



# **GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

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## **Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties**

### **Second evaluation round**

Adopted by the Group of Experts on Action against  
Trafficking in Human Beings (GRETA) on 6 May 2014

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## Introduction

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

GRETA has decided that the second evaluation round of the Convention will start on 15 May 2014. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA. States parties are requested to transmit to GRETA a reply to this questionnaire within five months from the date it was sent.

Following a first round of monitoring, which provided an overview of the implementation of the Convention by each state party, GRETA has decided to examine during the second evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of this new evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. GRETA has selected provisions of the Convention which are mainly related to these issues.

The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. The reply to the questionnaire should contain all the relevant information on the implementation of the Convention since GRETA's first evaluation report. Particular emphasis should be put on the practice and impact of legislative and other measures taken. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties' recommendation concerning the implementation of the proposals made in GRETA's first evaluation report.

States parties should provide copies or extracts of relevant legislation, regulations and case law mentioned in the reply to the questionnaire (as an appendix to the reply). These copies/extracts should be supplied in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

## **A. Follow-up questions**

1. Please provide information on developments since GRETA's first evaluation report on your country in the following areas:

- the main forms of trafficking in human beings (THB) and emerging trends observed in your country (for example, any new types or sectors of exploitation, recruitment methods, countries of origin or destination of the victims);
- any changes in your country's laws and regulations relevant to action against THB;
- the institutional framework for action against THB, in particular: any changes in respect of the composition and functions of the bodies responsible for co-ordinating national action against THB, the involvement of NGOs in co-ordinating bodies, the entities specialised in the fight against THB, and the establishment of a national rapporteur or other mechanism for monitoring the implementation of anti-trafficking strategies, policies and activities;
- an overview of the current national strategy and/or action plan to combat trafficking in human beings (duration, objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results).

## **B. Cross-cutting questions**

### **Gender equality** (Articles 1.1.b, 5.3 and 17)

2. What specific measures are taken in your country to address the gender dimension of THB and incorporate gender equality into the policies to prevent and combat THB and to protect and promote the rights of victims, including through the empowerment of women and girls?

### **Non-discrimination** (Article 3)

3. What measures are taken to ensure that trafficked persons who are members of ethnic minorities have access to the rights specified in the Convention?

4. What specific measures are taken to ensure that trafficked persons who are irregular migrants or migrant workers are identified as victims of THB and have access to the rights provided for in the Convention?

5. What measures exist to ensure that male victims of trafficking are identified and provided with assistance and protection, including safe accommodation, as provided by the Convention?

### **Training of relevant professionals** (Articles 10 and 29)

6. Please describe how the needs for training of professionals in the area of action against THB are identified and met, with an indication of the categories of staff that receive such training, whether the training is obligatory or optional, the content and focus of the training, and the funding provided for training activities. If the impact of training has been assessed, please provide details.

## Special measures concerning children (Articles 5, 10, 11, 12, 14, 15, 16, 28 and 30)

7. Please describe whether and how trafficking in children is specifically addressed in your country. If there are institutions responsible for taking the lead in combating trafficking in children and a specific national referral mechanism for child victims of trafficking, please provide details.

8. What practical measures are taken to reduce children's vulnerability to trafficking and create a protective environment<sup>1</sup> for them, including through:

- a. ensuring registration of all children at birth, in particular from socially vulnerable groups;
- b. raising awareness of THB through education;
- c. training professionals working with children.

9. Please explain what methods are used to verify the age of a presumed victim of trafficking where the age is uncertain and there are reasons to believe that the person is a child. Would such a person be presumed to be a child until the age verification is completed?

