

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



CP(2017)13

**Report submitted by the Slovak authorities
on measures taken to comply with
Committee of the Parties Recommendation
CP(2015)16 on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

Second evaluation round

Received on 30 November 2016

Ce document n'est disponible qu'en anglais.

The State Secretary of the
Ministry of the Interior of the Slovak
Republic
and
National Co-ordinator for Combating
Trafficking in Human Beings

Rudolf URBANOVIČ

Bratislava 30th November 2016

Dear Executive Secretary,

The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings at its 17th meeting held on 30 November 2015 considered the second evaluation report of the Group of Experts on Action against Trafficking in Human Beings (GRETA) on the implementation of the Convention by the Slovak Republic, together with the comments submitted by the authorities.

On the basis of GRETA's conclusions, the Committee of the Parties adopted Recommendation CP (2015) 16 on the implementation of the Convention by the Slovak Republic, which is enclosed herewith. Pursuant to this recommendation, the Government of the Slovak Republic is requested to submit, by **30 November 2016**, information on the measures taken to address the issues for immediate action identified in GRETA's report. The Committee of the Parties also recommended that the Government of the Slovak Republic takes measures to implement the further conclusions of GRETA's second evaluation report and to keep GRETA regularly informed of the measures taken.

As a National Co-ordinator for Combating Trafficking in Human Beings, I am sending the measures taken by the Slovak Republic to fulfill the recommendations. Comments on the recommendations attached hereto were prepared by the Ministry of the Interior of the Slovak Republic on the basis of documents obtained from the entities addressed in compliance with the workflow of the monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings.

Yours sincerely,

Dear Ms.

Petya Nestorova
Executive Secretary
Council of Europe Convention on
Action Against Trafficking in Human Beings

Strasbourg

Recommendation on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic

• **GRETA urges the Slovak authorities to make efforts to improve the identification and assistance to child victims of trafficking, and in particular to:**

- establish a clear and uniform procedure concerning the identification of child victims of THB, both Slovak and foreign, and disseminate information and guidance about the application of this procedure to relevant professionals;

- ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;

- take steps to address the problem of disappearance of unaccompanied minors from child care facilities;

- review the legislation concerning the presumption of age with a view to bringing it in conformity with Article 10(3) of the Convention.

The competent authorities and the government of the Slovak Republic are aware of the problem of unjustified abandonment of unaccompanied minors from the orphanage. The document **Integration Policy of the Slovak Republic** in the chapter aimed at **unaccompanied minors** is one of the set tasks: **Analysis and identification of the causes "of escapes" and propose measures to prevent and eliminate their causes**, which is the subject of the contract between the Ministry of Labour, Social Affairs and Family with the Institute for Labour and Family Research. The Institute for Labour and Family Research **launched qualitative research project that aims to identify the main reasons for unauthorized leaving and escapes** from orphanages and propose measures that would prevent another escape and enhance opportunities and conditions for the adoption of sustainability and integration of unaccompanied minors into the society.

It should also be noted that each unaccompanied minors has access to a social worker and a psychologist. After the adoption of unaccompanied minors in an orphanage case conference with the participation of an interpreter is being organized in order to communicate with unaccompanied minors in the language they understand. **The aim is to explain unaccompanied minors their situation, where there are rules and operation of the orphanage, the role of social worker and guardian, and legal options for addressing the situation.** The reasons for arrival to Slovakia, family information, final destination, and view of unaccompanied minors to address the situation for the merger with the family to return to their country of origin, asylum or other options for addressing the situation are being considered.

Regarding the age assessment methods: **Carpal (hand/wrist) X ray, together with dental observation in some cases, is the only method for the age assessment currently applied.** The age assessment is crucial due to the legal consequences - in line with the Slovak legislation a person who reached 18 years is regarded as a full-aged (matured) person for the purpose of the procedure.

Assessment techniques such as cognitive, behavioral appraisal and psychological assessment **are not seen as sufficient**; those tests can however be used for personality assessment although not for the purpose of age assessment, as the observed factors are not objective.

