



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

### **Recommendation CP(2015)14 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria**

*adopted at the 17th meeting of the Committee of the Parties  
on 30 November 2015*

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 Austria on 12 October 2006;

Recalling Committee of the Parties' Recommendation CP(2011)1 of 26 September 2011 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria and the report of the Austrian authorities on measures taken to comply with this recommendation, submitted on 30 September 2013;

Having examined the second report concerning the implementation of the Convention by Austria, adopted by GRETA at its 23rd meeting (29 June - 3 July 2015), as well as the comments of the Austrian Government received on 15 September 2015;

1. Welcomes the progress made since the first round of evaluation in the following areas:
  - the further development of the legal framework for combating trafficking in human beings, through the adoption of an expanded definition of trafficking in human beings, explicitly mentioning the exploitation of begging and exploitation to commit criminal activities, and the increased penalties for human trafficking;
  - the improved co-ordination of anti-trafficking efforts between the federal government and the federal provinces (*Länder*);
  - the increased attention to trafficking for the purpose of labour exploitation, including the setting up of a working group to deal with this issue within the Task Force on Combating Human Trafficking, the drawing up of a list of indicators, and the establishment of a drop-in and counselling centre for undocumented migrant workers (UNDOK);

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- the setting up of a specialised support structure for male victims of trafficking, the Men's Health Centre MEN VIA, and the increased funding provided to it, given that the number of male victims of trafficking has been on the rise;
  - the efforts made to provide training to relevant professionals, expand the categories of staff targeted and adopt a multi-stakeholder approach to training;
  - the research carried out in the areas suggested by GRETA in the first evaluation report, namely trafficking for the purpose of labour exploitation, trafficking in men and trafficking in children;
  - the improvements in the area of compensation for victims of trafficking, including the introduction of the possibility of granting compensation to victims whose stay in Austria was irregular at the time of the offence, the increased number of victims granted compensation by the State, and the progress made in obtaining compensation from perpetrators, thanks to early confiscation measures and freezing of assets;
  - the efforts made in the area of international co-operation, both when it comes to police co-operation and keeping trafficking in human beings high on the international agenda, as well as championing measures to prevent domestic servitude in diplomatic households.

2. Recommends that the Austrian authorities take measures to address the following issues for immediate action identified in GRETA's report:

- include prosecutors as members of the Task Force and its working groups with a view to increasing the involvement of the Prosecutor's Office in combating human trafficking and strengthening national co-ordination;
- develop and maintain a comprehensive and coherent statistical system on trafficking in human beings, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases; statistics regarding victims should be collected from all main actors and allowing disaggregation concerning sex, age, type of exploitation, country of origin and/or destination; this should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database;
- improve the identification and assistance to child victims of trafficking, in particular by:
  - adopting as a matter of priority a National Referral Mechanism for child victims of trafficking which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of trafficking and children at risk;
  - ensuring that child victims of trafficking across the country benefit from the assistance measures provided for under the Convention, including appropriate accommodation, effective access to free legal assistance and psychological support, and take steps to address the problem of children going missing while in the care of the state;

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- ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking, including EEA nationals, 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; officers performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators;
  - take additional measures to ensure compliance with the principle of non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention; such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers and prosecutors on the scope of the non-punishment provision, including with regard to administrative/civil law sanctions; further, the Austrian authorities should examine the possibility of repealing administrative sanctions imposed against victims of trafficking and providing compensation or reimbursement of fines paid by victims of trafficking.
3. Requests the Government of Austria to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by **30 November 2016**.
4. Recommends that the Government of Austria takes measures to implement the further conclusions of GRETA's second evaluation report.
5. Invites the Government of Austria to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.