10. What steps are taken in your country to ensure that the rights of the child and his/her best interests<sup>2</sup> are duly taken into consideration, in particular when it comes to:

- a. identification of child victims of trafficking;
- b. appointing a legal guardian, organisation or authority which shall act in the best interest of unaccompanied minors identified as victims of trafficking;
- c. locating the child's family;
- d. ensuring that the identity or details allowing the identification of a child victim of trafficking are not made publicly known through the media or by any other means;
- e. access to appropriate and secure accommodation, education and health care;
- f. issuing residence permits for child victims of trafficking;
- g. providing counselling and information in a language that the child can understand, legal assistance and free legal aid prior, during and after legal proceedings, including to claim compensation;
- h. carrying out best interests determination, including risk assessment, prior to any decision on the return of child victims to their country of origin, and ensuring the child's safe return in accordance with the best interests of the child;
- i. special protection measures for children.

11. What practical measures are taken in your country to identify victims of trafficking among unaccompanied foreign minors, including asylum seekers? What measures are taken to prevent their disappearance? Have there been cases of non-voluntary return of child victims of trafficking?

12. What programmes and services exist in your country for the (re)integration of child victims of trafficking? What solutions are provided if the reintegration of the child into his/her family is not in the child's best interests?

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<sup>1</sup> The concept of a protective environment, as promoted by UNICEF, has eight key components:

- protecting children's rights from adverse attitudes, traditions, customs, behaviour and practices;
- government commitment to and protection and realisation of children's rights;
- open discussion of, and engagement with, child protection issues;
- drawing up and enforcing protective legislation;
- the capacity of those dealing and in contact with children, families and communities to protect children;
- children's life skills, knowledge and participation;
- putting in place a system for monitoring and reporting abuse cases;
- programmes and services to enable child victims of trafficking to recover and reintegrate.

<sup>2</sup> "The best interests of the child" means that any situation should be looked at from the child's own perspective, seeking to take the child's views into consideration and with the objective of ensuring that his/her rights are respected. Any decision concerning a child should therefore be guided by what is objectively best for that child, given her/his age and maturity.

## **C. Questions related to specific articles**

### **Definitions (Article 4)**

13. Have any difficulties been experienced in your country in identifying and prosecuting cases on the ground of trafficking for the purpose of forced labour or services, slavery and practices similar to slavery or servitude? If so, please provide details.
14. How does your country's law define "abuse of a position of vulnerability" and what are the criteria for evaluating the vulnerability of a person subjected to THB? Please provide any relevant examples where the means used in THB offences involved an abuse of a position of vulnerability.
15. To what extent does your country's law recognise the relevance of forced marriage and illegal adoption to THB offences? Please provide any examples from case law where forced marriage and illegal adoption were considered in the context of THB.
16. Can forced begging be considered as a purpose of THB according to your country's law? Have there been any cases of child trafficking for forced begging with the involvement of the child's family or legal guardian?
17. Can the exploitation of criminal activities be considered as a purpose of THB according to your country's law? Please provide any examples from case law.

### **Prevention of THB (Article 5)**

18. Is the impact of awareness-raising campaigns and other measures to prevent THB evaluated and how are the results taken into account? Please provide copies of any impact evaluation reports.
19. How does your country promote and fund research on THB and use its results in the development of anti-trafficking policy? Please provide examples of recent research.
20. How do your country's migration legislation and policies seek to prevent THB by enabling lawful migration?
21. Please describe the measures taken in your country to prevent THB for the purpose of the removal of organs, and in particular:
  - a. the legislation and regulations on organ transplantation and removal of organs, including requirements for the living donation procedure (information/consent, evaluation/selection, follow-up and registry) and criteria for authorising centres for living donation;
  - b. the institution(s) in charge of overseeing and monitoring the medical care and recovery of donors and recipients and managing or supervising any waiting lists for organ transplantations;
  - c. the guidance and training provided to relevant professionals to prevent this form of THB, to report cases and to identify and assist victims.

### **Measures to discourage the demand (Article 6)**

22. What preventive measures to discourage demand that fosters different forms of exploitation has your country adopted, in particular in the areas of:
  - a. educational programmes;
  - b. information campaigns and involvement of the media;
  - c. legislation (including in the areas of public procurement, disclosure requirements and anti-corruption);
  - d. involvement of the private sector.

