

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



**Recommendation CP(2013)8
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Belgium**

*adopted at the 12th meeting of the Committee of the Parties
on 7 October 2013*

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 Belgium on 27 April 2009;

Having examined the Report concerning the implementation of the Convention by Belgium, adopted by GRETA at its 17th meeting (1-5 July 2013) in the framework of the first evaluation round;

Having examined the comments of the Belgian Government on GRETA's report, submitted on 10 September 2013;¹

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

- the setting up of the Inter-departmental Co-ordination Unit for Action against Trafficking in and Smuggling of Human Beings and of structures specialised in combating trafficking in human beings, including within the police, public prosecution services, labour inspectorate services and the Foreigners' Office;
- the creation and further improvement of legislation criminalising trafficking in human beings and guaranteeing rights to victims of trafficking;

¹ The deadline for submitting comments is 9 September 2013.

- the adoption of national action plans on the basis of evaluations of the impact of anti-trafficking measures regularly made by the federal authorities and the Centre for Equal Opportunities and Opposition to Racism;
- the considerable efforts to raise awareness among professionals involved in action against trafficking in human beings, including through training and information campaigns;
- the application of a co-ordinated and multidisciplinary approach to identification of and assistance to victims of trafficking, involving both governmental and non-governmental actors;
- the significant efforts to carry out proactive investigations, including in the field of labour exploitation, resulting in convictions of physical and moral persons responsible for trafficking-related offences, as well as in confiscation of assets to compensate victims.

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

- paying increased attention to measures against child trafficking, including through improving the detection and identification of child victims of trafficking and ensuring that they are granted a residence permit on the basis of their best interests and not of their willingness or ability to co-operate with the authorities;
- increasing their efforts to discourage demand for services provided by persons subjected to trafficking, both for the purpose of labour and sexual exploitation;
- ensuring that the referral and assistance mechanisms put in place are adapted to the needs of each victim of trafficking and that they are implemented by all specialised and front-line actors, including through training for the relevant professionals;
- systematically informing victims and possible victims of trafficking of the possibility of benefiting from a recovery and reflection period and ensuring that are actually granted one;
- ensuring that there are repatriation assistance arrangements suitable for all victims of trafficking, regardless of whether they are EU nationals or not, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings;
- continuing efforts in the field of prosecution of traffickers, in particular through training on trafficking in human beings for judges and making full use of the existing procedural measures aimed at protecting victims and witnesses.

1. Recommends that the Government of Belgium implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Belgium (see addendum);
2. Requests the Government of Belgium to inform the Committee of the Parties of the measures taken to comply with this recommendation by 7 October 2015;
3. Invites the Government of Belgium 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 Belgium

Comprehensive approach and co-ordination

1. GRETA considers that the Belgian authorities should continue to inform and raise awareness among the general public and the non-specialised departments involved in action against trafficking that may come into contact with trafficking victims as regards the scope of the definition of trafficking in human beings and in particular the difference and the links between trafficking and migrant smuggling.
2. In order to ensure that action against trafficking is comprehensive and coherent, GRETA considers that the Belgian authorities should:

- ensure that the new body taking over from the CECLR has, as far as anti-trafficking action is concerned, the necessary autonomy, mandate and resources to continue fulfilling the role of stimulating and assessing anti-trafficking policy within the meaning of Article 29, paragraph 4, of the Convention, as well as of co-ordinating the provision of assistance to victims of trafficking;
- increase vertical and horizontal co-ordination between the different authorities involved in action against trafficking in human beings, including those responsible for the assistance and protection of victims of trafficking, particularly concerning children;
- ensure that more attention is paid to the issue of trafficking of children.