In general, Carpal (hand/wrist) X ray **is the most used and accepted method for the age assessment**. Following the above Department of Alien Police of Bureau of Border and Alien Police does not consider using of other age assessment methods. On the contrary Department of Alien Police of Bureau of Border and Alien Police will not refuse using any of the new age assessment methods provided that they will contribute to accelerate the identification process. The competent authority in this field is Ministry of Health of Slovak Republic. (regarding the method of age assessment please see also a study held by experts from forensi.sk as an attachment, apologize that it is in Slovak)

Also „**Methodological guide on how to proceed in provision of assistance to victims of trafficking with special focus on minors and foreigners**” – a methodological guide for specific groups of professionals who can identify victims of trafficking – minors or foreigners has been amended **with the comments from relevant entities and members from the Expert Group for the Area of Combatting Trafficking in Human Beings**.

• **GRETA strongly urges the Slovak authorities to provide in the national legislation for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking, including EU and EEA citizens, are offered an effective recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**

The provisions of the Directive 2004/81 related to tolerated stay (reflection period) and residence permit were incorporated in the Foreigner's Act (Act No. 404/2011 Coll. on the Foreigners' Stay as amended).

Information on the possibility of tolerated stay and residence permit are the compulsory part of information provided to a potential/identified victim of trafficking who is referred into the system of assistance in Slovakia. Based on the Foreigner's Act, reflection period might be granted for up to 90 days with additional 30 days in exceptional cases and residence permit granted for at least 180 days, even repeatedly if the presence of third country national in the territory of the Slovak Republic is necessary for criminal procedure.

• **Bearing in mind that no victims of THB have received compensation either from the perpetrators or from the State, GRETA urges the Slovak authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including 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 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;**

- encouraging prosecutors to request compensation orders to the largest possible extent;
- making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.
- GRETA recalls that establishing the actions provided in Article 20 of the Convention as criminal offences is a legal obligation under the Convention and strongly urges the Slovak authorities to bring national legislation into full conformity with Article 20 of the Convention.
- GRETA urges the Slovak authorities to take additional legislative and practical measures to ensure that:
 - THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions;
 - financial investigations are systematically carried out to locate the proceeds of crime and other assets of the traffickers;
 - the offence of THB is excluded from the plea bargaining procedure.

The procedure of law enforcement agencies are governed by the Act. 301/2005 Coll. the Criminal Code. In accordance with § 2 article 20 of the Criminal Procedure Code, there is a responsibility of the investigator prior to the examination of the witness - **properly instruct a victim in their mother language**. If the interviewee does not know the Slovak language in word or in writing, **the investigator is obliged to engage an interpreter for the hearing in a language the interviewee understands**. „(20) If the accused, their legal representative, suspected person, victim, witness, or a party to an action declares that they do not speak the language in which the proceedings are conducted, then they have the right to an interpreter and a translator.”

Witness - damaged is also instructed in accordance with **§ 46 and § 47** of the Criminal Procedure Code, about its authorizations and claims for damages. Application for damages to the injured party should be filed by the end of the investigation. **The proposal must be clear** on what grounds and in what amount the claim for damages claims.

Pursuant to § 201 of the Criminal Procedure Code, law enforcement bodies proceeds in the investigation in a ways to acquire the documentation **as soon as possible** to clarify the act to the extent necessary to assess the case and to ensure that the perpetrators of the crime will be detained. According to § 230 article 1 of the Criminal Procedure Code, the prosecutor is monitoring the compliance with the law before the commencement of criminal prosecution and pre-trial.

Supervision prosecutors regularly carry out a review of case files to ensure timeliness and legality of sanctions against the perpetrators of this crime and their swift brought to justice. The process of pre-trial investigation and the property situation of the accused and examination of financial flows are in order under the "financial investigation" to ensure the prosecution of perpetrators and compensation of victims of these crimes.

Management and control of an investigation is governed by Art. 24 of the Regulation of the Minister of Interior of the Slovak Republic on the definition of jurisdiction of police forces and departments of the Ministry of the Interior of the Slovak Republic in detecting offenses in identifying the perpetrators and on the procedure in criminal proceedings no. 175/2010.