23. Please describe the measures taken in your country to prevent trafficking for forced labour or services, *inter alia*, by means of labour inspection and labour administration, monitoring of recruitment and temporary work agencies, and monitoring of supply chains.

#### **Border measures (Article 7)**

24. Please describe the specific measures taken in your country to strengthen the capacities of border guards to prevent and combat THB, in particular as regards:

- a. identification of possible victims of THB in the context of border control;
- b. identification of possible perpetrators of THB offences;
- c. gathering of first-line information from victims and perpetrators;
- d. identification of vulnerable persons in need of international protection among possible victims of trafficking.

25. What measures have been taken to ensure that the personnel employed by commercial carriers, including airline attendants and staff working on other means of transportation by land and sea, are able to detect possible victims of THB and inform relevant bodies in due course?

26. What measures have been taken to promote co-operation between border control agencies as regards the establishment and maintenance of direct channels of communication? How have these channels been used for detecting transnational THB? Please provide examples of cases in which these channels were used and any difficulties encountered by border control agencies in this context.

#### **Identification of the victims (Article 10)**

27. Is there a national referral mechanism (NRM) or an equivalent system for identification and referral to assistance of victims of trafficking, both nationals and foreigners, for any form of exploitation? If so, please specify the bodies involved in it and their responsibilities. If an NRM existed in your country at the time of the first evaluation, please indicate any changes that have been made to it in the meantime.

28. Are there any formalised indicators for the identification of victims of THB for different forms of exploitation and how is their use by different professionals ensured in practice in your country?

29. What is considered as "reasonable grounds" to believe that a person is a victim of THB and which bodies have competence to identify victims upon "reasonable grounds"? Please provide examples from practice.

30. What measures are taken in your country to encourage self-identification of victims of THB?

31. What measures are taken in your country to identify victims of THB during the examination of asylum applications and during return of persons whose applications are rejected? How is communication ensured between the authorities responsible for identification of victims of trafficking and immigration and asylum authorities when there are reasonable grounds to believe that a person who is irregularly staying in the country is a victim of trafficking?

#### **Protection of private life (Article 11)**

32. What measures are taken by relevant professionals to protect the confidentiality of information and protect the personal life and identity of victims of THB, including as regards storing of their personal data? Are there any conflicts of interest between professional ethics, on the one hand, and the obligation to report an offence, on the other hand? If so, how are these conflicts resolved in practice?

**Assistance to victims (Article 12)**

33. When assistance to victims is provided by non-state actors, how do your country's authorities ensure compliance with the obligations under Article 12 of the Convention, in particular when it comes to:

- a. funding;
- b. victim's safety and protection;
- c. standards of assistance and their implementation in practice;
- d. access to medical treatment, psychological assistance, counselling and information;
- e. translation and interpretation, where appropriate?

34. What specific measures are taken to ensure that the provision of assistance to victims of THB who have been issued a residence permit for the purpose of their co-operation in the investigation or criminal proceedings is not made conditional on their willingness to act as a witness?

35. What accommodation is available for victims of THB (women, men and children) and how is it adapted to the victims' needs?

36. What measures are taken to ensure that services are provided to victims on a consensual and informed basis?

37. Is there any follow-up provided after the termination of assistance programmes? Can victims continue to receive assistance, where necessary and taking into account their specific needs resulting from the type of exploitation (including the removal of organs), after the termination of criminal proceedings, and if so what type of assistance?

**Recovery and reflection period (Article 13)**

38. Please specify in which cases a recovery and reflection period can be granted and who is entitled to it (nationals, foreign nationals). Please describe the procedure for granting a recovery and reflection period, the assistance and protection provided during this period, and any difficulties encountered in practice.

**Residence permit (Article 14)**

39. If there is a provision in your country's law that provides for the possibility of issuing a residence permit owing to the victim's personal situation, how is this interpreted in practice? Please provide examples.