Training of relevant professionals

3. GRETA considers that the Belgian authorities should pursue and further increase these efforts, in particular concerning the initial training of police officers who are not specialised in THB, including those who are responsible for receiving complaints, taking into account the turn-over of staff in administrations. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

4. GRETA considers that, for the purpose of devising, supervising and assessing anti-trafficking policies, the Belgian authorities should design and bring on stream a complete, coherent statistics system on trafficking in human beings, bringing together reliable statistical data sourced from all the key actors which can be broken down (by sex, age, type of exploitation, country of origin and/or destination, etc.). The introduction of this system should be accompanied by all necessary measures to ensure respect of the right of the persons concerned to personal data protection.
5. GRETA invites the Belgian authorities to carry out and support research work on THB-related issues, the findings of which can assist the public authorities in devising future anti-trafficking measures. The areas where more in-depth research is necessary include the situation of children victims of trafficking from European countries, in particular Roma, trafficking for the purpose of exploitation of begging and internal trafficking in Belgium.

International co-operation

6. GRETA encourages the Belgian authorities to continue to develop international co-operation in the area of prosecution and their initiatives to prevent trafficking and assist victims in the countries of origin.

Measures to raise awareness

7. GRETA considers that the Belgian authorities should build greater awareness among the general public of the different types of trafficking and victims. To do so, the authorities should organise targeted information and awareness-raising initiatives, involving civil society and making use of the findings of research and impact assessments.

Measures to discourage demand

8. GRETA urges the Belgian authorities to increase their efforts to discourage demand for services provided by persons subjected to trafficking for the purpose of economic exploitation, including the purposes of domestic work, or sexual exploitation.

Economic, social and other empowerment measures for groups vulnerable to THB

9. GRETA urges the Belgian authorities to take social, economic and other initiatives aimed at groups vulnerable to different types of trafficking, such as unlawfully present foreign minors, whether accompanied by their family or not.

Border measures and measures to enable legal migration

10. GRETA considers that the Belgian authorities should increase the capacity of staff tasked with carrying out checks at borders, in ports and on motorways (particularly the customs and immigration control services) to detect and refer victims of trafficking.

11. Further, GRETA encourages the Belgian authorities to continue to ensure that all information on conditions of entry to and stay on Belgian territory is available in a variety of languages so that it may be understood by those it is addressed to.

Identification of victims of trafficking in human beings

12. GRETA considers that the Belgian authorities should:

- strengthen the detection and identification of victims of trafficking, by ensuring that the tools available are fully known to front-line actors and correctly used by all actors;
- develop training in the detection and identification of victims aimed at police officers, employees of labour inspection services, public prosecutors and judges, particularly with a view to avoiding confusion between victims of trafficking, including those from vulnerable groups, and petty offenders or illegal migrants;
- develop training in the detection and identification of victims aimed at all front-line actors such as immigration officers, medical staff, social workers, public social welfare centres (CPAS) staff, those involved in child protection and particularly and legal guardians of unaccompanied children, the staff of closed centres for irregular migrants and centres for asylum seekers.

13. GRETA urges the Belgian authorities to strengthen the detection and identification of child victims of trafficking, particularly for the purpose of forced begging and committing petty offences and crimes and, to that end, adapt the existing tools or introduce mechanisms and a procedure tailored to their specific situation.

14. Furthermore, GRETA considers that the Belgian authorities should focus greater attention on detection and identification of trafficking victims who are of Belgian nationality, EU nationals or legally resident on Belgian territory, including by raising awareness of trafficking issues among the front-line actors coming into contact with them and explaining to these actors how to proceed and to whom to refer the victim in suspected cases of trafficking.

Assistance to victims

15. GRETA urges the Belgian authorities to:

- ensure that the assistance offered to victims of trafficking is adapted to their needs, particularly when these victims are in need of immediate assistance. As this assistance is delegated to NGOs playing the role of service providers, the State is under obligation to allocate the necessary funding and guarantee the quality of the services provided by those NGOs;
- continue training and informing actors on the ground as regards the assistance available to victims of trafficking in human beings so that, as soon as a potential victim is detected, they refer that person to the competent services; and in this connection, to pursue efforts to inform those actors of the existence and content of the Circular on multidisciplinary co-operation where assistance is concerned;
- review the current system of assistance in order to adapt it wherever necessary to each victim's specific needs, paying particular attention to the special situation of child victims, victims who are EU nationals and those of Belgian nationality.

Recovery and reflection period

16. GRETA urges the Belgian authorities to ensure that victims and possible victims of trafficking are systematically informed of the possibility of benefiting from a recovery and reflection period and are actually granted one.