The situation with the compensations for the victims of trafficking in human beings **will be dealt comprehensively in the context of the envisaged law on victims of crime, which will absorb modification of an existing law. 215/2006 Coll. on compensation of victims of violent crimes as amended.** Applicable legislation will be forthcoming law extended with the possibility of compensating victims of trafficking in human beings without binding to the condition of physical injury, **moral damages** as a result of the offense trafficking in human beings as in the case of offenses against human dignity will be compensated. The **new act** about the victims of crime will regulate also the right to access of victims to legal assistance to enable them effectively exercise the right to compensation from the offender in the criminal proceedings, respectively civil proceedings or in compensation from the state. **For the time being, the law is scheduled for 7/2017. The call for compensation is part of the edification of the damaged (victims), which is a regular part of his edification in terms of the Criminal Procedure Code.**

The Criminal Code and Criminal Procedure Code recognizes institutes, which are designed to prevent the **outflow of assets** of criminals in order to frustrate their or recourse of the assets. Pursuant to § 58 of Act no. 300/2005 Coll., **it is possible to penalize and confiscate the property** in respect of certain types of serious crimes, including the crime of human trafficking. Persons convicted of such offenses can be sentenced to confiscation of property or funds that are disproportionate to their present or past known profit. In the Slovak Republic, the burden of proving of the acquisition of property by suspected persons committing crimes lies on the law enforcement agencies. In the reporting period we do not register any case of the crime of human trafficking, which would have been imposed penalties related to the proceeds of perpetrators. Investigators involved in the investigation of crimes of human trafficking, however, in criminal proceedings are finding property and financial circumstances of the offender and if found illegal proceeds of crime are used by the institutes of detention (eg. **Securing victim's claim - § 50 Code of Criminal Procedure provide funds - § 95 Code of Criminal Procedure provide imprisonment confiscation of property - § 425 Code of criminal Procedure, ensuring things - § 428 article 2 of criminal Procedure, freezing property - § 551 Code of criminal Procedure**). **A freezing order issued by a prosecutor in pre-trial proceedings, followed by confirmation of a judge in court proceedings is issued by the competent court.**

Making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking is being a part of the current legislative package "capturing and confiscation", which is implemented under the auspices of the Ministry of Justice planned to take effect 01.01.2018. The question of using the funds received from the exercise of equity sanction for damages / compensation to victims of crime (including trafficking) is the subject of discussion within the relevant group, at this time, the result can be expected because work is at an early stage.

Institute of the plea bargaining procedure is an effective criminal institute in which the sentenced person confesses to a crime and to waive its right to a public trial in exchange with the possibility of punishment under the law of the custodial sentence. Agreement on plea bargaining in criminal proceedings is confirmed by the court, which will decide on the judgment approval. Ministry of Justice does not intend, and does not support the introduction of the statutory exceptions to this process procedure in respect of the designated categories of offenses.

In collaboration with **the Judicial Academy of the Slovak Republic has been developed educational plan** relating to the problem of human trafficking, targeting the **judges and prosecutors** specialized in the issue, focusing on specific issues of evidence and prosecuting human trafficking. In 2016, in order to access more sensitivity in cases of trafficking, this training of judges and prosecutors to victims of trafficking took place also with the participation of investigators who are directly engaged in clarifying the crime of human trafficking. The educational events are planned also for the higher court officials and prosecutors candidates.

In cooperation with the Ministry of Defence of the Slovak Republic, the issue of human trafficking has included in regular cycle training for members of the **armed forces** posted at missions abroad.

Given that this issue is part of a comprehensive training program within the predeparture of staff of **the Ministry of Foreign and European Affairs of the Slovak Republic**, the Ministry of Interior in cooperation with lecturers of the International Organization for Migration (IOM) conducted a regular (2x a year) training for selected staff of the sector in the context of their transmission and action of the **consular sections of diplomatic missions** of Slovakia abroad. Education and training focused on the issue of human trafficking will continue.

• **GRETA urges the Slovak authorities to:**

- **make full use of the measures available to protect victims and witnesses of THB and to take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of direct confrontation of victims with suspected traffickers;**

- **ensure that child victims of THB are afforded special protection measures taking into account the best interests of the child. The police, prosecutors and judges, as well as social workers acting as legal guardians of children, should be trained and made aware of the particular vulnerability of child victims of trafficking.**

Measures to prevent **secondary victimization of victims of trafficking will be solved in the framework of the forthcoming law on victims of crime.** Limiting direct confrontation with child victims of trafficking with perpetrators are **dealt with in § 125 articles 1- 4 of the Criminal Procedure Code** as follows: "(1) If the testimony of the accused contradicts the testimony of a co-defendant or witness in serious circumstances, and the contradiction cannot be clarified otherwise, the accused may face them in person. (2) Persons stood face to face may ask each other questions only with the consent of the interrogator. (3) The provisions of Subsection 1 and 2 shall not apply to an agent, a threatened witness, a protected witness, and a witness whose identity is classified; this shall not apply to an agent who agrees to the disclosure of their identity.