40. When a residence permit is issued for the purpose of co-operation with the competent authorities, how is "co-operation" interpreted and what does it consist of in practice?

41. What measures are taken to ensure that a residence permit is provided to victims of THB in compliance with the obligation under Article 12.6, which states that the assistance to a victim of trafficking should not be made conditional on his or her willingness to act as a witness?



**Compensation and legal redress (Article 15)**

42. Please indicate any measures taken since the first evaluation report to promote effective compensation of victims of THB, in particular when it comes to:
- a. access to information on the relevant judicial and administrative proceedings in a language the victim can understand;
  - b. access to free legal assistance and legal aid during investigations and court proceedings;
  - c. compensation from the perpetrator;
  - d. compensation from the state;
  - e. compensation for unpaid wages to victims of trafficking.

Please provide examples of compensation awarded and effectively provided to victims of THB.

43. What specific measures are taken to make available the assets of traffickers to provide compensation (for example, effective financial investigations resulting in seizure of assets of perpetrators with the view to their confiscation)?

44. Is there a possibility for victims of THB to claim damages and compensation in the country of destination after their return to the country of origin? Please provide any relevant examples.

**Repatriation and return of victims (Article 16)**

45. What steps are taken to ensure that the return of victims of THB from your country to another country is carried out preferably voluntarily and in full observance of the duty to ensure their rights, safety and dignity, including the obligation not to return a person to a country where his or her human rights are at risk of being violated (*non-refoulement* principle)? How is risk assessment carried out when deciding upon return and repatriation of victims of THB? What is the procedure and what are the modalities of co-operation with the authorities of the receiving state?

46. Has any victim of trafficking who is a citizen or permanent resident of your country been returned against their will? If yes, what steps, if any, were taken to assist them after their return?

**Corporate liability (Article 22)**

47. Have there been any developments in your country's law regarding corporate liability for THB offences? Does corporate liability apply to legal persons involved in THB for the purpose of forced labour or services, including by their sub-contractors throughout the supply chain? Please provide examples of any relevant cases and the sanctions imposed.

**Aggravating circumstances (Article 24)**

48. Have there been any prosecutions and convictions for THB with the aggravating circumstance of involvement of public officials in the exercise of their functions? Please provide any relevant examples.

**Non-punishment provision (Article 26)**

49. Is the non-punishment provision incorporated in law and/or prosecution guidelines? If so, please provide the relevant texts. Please give details, including references to case law where relevant, of cases where the non-punishment principle has been applied and the outcome of such cases.

**Ex parte and ex officio applications** (Article 27 in conjunction with Article 1.1.b)

50. Does your country's law provide for the possibility of investigating a THB case in your country if the offence was committed on your territory, but the complaint was submitted in the country of residence of a foreign victim of THB? Please provide any relevant examples.

51. Please describe the measures taken in your country to ensure compliance with the obligation of effective investigation into THB cases, in particular as regards:

- a. setting up specialised investigation units and the number of staff involved;
- b. exchange of information with, and obtaining evidence from, other parties;
- c. use of special investigative techniques (such as informants, cover agents, wire-tapping, controlled deliveries), with an indication of how their use is regulated and whether they can also be applied in cases not related to organised crime;
- d. investigation of THB offences committed through the Internet, including the possibility of blocking websites which are used to facilitate the recruitment of trafficking victims or the dissemination of child pornography;
- e. financial investigations to disrupt criminal money flows and ensure asset recovery;
- f. use of joint investigation teams (JITs).

52. Have you had any cases or suspected cases of THB for the purpose of the removal of organs? How did investigations take place in such cases and what special investigation techniques were used?

**Protection of victims, witnesses and collaborators with the judicial authorities** (Article 28)

53. What measures are taken to protect victims, witnesses and NGOs assisting victims during criminal proceedings from potential retaliation or intimidation during the investigation and during and after the criminal proceedings? In how many cases have special protection measures been used in respect of victims and witnesses of THB? Please specify any difficulties in providing victim/witness protection and creating a safe environment for their participation in investigations and court proceedings.