17. Furthermore, GRETA considers that the Belgian authorities should revise the current form of the reflection period granted to adult trafficking victims entailing an order to leave the territory by a certain date and transform it into a temporary residence permit.

Residence permits

18. GRETA considers that the Belgian authorities should ensure that victims of trafficking can make full use of the possibility of obtaining a temporary stay permit in Belgium, in particular when they are not in a position to co-operate with the authorities.

19. GRETA also considers that the Belgian authorities should take additional steps to ensure that child victims of trafficking may be granted a residence permit on the basis of their best interest and not of their willingness or ability to co-operate with judicial bodies.

Compensation and legal redress

20. GRETA considers that the Belgian authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular:

- ensure that those victims of trafficking who leave Belgium may nevertheless obtain compensation, including via the Fund for financial aid for victims of intentional acts of violence;

- ensure that all victims of trafficking, including for the purpose of economic exploitation, have an effective access to this Aid Fund framework or to another system of compensation fund;
- enable victims to uphold their rights to compensation, by guaranteeing them effective access to legal assistance and reliable interpreting services.

21. In addition, GRETA invites the Belgian authorities to introduce a system for recording the applications lodged for compensation as well as the compensation awards obtained by victims of trafficking.

Repatriation and return of victims

22. GRETA urges the Belgian authorities to:

- ensure that there are repatriation assistance arrangements suitable for all victims of trafficking, regardless of whether they are from EU Member States or not and irrespective of their status regarding residence permits for victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this also implies protection against reprisals and against re-trafficking;
- carry out an assessment of the risks of re-victimisation specific to children, paying special attention to children who are EU nationals and have been victims of trafficking, and systematically taking due account of the best interests of the child;
- strengthen co-operation with the countries to which victims of trafficking return, with a view to improving their reintegration and rehabilitation.

Substantive criminal law

23. GRETA invites the Belgian authorities to consider the possibility of criminalising the use of services of a person in the knowledge that that person is a victim of trafficking in human beings, not only in cases of economic exploitation but also for the other purposes of exploitation covered by the Convention.

24. GRETA invites the Belgian authorities to ensure that acts of intentionally retaining, removing, damaging or destroying another person's travel or identity documents with the aim of permitting THB may be criminalised as such.

Non-punishment of victims of trafficking in human beings

25. GRETA considers that the Belgian authorities should continue to take all appropriate steps to ensure that the possibility provided for in internal legislation not to impose sanctions on victims of trafficking for taking part in illegal activities when they have been constrained to do so is observed in accordance with Article 26 of the Convention. To that end, the Belgian authorities should in particular inform and make all judicial actors aware of this point and make an express reference to Article 26 of the Convention in the new version of Circular No. COL 1/2007 which is soon to be revised.

Investigation, prosecution and procedural law

26. GRETA considers that the Belgian authorities should pursue their efforts to make trafficking in human beings a priority issue for the Federal Prosecutor's Office, given the important role it is required to play in national co-ordination and international co-operation in this area.

27. GRETA considers that, following the recent amendments to Article 433*quinquies* of the Criminal Code relating to trafficking in human beings, the Belgian authorities should ensure that the judicial authorities are trained so that they are capable of determining which provisions should be applied in each case, in order to guarantee the effectiveness of Article 433*quinquies* of the Criminal Code and avoid confusion with other offences.

28. GRETA considers that the Belgian authorities should increase training concerning trafficking in human beings for judges (both investigating judges and trial judges) required to examine trafficking cases with a view to achieving a more consistent application of the criminal provisions covering these offences, in particular by informing the actors concerned about the changes recently made to these provisions.

Protection of victims and witnesses

29. GRETA considers that the Belgian authorities should:

- make full use of the existing procedural measures aimed at protecting victims and witnesses within the meaning of the Convention, to avoid them being subjected to intimidation and reprisals throughout during and after the criminal procedure, paying special attention to children;
- ensure that victims are duly informed of existing protection measures, and that international co-operation tools are reinforced and effectively deployed when persons in danger live abroad.