(4) In criminal proceedings on criminal offences against human dignity and on a criminal offence of human trafficking, the provisions of Subsection 1 and 2 may apply to a witness below 18 years of age, against whom such criminal offence was committed, only in exceptional cases if it is necessary for the clarification of the matter; it is not possible to apply the provisions of Subsection 1 and 2 to such witness if the witness is a person below 15 years of age. "

Each identified victims of trafficking are **offered the option of entering the programme of support and protection of victims of trafficking**, which provides the Ministry of the Interior through its contract partners (NGOs). Under the program, victims can exercise the option to appropriate secure accommodation.

Victims also have the possibility of their inclusion in the **witness protection program** under the Act no. 256/1998 Coll. witness protection and on amendments to certain laws, as amended. The institute has not yet been used by any victims of human trafficking.

Pursuant to § 46 article 8 of Criminal Procedure Code, law enforcement bodies provide injured person with information: "If the law enforcement authority or the court ascertains that the victim is in danger in relation to the residence of the accused or convicted at liberty, the law enforcement authority or the court shall provide them with the information that a) the accused was released from custody or has escaped, b) the convicted person was released from serving a prison sentence or has escaped."

Current situation in the field of combating Trafficking in Human Beings in Slovakia

The Slovak Republic is considered to be mainly a **source country** for victims of trafficking in human beings. Still, trafficking in human beings occurs also domestically, as may be seen from the statistical data collected in Slovakia.

In 2015, together 25 trafficked individuals entered a specialized Programme of Support and Assistance to Victims of Trafficking („programme“) which offers services of complex assistance to victims of trafficking. Total number of 47 victims of trafficking were provided with assistance and support in 2015. The number reflects the victims who entered the programme in the previous years and were provided with care also in relation to criminal proceedings.

In 2015, **together 8 female victims of trafficking** (i.e. 32 %) entered the programme in 2015. The number of female victims of trafficking decreased in comparison with 2014 when female victims represented a prevailing number of 65 %. The majority of female victims in 2015 originated from the **east of Slovakia. Together 17 male victims entered the programme in 2015** which represents 68 % of all victims entered in the programme in 2015. The majority of them originated from the east of Slovakia. In 2014 the male victims represented 35 % of all victims who entered the programme that year. It is obvious that the situation in 2015 changed significantly. In the previous years the prevailing number of victims were women while in 2015 they were men. The detailed analysis proved that the youngest female victims entering the programme in 2015 were aged 19 and originated from the regions of Bratislava (western part of Slovakia), Banská Bystrica (central part of Slovakia) followed by Košice region (eastern part of Slovakia). The eldest female victim aged 47 originated from Nitra region (western part of Slovakia)

The youngest male victim aged 20 originated from Prešov region (eastern part of Slovakia) **and the oldest male victim aged 66 from the region Banská Bystrica** (central part of Slovakia).

The prevailing number of victims originated from the eastern part of Slovakia (Košice region), same as in 2014 and 2013. The eastern region has been the most frequent place of origin of victims previously. In 2015 victims originating from the east of Slovakia (11 victims) represented 44 % of all victims, followed by Nitra region (5 victims) and Banská Bystrica region (5 victims). This is the reason for the need to continue in preventive activities in this region.

Information Centre for Combating Trafficking in Human Beings and for Crime Prevention under the Ministry of the Interior of the Slovak Republic is responsible for elaboration of annual reports related to the effectiveness of the programme. The programme is realized on the basis of cooperation of the Ministry of the Interior of the Slovak Republic with non-governmental organisations and international organisation.

The Ministry of the Interior of the Slovak Republic concluded a contract with the company Slovak Telekom a,s, on the establishment of the National Helpline for Victims of Trafficking 0800 800 818 (+421 800 800 818 from abroad). The national helpline serves to provide preventive information about what to do before travel abroad, identification of victims of trafficking and provision of relevant assistance to potential victims of trafficking.

There were **1449 calls** on the national helpline in the period between 15 December 2014 and 15 December 2015, of them 590 answered calls, 300 silent calls, 56 calls by mistake and 20 calls by drunk individuals.

