



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

**Recommendation CP(2014)14  
on the implementation of the Council of Europe Convention  
on Action against Trafficking in Human Beings  
by Andorra**

*adopted at the 15th meeting of the Committee of the Parties  
on 5 December 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 Andorra on 23 March 2011;

Having examined the Report concerning the implementation of the Convention by Andorra, adopted by GRETA at its 20th meeting (30 June - 4 July 2014) in the framework of the first evaluation round;

Having examined the comments of the Government of Andorra on GRETA's report, submitted on 12 September 2014;

Welcoming the measures to combat trafficking in human beings taken by the Andorran authorities, and in particular:

- the existence of a mechanism for assisting victims of domestic violence that could be used for women victims of trafficking;
- the possibility to grant a temporary residence permit owing to a person's precarious circumstances that could apply to victims of trafficking;
- the provision of training on the issue of trafficking in human beings to staff of the Borders and Foreigners Service of the Andorran police.

Taking note of the areas where further action is required in order to improve the implementation of the Convention by Andorra, in particular:

- adopting legislation establishing trafficking in human beings as a criminal offence in line with the requirements of Articles 4, 21, 23 and 24 of the Convention;

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- taking a proactive approach to the identification of victims of human trafficking and involving all relevant stakeholders in a multi-agency collaborative process;
  - adopting legislative or other measures to provide assistance and protection to all victims of trafficking in accordance with Article 12 of the Convention, including by increasing the awareness of the actors concerned;
  - providing in law for a recovery and reflection period for victims of trafficking in human beings and ensuring that no deportation takes place from the moment the identification process is started;
  - adopting measures to guarantee compensation for victims of human trafficking, including compensation from the State when compensation cannot be secured from the perpetrator.

1. Recommends that the Government of Andorra implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Andorra (see addendum);
2. Requests the Government of Andorra to inform the Committee of the Parties of the measures taken to comply with this recommendation by 5 December 2016;
3. Invites the Government of Andorra 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 Andorra**

#### **Definition of trafficking in human beings**

1. GRETA urges the Andorran authorities to adopt a provision defining the offence of trafficking in human beings in line with the requirements of Article 4 of the Convention without delay.

#### **Comprehensive approach and co-ordination**

2. GRETA considers that the Andorran authorities should establish, in consultation with civil society, co-ordination between the different actors (for example, through an action protocol) that would be involved in the event of a trafficking case being identified.

#### **Training of relevant professionals**

3. Given the link there could be between the lack of training and identifying victims of trafficking, GRETA considers that the Andorran authorities should ensure that all the professionals concerned (law enforcement agency officials, judges and prosecutors, labour inspectors, lawyers, social workers, child welfare professionals, medical staff and other groups concerned) are sensitised to THB (in particular the definition of human trafficking, indicators of human trafficking, distinguishing THB from migrant smuggling, detection of vulnerable groups, as well as on identification, assistance and compensation of victims), and that NGOs and trade unions are also sensitised.

#### **Data collection and research**

4. GRETA encourages the Andorran authorities to:
- consider how data on victims of trafficking in human beings (disaggregated by gender, age, type of exploitation, country of origin and/or destination) would be collected, having due regard to their right to personal data protection;
  - support research into THB-related questions.

#### **International co-operation**

5. Whilst welcoming the co-operation already pursued with Spain in the area of training for police officers, GRETA encourages the Andorran authorities to develop such partnerships, including with other countries, particularly with regard to training relevant actors.

6. Moreover, GRETA invites the Andorran authorities to continue supporting initiatives aimed at the prevention of trafficking in human beings in countries of origin.

#### **Measures to raise awareness, social, economic and other initiatives in favour of persons vulnerable to trafficking in human beings and measures to discourage demand**

7. GRETA considers that the Andorran authorities should carry out initiatives to raise awareness of trafficking in human beings and the different forms of exploitation it entails, aimed at the general public (including in schools), civil society and the economic sectors traditionally exposed to trafficking.

8. Moreover, GRETA invites the Andorran authorities to consider what measures might be envisaged for groups vulnerable to trafficking, particularly children, women in need of protection and assistance or migrant workers.