54. What other measures are taken to promote the participation of victims and witnesses in criminal proceedings and to give testimonies which accurately reflect their experiences and assist courts in establishing the truth? Can a victim of THB be assisted by a social worker, psychologist and/or NGO representative during the investigation and court hearings?

**Jurisdiction** (Article 31)

55. Please outline the measures taken by your country to establish and exercise jurisdiction over the offences set out in the Convention, in particular with regard to offences committed outside the jurisdiction of the state (including in cases where your national is a victim of THB committed abroad).

**International co-operation** (Article 32)

56. Please provide examples of international co-operation initiatives with other states in preventing and combating THB, as well as an assessment of the impact of such initiatives, including any difficulties you have experienced in this area. Please also indicate any bilateral or multilateral agreements concluded by your country concerning mutual legal assistance and how such assistance is provided in the absence of an agreement.

**Measures related to endangered or missing persons (Article 33)**

57. What measures are envisaged in your country to transmit information to another party concerning a victim, witness or collaborator with the judicial authorities in a THB case, who your authorities believe is in immediate danger on the territory of another party? What protection measures are envisaged for such persons, should another party to the Convention inform you about their presence on your territory? Please provide examples from practice.

58. Has an early warning system for missing children been introduced in your country and is the harmonised European telephone number for missing children available? What other measures are there for early signalling to other countries about endangered and/or missing children? Has your country concluded any agreements or taken any other measures to reinforce co-operation with other countries in the search for missing people, in particular children, where your authorities have reasonable grounds to believe that missing children may be victims of trafficking or are at risk of becoming victims of trafficking?

**Co-operation with civil society (Article 35)**

59. What steps are taken by your country to encourage state authorities and public officials to co-operate with NGOs and other civil society organisations, including trade unions, so as to involve them in the elaboration and implementation of anti-trafficking policies, programmes and other initiatives to prevent THB? Please provide information on any memoranda of understanding or other agreements concluded between public bodies and NGOs in this field.

**Relationship with other international instruments (Article 40)**

60. Please indicate any agreements concluded by your country in accordance with Article 40.2 of the Convention.

61. Please provide details of cases where victims or possible victims of THB have been granted refugee status or subsidiary/complementary protection.

**D. Final questions**

62. Which bodies and organisations contributed to responding to this questionnaire?

63. Who was responsible for co-ordinating and collecting the replies to this questionnaire?

**E. Statistics on THB (per year, starting with 2010)**

Number of victims identified in the sense of having been recognised by a state institution or mandated NGO as deserving any of the rights or entitlements to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).

Number of presumed victims whom the competent authorities had “reasonable grounds” to believe were victims of THB (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them). Please clarify whether this number includes victims who were formally identified or is an additional number.

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Number of victims granted a recovery and reflection period (if possible, disaggregated by sex, age, nationality, form of exploitation).

Number of victims who received assistance (if possible, disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).

Number of victims who were granted a residence permit, with an indication of the type of the permit and its duration (if possible, disaggregated by sex, age, nationality, form of exploitation).

Number of victims given refugee status and subsidiary/complementary protection.

Number of victims who claimed compensation and who received compensation (if possible, disaggregated by sex, age, nationality, form of exploitation), with an indication of whether the compensation was provided by the perpetrator or the state, and the amount awarded.

Number of victims repatriated to your country (if possible, disaggregated by sex, age, country of destination, form of exploitation).

Number of victims repatriated from your country to another country (if possible, disaggregated by sex, age, nationality, form of exploitation).

Number of investigations into THB cases.

Number of prosecutions of THB cases.

Number of convictions for THB resulting in penalties involving deprivation of liberty, with an indication of the duration of the penalty and whether effectively enforced or suspended.

Number of judgments resulting in the confiscation of assets.

Number of judgments resulting in the closure of a business or an establishment which was being used to carry out THB.

Number of convictions for the use of services of a victim of THB.