to the Judicial Police Service, which runs a check on the possible signs and identifies the person as a victim of THB where applicable.

Regarding identification mechanisms, see above (roadmap).

Persons who approach specialised NGOs all receive the necessary assistance. If the NGO detects signs of trafficking in human beings, it refers the individual to the Judicial Police Service.

The brochure appended, which is available to the public and distributed in various public places, sets out a list of indicators or signs suggesting that someone is a victim of trafficking.

The brochure is also posted on the Ministry of Justice internet site.

The Labour and Mines Inspectorate is aware of the phenomenon, being an active member of the Committee responsible for monitoring action against trafficking in human beings.

Regarding the training of the operatives involved, see the paragraph above.

Assistance to victims (paragraph 13):

It must be pointed out that the assistance provided to victims is in no way dependent on their co-operation with the investigation and prosecution authorities.

Article 92 of the amended Law of 29 August 2008 on the free movement of persons clearly states that the police services must inform the presumed victim of the possibility of being:

- granted a reflection period and
- issued with a residence permit on condition that they co-operate with the authorities responsible for the investigation.

The same article also stipulates the obligation for the police services to put the victim in touch with a service providing assistance to THB victims.

Any victim detected enjoys direct access to the assistance provided by the NGOs. Specific authorisation agreements have been signed with the NGOs concerned to put assistance for THB victims on a permanent footing.

A THB victim benefiting from a residence permit under Article 95 of the amended Law of 29 August 2008 on the free movement of persons also has access to the labour market and is issued with a work permit.

Recovery and reflection period (paragraph 14):

Article 92 of the amended Law of 29 August 2008 is clear and unequivocal: when the police services have indications that a third-country national is a victim of a THB-related offence, they are to inform the victim of the possibility of being granted a 90-day reflection period. That reflection period is independent of any co-operation on the part of the victim.

Residence permits (paragraph 15):

Victims co-operating with the prosecution authorities are fully entitled to a residence permit, meaning that Luxembourg complies with Article 14 of the Convention.

Compensation and legal redress (paragraphs 16 to 18):

The Law of 9 April 2014 ([appendix 9](#)), which reinforces the rights of trafficking victims, also amended Article 1 of the amended Law of 12 March 1984 on compensation of certain victims for bodily harm resulting from an offence. This amendment added Article 382-1 to the set of articles stipulating a presumption of harm to physical or mental integrity where the victim is a minor.

The same amended Article 1 stipulates that any Council of Europe member State national may avail themselves of compensation at the expense of the State. Article 15 of the Law of 12 March 1984 states that a victim of a THB offence shall be dispensed from the obligation of regular and habitual residence in the Grand Duchy.

Repatriation and return of victims (paragraph 19):

Any repatriations are organised in collaboration with the IOM.

Substantive criminal law (paragraph 20):

The idea of creating an offence of retaining, removing, altering, damaging or destroying travel or identity documents has been acted upon in a draft law put forward by the members of parliament Franz Fayot and Marc Angel. This draft legislation ([appendix 10](#)) is currently being examined in the Committee responsible for monitoring action against trafficking in human beings, so Luxembourg is now considering this possibility.

Non-punishment of victims of trafficking in human beings (paragraph 21):

Current training programmes take this aspect into account.

Investigation, prosecution and procedural law (paragraph 22):

It is to be stressed that efforts to train members of the judiciary have been made in recent years. A list of the training courses followed appears on page 1 of this report.

Protection of victims and witnesses (paragraphs 23 and 24):

There is strong emphasis on protecting victims. The country has already begun working with neighbouring States with a view to placing victims and sensitive witnesses involved in trafficking cases. Since Luxembourg's territory is very small, a protection measure limited to national level is unlikely to be effective. Giving people new identities at national level does not offer victims or witnesses ideal protection for the same reasons. Within the framework of Luxembourg's Presidency of Benelux from 1 January 2016 to 31 December 2016, collaboration between NGOs responsible for assisting and accommodating THB victims will be stepped up at the level of Benelux ([appendix 11](#)).

Appendices:

- 1) Grand-ducal regulation of 10 March 2014
- 2) Ministerial decree of 18 July 2014
- 3) European Migration Network study on the identification of THB victims during international protection and forced return procedures
- 4) Grand-ducal regulation of 11 September 2014
- 5) Ministry of Justice information brochure
- 6) Femmes en Détresse information leaflet
- 7) MASKÉNADA brochure
- 8) Benelux brochure
- 9) Law of 9 April 2014
- 10) Legislative bill
- 11) Programme of the Benelux Presidency