In the period between **January 2016 – November 2016**, there have been **39 identified victims** of trafficking in Slovakia, out of them **35 Slovak nationals, 3 EU nationals (Romanian nationals) and 1 non-EU national (Vietnamese national)**. Together **18 victims** of all identified victims have received support and assistance from the specialized programme, out of them **14 Slovak national, 3 EU national and 1 non-EU national, the rest of identified victims refused to receive assistance**. We registered **6 children (4 boys – 3 of them EU nationals, 2 girls), 4 of them were provided with assistance under the specialized programme**. Slovak nationals being victims of trafficking were exploited especially in UK and Germany, followed by Belgium, Austria and Czech Republic. **Together 14 Slovak victims returned from the destination countries (UK, Germany, Belgium, Austria, Czech Republic), while 9 of them were assisted with the assisted voluntary return by an international organization or NGO. We register 7 Slovak victims exploited abroad who were registered in a foreign NRM (1 victim in NRM Germany and 6 victims in NRM UK).**

Prevailing type of exploitation has been: **forced labour (18 victims), followed by sexual exploitation (16 victims), forced begging (6 victims) and forced marriage (4 victims) while 5 victims were exploited by various types of exploitation.**

Prevention of trafficking in human beings

In terms of prevention all relevant professionals who are likely to come into contact with possible victims of THB are aware of the victim identification procedure and receive periodic training to enable them to identify victims of trafficking.

There have been several national initiatives and activities in the field of combating trafficking realized in the 2016:

- Film festival **"Together against trafficking"** organized by an NGO in cooperation with the Ministry of the Interior of the Slovak Republic and other partners (www.obchodsludmi.sk/festival)

- project **"SAFE - smart, aware, free, enjoy"** funded from Visegrad Fund, realized by an international organization in Slovakia in cooperation with the partners from Czech Republic, Poland and Hungary – the project aimed at information campaign to prevent trafficking where a mobile application was created in order to inform young people on how to prevent trafficking (available in Slovak, Czech, Polish, Hungarian and English languages at: www.safe.iom.sk)

- billboard campaign **"I am not for sale"** with publicity of the **National Helpline for Victims of Trafficking** – visual available at: www.minv.sk/swift_data/source/mvsvr/obchodovanie_ludmi/propagacia_europskeho_dna_boj_a_proti_obchodovaniu_s_ludmi_18_oktober_2011/Bilboard_504x238_Obchodovanie%20s%20ludmi.pdf

- **"Marathon against trafficking"** – educational game **"Life with a guardian angel"** and preventive activities for young people were organized with the aim to raise awareness between young people.

- Trafficking in persons yearly report for 2016 made by the U.S. Department of State, included **preventive activity of the Slovak Republic between five best awareness raising campaigns** and stated: „The Government of Slovakia developed and financed the creation of a website that allows Slovak citizens traveling abroad for employment to register their contact information with friends and family. The registered user’s contacts are alerted should the user cease usual online activity or fail to communicate with the contacts on pre-established schedules. If this happens, each contact receives information of the user’s last known Internet connection access point location—information that could be relayed to Slovak law enforcement authorities.”

- **"Methodological guide on how to proceed in provision of assistance to victims of trafficking with special focus on minors and foreigners"** – a methodological guide for specific groups of professionals who can identify victims of trafficking – minors or foreigners,

- **Preventive activities at schools** – lectures on prevention of trafficking and exhibition of posters aimed at prevention of trafficking and other violent offences displayed at several schools.

- The Ministry of the Interior of the Slovak Republic was a partner within the project **HESTIA – "Preventing human trafficking and sham marriages: A multidisciplinary solution"** which was implemented in 2015 and 2016. Public and non-governmental organizations of six countries - **Latvia, Lithuania, Estonia, Finland, Slovak Republic and, Ireland** were involved in this project. Within the framework of the project during two years a variety of activities were provided: by the organization of discussions of legislators, policy planners and practitioners at national and regional level in each country a comprehensive research of the problem of sham marriages was prepared; learning methodology was developed and training was implemented during which social workers, social educators, workers of educational institutions, media representatives, state and municipal police officers and representatives of non-governmental organizations were educated; awareness raising campaigns and final conference of the project was implemented. Overall, during the activities of the project it was planned to involve and address more than 700 thousand members of the society in six European Union (EU) countries. **The research report from the Slovak Republic was processed by the Information Center for Combating Trafficking in Human Beings and Crime Prevention** under the Ministry of the Interior of the Slovak Republic in collaboration with other stakeholders active in combating against human trafficking and smuggling, under which marriages are targeted.