

Recommendation CM/Rec(2022)21¹ of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation

*(Adopted by the Committee of Ministers on 27 September 2022
at the 1444th meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe, under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1),

Considering that the aim of the Council of Europe is to achieve greater unity among its member States by, *inter alia*, promoting common standards in the field of human rights;

Recalling member States' obligation to secure to everyone within their jurisdiction, the rights and freedoms defined in the European Convention on Human Rights (ETS No. 5, the Convention) and its protocols, as interpreted in the case law of the European Court of Human Rights, according to which trafficking in human beings falls within the scope of Article 4 of the Convention;

Recognising that social rights, as set out in the European Social Charter (ETS No. 35) and the European Social Charter (revised) (ETS No. 163), are an integral part of human rights and are essential for preventing trafficking in human beings and enabling the social and economic (re)integration of people who fall victim to it;

Reaffirming the resolve of the Council of Europe to combat trafficking in human beings by following a comprehensive approach encompassing prevention, protection of victims' rights, access to remedies, prosecution and sanctioning of perpetrators, international co-operation and partnerships with civil society, as reflected in the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197);

Considering that trafficking in human beings for the purpose of labour exploitation was identified as one of the major challenges for Europe in the 2019 report of the Secretary General of the Council of Europe, "Ready for future challenges – Reinforcing the Council of Europe";

Taking into account the Secretary General's "Road map on strengthening action against trafficking in human beings for the purpose of labour exploitation" adopted with a view to implementing the decision taken at the 129th Session of the Committee of Ministers in Helsinki on 17 May 2019, to continue analysing the protection provided by existing European standards and examine ways of strengthening action against trafficking in human beings;

Deeply concerned that trafficking in human beings for the purpose of labour exploitation causes severe harm and has been on the rise across Council of Europe member States, affecting an increasing number of women, men and children;

Emphasising that trafficking in human beings is a grave violation of a person's dignity, reducing human beings to commodities and is linked to labour law violations and other illegal activities, such as tax evasion, social benefit and social security fraud and money laundering;

¹ See the Explanatory Memorandum to Recommendation CM/Rec(2022)21:
https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a7b75b

Acknowledging that trafficking in human beings for the purpose of labour exploitation is facilitated by global economic disparities, armed conflicts resulting in displacement of people, failure to uphold economic and social human rights, multiple and intersecting forms of discrimination and risks, the lack of labour market regulations and effective inspection mechanisms, increasing market pressure for cost reductions and the attempt to maximise profits through the underpayment, overwork and exploitation of workers;

Recalling that trafficking in human beings for the purpose of labour exploitation takes place both transnationally and internally within the same State, and that it is often associated with labour migration and situations where people are unable to access legal labour migration pathways that ensure decent work or have restricted access to the labour market as a result of their immigration or asylum status;

Considering the challenges in the detection of cases of trafficking in human beings for the purpose of labour exploitation, including the lack of public awareness of this phenomenon; the reluctance or inability of victims to come forward due to their immigration status or the risk of reprisals, punishment or loss of job, residency or accommodation; psychological dependence on the traffickers; a lack of awareness of rights; a lack of workplace representation and the absence of legal assistance, as well as a lack of training and resources of those responsible for the identification of victims;

Taking into account that trafficking in human beings for the purpose of labour exploitation may occur, in all sectors of the economy, at different stages of businesses' supply chains, as a consequence of public procurement practices, as well as in private households;

Stressing that combating trafficking for the purpose of labour exploitation requires international and multilateral co-operation, including between law-enforcement agencies, the judiciary and other institutions, as well as co-ordinated action between States, businesses, anti-trafficking and migrant rights non-governmental organisations (NGOs) and trade unions, and support of free media;

Recalling the International Labour Organization (ILO) Forced Labour Convention (1930) and the 2014 protocol thereto, according to which States should criminalise forced labour and prosecute the perpetrators of such offences, take effective measures to prevent forced labour, provide victims with protection and access to remedies, such as compensation, and take specific action against trafficking in persons for forced labour, and recalling also other ILO standards, in particular the Minimum Age Convention (1973), the Worst Forms of Child Labour Convention (1999), the Domestic Workers Convention (2011), the Labour Inspection Convention (1947), the Freedom of Association and Protection of the Right to Organise Convention (1948), the Right to Organise and Collective Bargaining Convention (1949), and the Violence and Harassment Convention (2019);

Bearing in mind the recommendations of the Committee of Ministers of the Council of Europe to member States: Rec(2006)8 on assistance to crime victims, CM/Rec(2008)10 on improving access of migrants and persons of immigrant background to employment, CM/Rec(2015)3 on the access of young people from disadvantaged neighbourhoods to social rights and CM/Rec(2016)3 on human rights and business;

Bearing in mind the relevant work of the Parliamentary Assembly of the Council of Europe, and in particular Recommendation 2011 (2013) "Trafficking of migrant workers for forced labour" and Recommendation 2171 (2020) "Concerted action against human trafficking and the smuggling of migrants";

Taking into account the work of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA), and in particular its Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation and Guidance Note on preventing and combating human trafficking for the purpose of labour exploitation;

Recalling the ILO Declaration of Fundamental Principles and Rights at Work (1998), as amended in 2022;

Recalling the United Nations Guiding Principles on Business and Human Rights, according to which States should "respect, protect and fulfil human rights and fundamental freedoms" and "consider a smart mix of measures – national and international, mandatory and voluntary – to foster business respect for human rights", and to ensure appropriate and effective remedies in case of human rights violations;

Recognising and building on the work of other intergovernmental organisations and agencies active in the field of combating trafficking in human beings and forced labour,

Recommends that the governments of the member States:

1. adopt national laws, policies and strategies for combating trafficking in human beings which address trafficking for the purpose of labour exploitation and take a human rights-based and victim-centred approach. They should be supported by adequate funding to ensure their implementation and co-ordinated, monitored and evaluated by specific mechanisms, without prejudice to cross-cutting means. The purpose of these policies should be to prevent trafficking in human beings for the purpose of labour exploitation, to protect the rights of victims and guarantee their access to effective remedies, including compensation, to punish those responsible for the offences, and to promote international and multi-agency co-operation and co-ordination. They should also ensure that businesses and public organisations act with due diligence and map and tackle the risks of trafficking in human beings in their supply chains and procurement;
2. ensure that the measures and principles set out in this recommendation are implemented and followed in relevant national law and practice, in the light of the further guidance contained in the explanatory memorandum. The effectiveness of the measures taken should be assessed by the relevant public authorities at regular intervals, in close co-operation with all relevant stakeholders;
3. ensure, by appropriate means and action, a wide dissemination of this recommendation and its explanatory memorandum among the competent authorities and stakeholders at national, regional and local levels, and including other intergovernmental organisations;
4. examine, within the Committee of Ministers, in co-operation with other relevant bodies of the Council of Europe and with the participation of relevant stakeholders, the implementation of this recommendation no later than five years after its adoption, taking into account prior national assessments.