## **Border measures to prevent THB and measures to enable legal migration**

9. GRETA considers that the Andorran authorities should ensure that the police officers of the Borders and Foreigners Service use in practice indicators enabling them to detect victims of THB.

## **Identification of victims of trafficking in human beings**

10. GRETA urges the Andorran authorities to adopt such legislative or other measures as may be necessary to proactively identify trafficking victims and refer them to specialised assistance, providing for the use of operational tools (such as indicators) for detecting possible victims and involving the different actors likely to come into contact with victims, particularly law enforcement officials, labour inspectors and NGOs.

## **Assistance to victims**

11. GRETA urges the Andorran authorities to adopt such legislative or other measures as may be necessary to provide assistance to victims of human trafficking (women, men and children) and help them with their physical, psychological and social recovery (in particular suitable safe accommodation, access to emergency medical care, counselling and material assistance, as well as advice and information on their rights in a language understood by the victim) in accordance with Article 12 of the Convention. This entails awareness-raising and training for the actors concerned, including the NGOs.

## **Recovery and reflection period**

12. GRETA urges the Andorran authorities to provide in law for a recovery and reflection period for victims of trafficking in human beings in conformity with Article 13 of the Convention and to ensure that no deportation takes place from the moment the identification process is started.

## **Residence permits**

13. GRETA considers that the Andorran authorities should provide in law for the issue of a renewable residence permit to trafficking victims in cases where the competent authority considers that their stay is necessary owing to their personal situation and/or where the competent authority considers that their stay is necessary for the purpose of their co-operation in connection with an investigation or criminal proceedings, in accordance with Article 14 of the Convention.

## **Compensation and legal redress**

14. GRETA urges the Andorran authorities to adopt legislative or other measures necessary to guarantee compensation for victims of human trafficking, including compensation from the State when compensation cannot be secured from the perpetrator.

## **Repatriation and return of victims**

15. GRETA considers that the Andorran authorities should provide for a specific framework for the return of THB victims to their country of origin, which should preferably be voluntary and needs to be carried out with due regard for the victims' safety and dignity – inter alia, through an assessment of the risks they face if they return to their country – while also respecting the *non-refoulement* principle, in accordance with Article 40(4) of the Convention.

## **Substantive criminal law**

16. GRETA invites the Andorran authorities to consider the possibility of criminalising the use of services which are the object of exploitation resulting from THB, with the knowledge that the person is a victim of trafficking.

17. GRETA urges the Andorran authorities to adopt legislative measures:

- establishing trafficking in human beings as a criminal offence;
- providing for effective, proportionate and dissuasive sanctions for the Perpetrators of the offence of trafficking in human beings in conformity with Article 23(1);
- establishing as a criminal offence the aiding and abetting of the intentional committing of a THB offence and an attempt to commit such an offence, in conformity with Article 21;
- allowing for the possibility of holding legal persons criminally liable for the offences provided for in the Convention, in conformity with Article 22;
- providing for the confiscation of criminal assets linked to human trafficking, in accordance with Article 23(3).

18. Furthermore, GRETA urges the Andorran authorities to ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for the offence of human trafficking: endangering the life of the victim deliberately or by gross negligence; the fact that the victim is a child; the fact that the offence was committed by a public official in the performance of their duties; and the fact that the offence was committed within the framework of a criminal organisation, in conformity with Article 24.

## **Non-punishment of victims of trafficking in human beings**

19. GRETA invites the Andorran authorities to examine whether Article 27 of the Andorran Criminal Code, as it stands, would allow the non-punishment of trafficking victims for participating in illegal activities where they were forced to do so, in compliance with Article 26 of the Convention, and to envisage raising awareness among judges and prosecutors of the principle of non-punishment.

## **Protection of victims and witnesses**

20. GRETA considers that the Andorran authorities should ensure that their national legislation would make it possible to take all necessary steps to provide effective and appropriate protection for victims and witnesses of trafficking from possible reprisals or intimidation during and after investigations (such as surveillance measures, physical protection, videoconferencing, anonymity during the investigation), in conformity with Articles 28 and 30 of the Convention.